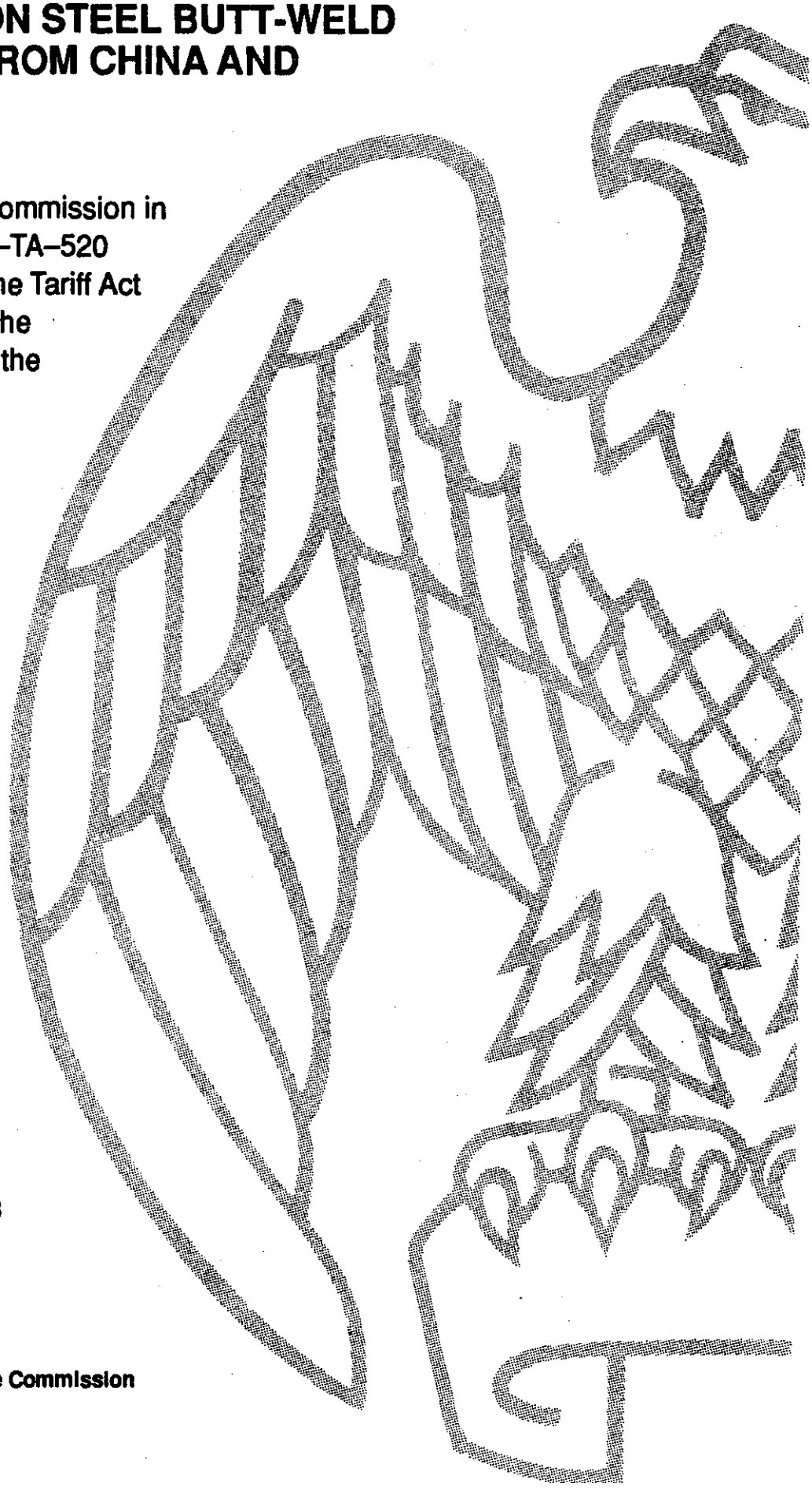
CERTAIN CARBON STEEL BUTT-WELD PIPE FITTINGS FROM CHINA AND THAILAND

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



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Stephen McLaughlin, Office of the General Counsel

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

CONTENTS

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

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

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[2], pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the act), that an industry in the United States is materially injured or threatened with material injury, by reason of imports from China and Thailand[3] of certain carbon steel butt-weld pipe fittings, provided for in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective December 24, 1991, following preliminary determinations by the Department of Commerce that imports of certain carbon steel butt-weld pipe fittings from China and Thailand were being sold at LTFV within the meaning of section 733(b) of the act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigations and of a public hearing 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 January 23, 1992 (57 F.R. 2783). The hearing was

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[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] Commissioner Crawford not participating.

[3] Commissioner Rohr dissenting with respect to Thailand.

held in Washington, DC, on May 14, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

On the basis of the record obtained in these final investigations, we determine that an industry in the United States is materially injured, 1/ or threatened with material injury, by reason of imports of certain carbon steel butt-weld pipe fittings from China and Thailand 2/ determined by the Department of Commerce (Commerce) to have been sold at less than fair value (LTFV). 3/

I. Like Product

To determine whether there is "material injury" or "threat of material injury," to a domestic industry, the Commission must, as a threshold matter, define the "domestic industry." The term "domestic industry" is defined as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 4/ "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." 5/

1/ See Additional Views of Commissioner Brunsdale for her analysis of why the domestic industry is materially injured by reason of LTFV imports.

2/ Commissioner Rohr makes a negative determination with regard to LTFV imports from Thailand. See Additional and Dissenting Views of Commissioner Rohr.

3/ Material retardation of the establishment of an industry is not an issue in these investigations and will not be discussed further.

4/ 19 U.S.C. § 1677(4)(A).

5/ 19 U.S.C. § 1677(10). The Commission's decision regarding the appropriate like product 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. See Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). In analyzing like product issues, the Commission generally considers a number of factors relating to characteristics and uses including:

(continued...)

The imported articles subject to these investigations are finished and unfinished 6/ carbon steel butt-weld pipe fittings having an inside diameter of less than 14 inches. 7/ In prior investigations of carbon steel butt-weld pipe fittings from other countries, and in the preliminary investigations regarding imports from China and Thailand, the Commission 8/ determined that there was one domestic like product consisting of both finished and unfinished pipe fittings having an inside diameter of less than 14 inches. 9/ The Commission's single like product determinations in those investigations were based primarily on the lack of any independent market for unfinished pipe

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5/(...continued)
(1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and, where appropriate, (6) price. 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 requires "clear dividing lines among possible like products" and disregards minor variations among them. Torrington, 747 F. Supp. at 748-749.

6/ An unfinished pipe fitting is a fitting that has been advanced after forging but which requires at least one more processing step (i.e., shot blasting, machine beveling, boring and tapering, grinding, die stamping, inspecting or painting) to finish the fitting. See Report of the Commission (Report) at I-9. "Beveling" consists of shaping the end of a pipe so that the edges of interconnecting pipe form a shallow channel that accommodates the "bead" of the weld that fastens the two adjoining pieces. See Report at I-5.

7/ 57 Fed. Reg. 2783 (Jan. 23, 1992) (attached to Report at App. A); Report at I-3, n. 1.

8/ Vice Chairman Watson and Commissioner Nuzum did not participate in either the preliminary investigations or in any prior investigations because they were not members of the Commission.

9/ See Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand, Inv. Nos. 731-TA-520-521 (Preliminary), USITC Pub. 2401 (July 1991) (Preliminary Determinations) at 5-7; Certain Carbon Steel Butt-Weld Pipe Fittings from Japan, Inv. No. 731-TA-309 (Final), USITC Pub. 1943 (Jan. 1987) (Butt-Weld II) at 5-6; Certain Carbon Steel Butt-Weld Pipe Fittings from Brazil and Taiwan, Inv. Nos. 731-TA-308 and 310 (Final), USITC Pub. 1918 (Dec. 1986) (Butt-Weld I) at 6.

fittings and the identical production equipment used in producing finished and unfinished pipe fittings. The record in these investigations supports the same conclusion. In addition, carbon steel butt-weld pipe fittings having an inside diameter of less than 14 inches are produced on different machinery and equipment than larger diameter fittings and stainless steel pipe fittings. Further, each type of pipe fitting is sold to specific markets to meet specific needs. There is little, if any, substitution among them. 10/ Based on the record in these investigations, and consistent with past practice, we determine that the like product is all domestically produced carbon steel butt-weld pipe fittings having an inside diameter of less than 14 inches, whether finished or unfinished. 11/

II. The Domestic Industry

As noted previously, the domestic industry consists of the "domestic producers" of a "like product." In these investigations, the domestic industry consists of the domestic producers of carbon steel butt-weld pipe fittings having an inside diameter of less than 14 inches, whether finished or unfinished. The determination of who is a "domestic producer," however, is subject to considerable dispute among the parties.

The domestic industry currently consists of integrated producers and combination producers. Integrated producers generally begin with seamless pipe as their raw material and perform both forming and machining operations. Combination producers produce some fittings in an integrated process and other fittings in a conversion process. Conversion consists of performing machining

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10/ Report at I-5-I-7; Economics Memorandum EC-P-028 at 11.

11/ No parties argued for a different like product determination in these investigations.

operations to a formed fitting. 12/

Petitioner asserts that Weldbend Corp., a combination producer, is not a domestic producer because its domestic finishing operations add very little value to an unfinished imported pipe fitting. 13/ Petitioner argues that, in order for a pipe fitting to be a domestic product, it must be beveled in the United States. Respondents insist that Weldbend is a domestic producer and they note that Weldbend engages in integrated production in the United States. 14/ Respondents also argue that finishing operations add significant value to the final product, and hence all such operations should be considered domestic production activity. 15/

We determine that Weldbend is a domestic producer. 16/ Since Weldbend

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12/ Report at I-9-I-10.

13/ Petitioner's Prehearing Brief at 6-12; Petitioner's Posthearing Brief at App. A (Answer to Question 3). In making this argument, petitioner refers by analogy to Customs Service "substantial transformation" determinations. Customs has ruled that "painting, sand blasting and inspecting" pipe fittings does not constitute a "substantial transformation" of the articles since it does not "change the name, character, or use of the imported article." Accordingly, Customs has ruled that pipe fittings that were painted, sand blasted and inspected by Weldbend were not domestic products and were required to be marked with their country of origin. Petitioner's Posthearing Brief at 3 and App. B. Petitioner suggests that, while the Commission is not bound by Customs Service rulings, it would be anomalous for the Commission to determine that certain pipe fittings are domestic products when the Customs Service requires those products to be marked "Made in China."

14/ See, e.g., Posthearing Brief of Shenyang Billiongold at 2.

15/ See e.g., Posthearing Brief of Weldbend at 1-15 and A12-A18 (Answer to Commission Questions).

16/ The Commission has on numerous occasions considered whether certain firms qualify as domestic producers. In resolving that issue, six factors have been enumerated for examination: (1) the source and extent of the firm's capital investment; (2) the technical expertise involved in U.S. production activities; (3) the value added to the product in the United States; (4) employment levels; (5) quantity and type of parts sourced in the United States; and (6) any other costs and activities in the United States directly

(continued...)

produces at least some pipe fittings through an integrated production process it qualifies as a domestic producer. 17/ Further, Weldbend's production processes are virtually identical to those of the members of the petitioning group. 18/ In light of the minimal value added to an imported beveled pipe fitting, however, it remains to be decided whether or not Weldbend's shipments of finished pipe fittings made from such imports should be classified as "domestic" shipments. We need not definitively resolve this issue, however, since we determine below that Weldbend should be excluded in its entirety from our analysis of the domestic industry under the related party provision. Any adjustment to Weldbend's data would have no effect on the overall data for the industry, and no effect on our ultimate determination, since Weldbend's finishing of beveled imports is a relatively small portion of its total production, and remained constant as a share of that production, during the period of investigation. 19/

III. Related Parties

The related parties provision, 19 U.S.C. § 1677(4)(B), authorizes the Commission to exclude from the domestic industry producers (hereinafter

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16/(...continued)
leading to production of the like product. See, e.g., Certain Personal Word Processors from Japan, Inv. No. 731-TA-483 (Final), USITC Pub. 2411 at 18 (Aug. 1991).

17/ In prior investigations, the Commission included in the industry all producers, regardless of whether they were fully integrated producers, converters of unfinished pipe fittings, or combination producers. See Preliminary Determination at 7-12; Butt-Weld II at 5-6; Butt-Weld I at 7-9; see also Sandvik AB v. United States, 721 F. Supp. 1322, 1330-31 (CIT 1989)(redrawers and fully integrated producers both included in the domestic industry), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990).

18/ See Report at I-17.

19/ See Report at I-22.

referred to as "related parties") who are "related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise." 20/ Applying the provision involves two steps. 21/ First, the Commission must determine whether the domestic producer meets the definition of a related party. Second, if a producer is determined to be a related party, the Commission may exclude a producer in "appropriate circumstances." 22/ Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case. 23/

The rationale for the related parties provision is the concern that domestic producers who are related parties may be in a position to be shielded from any injury that might be caused by the imports. 24/ Thus, including these parties within the domestic industry would distort the analysis of the

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20/ 19 U.S.C. § 1677(4)(B).

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

22/ 19 U.S.C. § 1677(4)(B).

23/ See, e.g., Torrington Co. v. United States, Slip Op. 92-49 at 10 (CIT April 3, 1992); Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (CIT 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (CIT 1987).

24/ See S. Rep. No. 249, 96th Cong., 1st Sess. at 83 (1979). The Senate Report states that:

> The ITC is given discretion not to include within the domestic industry those domestic producers of the like product which are either related to exporters or importers of the imported product being investigated, or which import that product. Thus, for example, where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer, this should be a case where the ITC would not consider the related U.S. producer to be a part of the domestic industry.

condition of the domestic industry. 25/

In these investigations, there are seven domestic producers of carbon steel butt-weld pipe fittings. Three are strictly integrated producers, unrelated to producers or importers of the subject imports, and do not purchase or import unfinished pipe fittings. 26/ The other four producers (Hackney, Inc., Tube Forgings of America, Inc., Tube Line Co., and Weldbend), however, are each either affiliated with foreign producers of the subject merchandise, import such merchandise directly, or rely to a large degree on purchases of unfinished imports in their domestic operations. 27/ The related party provision must be analyzed with respect to each of these domestic producers separately. Hackney, Tube Forgings, and Tube Line are all clearly related parties, either through corporate affiliation or direct importation. 28/ Thus, the Commission must consider whether "appropriate circumstances" exist for their exclusion.

Weldbend's status under the related party provision merits close scrutiny. Weldbend historically was a converter of unfinished imports. In 1989, Weldbend completed its transformation into a combination producer with

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25/ See, e.g., Sandvik, 721 F. Supp. at 1331-32 (related party appeared to benefit from dumped imports).

26/ Report at I-16-I-17.

27/ Report at I-16-I-17.

28/ Hackney and Tube Forgings each directly imported subject pipe fittings during the period of investigation. Report at I-16. Tube Line is partially owned by Benkan America, Inc., a wholly-owned subsidiary of Benkan Corp. of Japan. Benkan Corp. is an exporter to the United States of subject imports produced in Thailand by Thai Benkan Co. In addition, Tube Line also imported subject pipe fittings during the period of investigation. Report at I-16-I-17.

the construction of an integrated production facility. 29/ Weldbend has no corporate affiliation with any foreign producer or importer of Chinese or Thai butt-weld pipe fittings, nor does it directly import the subject merchandise. 30/ However, Weldbend was a large purchaser of subject imports and was the principal domestic purchaser of unfinished pipe fittings during the period of investigation. 31/ There are at least three importers of unfinished pipe fittings from China who sell almost exclusively to Weldbend, and their purchases of unfinished imported pipe fittings are controlled to a significant degree by Weldbend. 32/

Given these facts, we must decide whether Weldbend should be considered "related to . . . importers, or . . . themselves importers" for purposes of the related party provision. Neither the term "related" nor the term "importer" is defined by the statute or explained in the legislative history. Thus, the Commission, as the agency charged with the administration of this provision, is responsible for filling in any "interpretational gap" in the statute. 33/ Our application of the related party provision to Weldbend must be consistent with the underlying purpose of that provision, which is to exclude from the industry those producers "shielded" from the effects of unfair imports. 34/

29/ Report at I-17.

30/ Report at I-17.

31/ Report at I-23, Table 7.

32/ Report at I-18.

33/ See Suramerica de Aleaciones Laminada, C.A. v. United States, App. Nos. 91-1015, 1050, 1055, slip. op. at 11 (Fed. Cir. June 11, 1992).

34/ See S. Rep. No. 249, 96th Cong., 1st Sess. at 83 (1979).

Limitation of the definition of "related" to corporate affiliation or the definition of "importer" to importers of record would, we believe, ignore congressional concern for identifying those domestic producers who are capable of shielding themselves from the effects of import competition. An overly restrictive application of the related party provision would elevate form over substance and should be rejected. Congress used broad language in the statute and left the Commission the discretion to apply the provision on a case-by-case basis. For example, an importer of record and a domestic producer may well be working closely together even though there is no corporate affiliation between the two. 35/ Further, a domestic producer may be principally responsible for importation of merchandise, even though a separate party is technically the "importer of record," because the importer of record is acting as an agent for the domestic producer.

While prior Commission determinations shed relatively little light on the appropriate definition for the term "importer," that term has been defined in a number of similar contexts by other agencies. None of these definitions are limited to importer of record. All of them include within the definition

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35/ In prior Commission determinations, there was no discussion regarding the definition of "related" or "importer" for purposes of the related party provision. See Certain Forged Steel Undercarriage Components from Italy, Inv. No. 701-TA-201 (Final), USITC Pub. 1465 (Dec. 1983); Certain Cast-Iron Pipe Fittings From Brazil, Inv. No. 701-TA-221 (Final) USITC Pub. 1681 (Apr. 1985). In Forged Steel Undercarriage Components, the Commission determined that a producer who acted "in concert" with an importer, but who also imported directly, was a related party. In Cast-Iron Pipe Fittings, the Commission determined that a producer who was the sole purchaser of imports was not a related party since it was neither the importer of record nor related to the importer of record. In neither of those determinations, however, was there any discussion of the proper definition of the terms "related" and "importer" as used in the related party provision. Thus, it appears that this case raises a question of first impression.

of "importer" firms that are not affiliated with the importer of record. 36/ Although these definitions of importer are not identical and are not binding on the Commission, it is significant that none of these definitions is as restrictive as Weldbend's or the other respondents' proposed definition of that term.

We determine that the related party provision may apply to all domestic producers who have a special relationship with the importer of record or otherwise control the purchase of large volumes of imports by the importers of record. Such producers, by reason of that control, could shield themselves from the effects of unfair imports, and their inclusion would distort the condition of the domestic industry as a whole. Examination of whether, in fact, they shielded themselves from the effects of unfair imports would occur in the consideration of whether "appropriate circumstances" exist for their exclusion. We believe that it is not appropriate to short-circuit that inquiry by adopting a narrow definition of the terms "related" (to require corporate affiliation) and "importer" (to mean "importer of record").

Examination of the record in these investigations reveals that Weldbend was the principal force behind imports from China throughout the period of

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36/ For example, the Commerce Department regulations define "importer" for the purposes of Title VII investigations to mean "the person by whom, or for whose account, the merchandise is imported." 19 C.F.R. § 353.2(i)(emphasis added). In addition, the Customs Service defines the term "importer" in its regulations as:

> the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The importer may be:
>
> (1) The consignee, or
> (2) The importer of record, or
> (3) The Actual owner of the merchandise . . ., or
> (4) The transferee of the merchandise . . . .

19 C.F.R. § 101.1(1)(emphasis added).

investigation. Without having a close contractual relationship with Weldbend, it is extremely unlikely that the importers of record would have purchased large volumes of unfinished imports from China. 37/ While the importers of record do not appear to be acting strictly as purchasing agents for Weldbend, the relationship between them is so close that we conclude that Weldbend is "related to . . . importers, or are themselves importers" for the purposes of the related party provision. 38/

Having identified four related parties, we next examine whether appropriate circumstances exist to exclude any of those producers from the domestic industry. We traditionally have examined at least three factors in deciding whether a related party is being "shielded" from the effects of the subject imports and in determining that appropriate circumstances exist to exclude that party. Those factors include:

> (1) the percentage of domestic production attributable to the importing producer;
>
> (2) the reasons the U.S. producer has decided to

37/ In the preliminary investigations, the Commission examined prior determinations and the facts available at the time and determined that Weldbend was not an "importer." See Preliminary Determination at 7-12. The Commission's decision was based upon its view at that time that the "related parties provision does not apply to domestic producers who are also purchasers of imports." Preliminary Determination at 12. Further, Weldbend did not appear, based upon the record available at that time, to have a "special relationship" with the importer of record. Preliminary Determination at 11 and n. 24. The Commission noted, however, that it would revisit the issue in any final investigations "to explore further the significance of Weldbend's unique role in the domestic industry." Preliminary Determination at 12, n. 26. We believe that the record available in these final investigations demonstrates that a "special relationship" between Weldbend and the importers of record does, in fact, exist.

38/ In the two prior investigations involving this same industry, no producers were excluded under the related parties provision. See Butt-Weld II at 5; Butt-Weld I at 10. In those investigations, however, no party suggested that Weldbend be excluded and the Commission did not address Weldbend's status under the related party provision.

> import the product subject to investigation, i.e., whether the firm benefits from the LTFV sales or subsidies or whether the firm imports in order to enable it to continue production and compete in the U.S. market, and
>
> (3) the position of the related producers vis-a-vis the rest of the industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry. 39/

In addition, the Commission has considered other potentially distorting factors, such as the ratio of import shipments to U.S. production for each producer and the length of time that the producer has been engaged in domestic production. Each of these factors must be evaluated for each of the four "related party" producers.

During the period of investigation, both Hackney and Tube Forgings accounted for significant shares of domestic production. 40/ Both also had declining ratios of purchases of subject imports to total domestic production. By 1991, neither one was using significant amounts of subject imports. Further, their shares of total subject imports declined to insignificance in 1991. 41/ Thus, by the end of the period of investigation both Hackney and Tube Forgings were primarily dependent on integrated production and only marginally dependent on import sales. Neither one appears to have been shielded from the effects of imports and inclusion of their data will not skew or distort the data for the industry as a whole. Therefore, although they are related parties, we do not find that appropriate circumstances exist for their exclusion from the domestic industry.

39/ See Torrington Co. v. United States, Slip Op. 92-49 at 11 (CIT April 3, 1992) (affirming Commission's application of the related party provision).

40/ Report at I-17, Table 3.

41/ Report at I-23, Table 7.

Tube-Line's share of domestic production was relatively small during the period of investigation. 42/ Tube Line's imports from China and Thailand, however, were substantial, representing about half of the firm's total domestic production in 1991. 43/ Tube-Line's imports from Thailand accounted for the vast majority of unfinished imports, and a substantial percentage of total imports, from that country during the period of investigation. 44/ Moreover, Tube-Line was exclusively a converter of unfinished imports until 1990, when it began integrated production. 45/

Weldbend's share of domestic shipments was substantial. 46/ Throughout the period of investigation, however, the majority of Weldbend's domestic production consisted of finishing imported unfinished pipe fittings, most of which came from China. Weldbend is still predominantly a converter. 47/ Weldbend's purchases of imports from China accounted for the vast majority of unfinished imports, and a substantial percentage of total imports, from that country during the period of investigation. 48/

Weldbend was able to buy unfinished imports from China at admittedly low prices, finish those imports at relatively small cost, and sell them in the United States as a domestic product commanding the higher prices that other domestic producers charge. Tube Line was in a similar position with regard to

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42/ Report at I-17, Table 3.

43/ Report at I-23, Table 7.

44/ Report at I-23, Table 7.

45/ Report at I-16.

46/ Report at I-17, Table 3.

47/ Report at I-23, Table 7.

48/ Report at I-23, Table 7.

imports from Thailand. Therefore, low-priced unfinished imports allowed Weldbend and Tube Line to sell finished fittings at prices lower than those of other domestic producers. 49/ Moreover, their imports of unfinished pipe fittings were incorporated into their "domestic" production data and that of the domestic industry. This makes it difficult to accurately allocate their profits to domestic production or importation. 50/

The production processes and financial performance of Tube Line and Weldbend have been, and remain, dependent on low-cost unfinished imports. Further, inclusion of their data distorts certain domestic industry indicators, especially pricing, productivity, and profitability. 51/ Given Tube Line's and Weldbend's dependence on low-cost imports, the greater the availability of dumped imports, the lower are their costs and the greater is the profitability of their conversion operations. In these circumstances, Tube Line and Weldbend are shielded to a significant degree from the effects of dumped imports. Therefore, we exclude them from the domestic industry. We note, however, that the exclusion of Weldbend and Tube Line has no significant effect on the data for the industry as a whole, and does not affect the ultimate determination in these investigations.

49/ See Petitioner's Prehearing Brief at 10-12.

50/ Since Tube Line did not provide financial data, they are already effectively excluded from the industry with regard to such data.

51/ More particularly, prices for unfinished imports finished in the United States tended to be below prices of purely domestic product. See Report at I-50. Furthermore, productivity is much higher for finishing operations than it is for integrated production. See Report at I-25, Table 9.

IV. Condition of the Domestic Industry. 52/

In evaluating the condition of the domestic industry, the statute directs us to consider "all relevant economic factors which have a bearing on the state of the industry in the United States." 53/ Specifically we consider, among other factors, domestic consumption, production, shipments, market share, capacity utilization, employment, wages, productivity, domestic prices, profits, cash flow, the ability to raise capital, investment, and development and production efforts. In addition, the Commission considers the particular nature of the industry under investigation, including any "business cycle and conditions of competition that are distinctive to the affected industry." 54/

One condition of competition relevant to our consideration of the condition of this industry is the existence of "approved" and "non-approved" segments within the overall domestic market for carbon steel butt-weld pipe fittings. The primary criterion distinguishing these segments is product

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52/ We obtained extensive information concerning the condition of the domestic industry during the period of investigation. Much of the aggregate data for the industry, however, are confidential because of our decision to exclude particular producers from the domestic industry. Public disclosure of aggregate data for the industry, as defined in these final investigations, could be compared to the aggregate data from the preliminary without great difficulty, and could be used to determine the data for the individual firms that are excluded.

53/ 19 U.S.C. § 1677(7)(C)(iii).

54/ 19 U.S.C. § 1677(7)(F)(iii). None of the parties suggested the existence of a business cycle unique to this industry. Several domestic producers suggested that the industry is relatively immune to cyclical downturns in the economy as a whole because sales for repair and replacement rise when sales for new construction fall, at least in the short run. For longer term declines, however, sales for repair and replacement may level off or decline. Thus in a long term decline, demand in the industry may also decline after a time lag of at least several months. See Petitioner's Posthearing Brief at App. A (Answer to Question 13), citing, Hearing Transcript at 61-63 .

failure is very low, such as petroleum, nuclear energy, and power generation. 55/ The non-approved market is characterized by less critical applications, such as plumbing and the construction industry. Estimates of the relative sizes of the two market segments vary considerably. 56/

The effect of this particular condition of competition is difficult to assess because the parameters of each market are not clearly defined. Further, recessionary conditions and other cost considerations tend to lessen reliance on approval lists. In our analysis of the condition of the industry, we have considered the existence of an approved market wherein U.S. producers appear to face relatively less competition with the subject imports, at least those from China. We note, however, that the non-approved market, where the subject imports and the domestic products compete head-to-head, is still significant to the U.S. industry. We consider the importance of quality concerns and market segmentation further in our cumulation and causation analyses.

We next examine the various indicators of the domestic industry's performance. During the period of investigation, 57/ domestic consumption

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55/ U.S. products are all approved, as are a substantial portion of the Thai products. In contrast, no Chinese products are approved. See Economics Memorandum EC-P-028 at 4-5; Report at I-19, n. 52.

56/ See Report at I-19. The estimates of the size of the approved market provided by the members of the petitioning group ranged from 5 to 50 percent.

57/ In these final investigations, petitioner suggested that we depart from administrative practice and use a four-year period of investigation. See Petitioner's Prehearing Brief at 3-4. We have determined not to do so. The Commission has traditionally examined a three-year period, plus interim periods. See Kenda Rubber Industrial Co. v. United States, 630 F. Supp. 354, 359 (CIT 1986). The three year period achieves a balance between the burden on questionnaire recipients and the need to place the performance of the industry in proper perspective. See Chaparral Steel v. United States, 901 F.2d 1097, 1104 (Fed. Cir. 1990). We note that imports from China increased (continued...)

declined irregularly. 58/ Domestic production, however, increased slightly. 59/ Domestic shipments of finished pipe fittings also increased steadily, regardless of whether one focuses on integrated or combined production. 60/ Net sales also increased. The market share held by domestic producers was stable from 1989 to 1990, and increased in 1991. 61/ However, the industry operated at approximately 50 percent of capacity throughout the period of investigation. 62/

Employment in the domestic industry declined slightly during the period of investigation. Hours worked, wages paid, and total compensation, however, increased. 63/ The productivity of domestic workers was essentially unchanged during the period of investigation. 64/

Domestic prices declined during the period of investigation. For the five products for which producer pricing was provided, domestic prices fell by

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57/(...continued)
significantly between 1988 and 1989, and certain industry indicators declined sharply at about that time.

58/ Report at I-20, Table 4.

59/ Report at I-22, Table 5.. Finishing of unfinished imports declined during the investigative period as domestic producers shifted to integrated production. Integrated production tends to be more costly than conversion of dumped imports. See Report at I-28. No parties offered an explanation for this shift within the industry.

60/ Report at I-20, Table 4.

61/ Report at I-36, Table 20.

62/ Report at I-22, Table 5. End-of-period inventories of U.S. producers increased between 1989 and 1990, but declined by a roughly equivalent amount in 1991. The ratio of inventories to shipments followed a similar trend, but was lower in 1991 than in 1989. Report at I-24, Table 8.

63/ Report at I-25, Table 9.

64/ Report at I-25, Table 9.

between 5.3 and 12.2 percent. 65/ Data from distributors showed similar declines in price. 66/

The domestic industry's gross profit declined substantially during the period of investigation, although the industry as a whole remained profitable. Operating income and net income followed a similar trend. Operating profits as a percent of net sales declined by over 50 percent during the period of investigation. 67/ The domestic industry's cash flow also declined significantly between 1989 and 1990, and continued to decline in 1991. 68/ 69/ 70/

Examination of the relevant economic factors set forth in the statute, and consideration of the unique conditions of competition for this industry, suggests that the domestic industry experienced difficulties during the period of investigation. While the industry maintained production levels and market share, it did so at the expense of profitability. Capacity utilization is already low and the industry apparently chose to maintain existing employment

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65/ Report at I-38, I-44.

66/ Report at I-48.

67/ Report at App. B, Table C-3.

68/ Report at App. B, B-25, Table C-3. Capital expenditures and research and development expenses are relatively insignificant for this industry. Report at App. B-27, Table C-8. Further, given the nature of the product subject to investigation, there are no significant development and production efforts geared towards derivative or more advanced products.

69/ Commissioner Brunsdale does not join in the following characterization of the condition of the industry and does not join the remainder of this opinion. See Additional Views of Commissioner Brunsdale.

70/ Vice Chairman Watson does not join in the following characterization of the condition of the industry and does not find it necessary to reach a separate conclusion that the domestic industry is vulnerable to the continued effects of LTFV imports to make a determination that the domestic industry is threatened with material injury by reason of LTFV imports.

and production levels and accept consistently lower prices. Declines in prices contributed directly to declines in profits. The industry remained profitable, however. Its continued ability to compete in the domestic market is questionable when faced with the substantial volume and market share of extremely low-priced imported pipe fittings from China and Thailand. Given these circumstances, we conclude that the industry is vulnerable to the continued effects of LTFV imports. 71/

V. Cumulation

In determining whether there is a threat of material injury by reason of the LTFV imports, the statute states that "[t]o the extent practicable . . . the Commission may cumulatively assess the volume and price effects of imports from two or more countries if such imports -- (I) compete with each other, and with like products of the domestic industry, in the United States market, and (II) are subject to any investigation." 72/ In contrast to mandatory cumulation for material injury analysis, cumulation for threat analysis is discretionary. 73/

There is no dispute that imports from both China and Thailand are subject to investigation and were marketed in the United States throughout the period of investigation. Thus the only issue regarding cumulation in these investigations is whether the imports from China and Thailand compete with one another and with the domestic like product in the U.S. market.

71/ Commissioner Rohr does not join the remainder of this opinion. See Additional and Dissenting Views of Commissioner Rohr.

72/ 19 U.S.C. § 1677(7)(F)(iv)(emphasis added).

73/ Compare 19 U.S.C. § 1677(7)(F)(iv)(Commission "may" cumulate for threat analysis) with 19 U.S.C. § 1677(7)(C)(iv) (Commission "shall" cumulate for present injury analysis).

In assessing the competition question, we generally consider four factors. 74/ The record clearly establishes the existence of three of the competition factors. Imports from China and Thailand and the domestic like product were simultaneously present in the market as there were significant shipments of all three products throughout the period of investigation. 75/ Further, all three products were sold through the same channels of distribution. Finished pipe fittings were sold to distributors who resold to end users, while unfinished pipe fittings were sold to domestic producers for finishing. 76/ In addition, while certain importers sold on a regional basis,

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74/ These factors are:

> (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;
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> (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;
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> (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and
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> (4) whether the imports are simultaneously present in the market.

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 necessarily determinative, and the list of factors is not exclusive, these factors provide a framework for determining whether the imports compete with each other and with the domestic like product. Furthermore, only a "reasonable overlap" of competition is required. See, e.g., Wieland Werke, AG v. United States, 718 F.Supp. 50, 52 (CIT 1989).

75/ Report at I-20, Table 4.

76/ Report at I-18.

seven of 18 reported nationwide sales, as did all domestic producers. 77/ Thus, imports from China and Thailand and the domestic like product were sold in the same geographical markets.

The first competition factor, however, is subject to considerable dispute. With regard to imports from China, the parties disagree as to the alleged fungibility of the Chinese product with the Thai product and the domestic like product. In particular, respondents pointed to quality considerations that allegedly prevent competition between imports from China and the domestic product in the approved market, which allegedly constitutes 50 percent of the domestic market.

We determine that there is a reasonable overlap of competition among imports from China and Thailand and the domestic like product. 78/ Even if the imports from China do not compete in the approved market, they do compete with the domestic products and imports from Thailand in the non-approved market, which is at least 50 percent of the domestic market. 79/ Respondents provided no evidence that the domestic product and the imports from Thailand were not sold in this market. 80/

In considering whether cumulation is appropriate for the purposes of our threat analysis, we may also consider other factors, such as the "lack of uniform pricing, volume trends, or market penetration and low market shares of

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77/ Report at I-18-I-19.

78/ For a discussion of the marketing of domestic and imported pipe fittings and the "approved" markets, see Economics Memorandum, EC-P-028 at 4-5.

79/ See Petitioner's Posthearing Brief at App. A (Answer to Question 1). The estimates of the size of the approved market ranged from 5 to 50 percent.

80/ The Economics Memorandum notes that suppliers to the non-approved market "will purchase from any source." Economics Memorandum, EC-P-028 at 4.

imports" from the subject countries. 81/ We may also consider any imminent change in a foreign producer's productive capacity. 82/

While the pricing of imports from China and Thailand was not identical, they both uniformly undersold the domestic product by significant margins and the prices of both declined significantly during the period of investigation. 83/ The trends in volume for imports from China and Thailand differed somewhat, 84/ but both the volume and market share of imports from each country were substantial. Imports from Thailand declined significantly between 1989 and 1990, but then remained relatively stable. At the same time imports from China increased from 25,111,000 pounds in 1989 to 34,472,000 pounds in 1990, before declining to 29,810,000 pounds in 1991. 85/ The market shares of imports from both China and Thailand are substantial and exceed 10 percent of the market. 86/ Furthermore, there is existing unused capacity in both China and Thailand and the United States is a primary export market for

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81/ Torrington Co. v. United States, Slip Op. 92-49 at 21 (CIT April 3, 1992).

82/ See Report at I-32-I-33 and Tables 16 and 17 (data regarding capacity, capacity utilization, and planned expansion).

83/ See Report at I-38-I-57.

84/ It should be noted, however, that a countervailing duty order against imports from Thailand was imposed on January 18, 1990, and likely affected the volume of imports from Thailand during 1990-91. See Report at I-4-I-5. Further, imports from China dropped significantly in the last quarter of 1991, immediately prior to Commerce's suspension of liquidation.

85/ Report at I-35, Table 18 and I-36, Table 19. Imports dropped significantly in the last half of 1991, following the Commission's preliminary investigation.

86/ Report at I-36, Table 20.

both countries. 87/ After consideration of all these factors, we determine that cumulation of imports from China and Thailand for purposes of a threat analysis is appropriate.

VI. Threat of Material Injury By Reason of LTFV Imports

Section 771(7)(F) of the Tariff Act of 1930 directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of LTFV imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." 88/ The statute specifically lists ten factors for the Commission to consider in determining whether an industry is threatened with material injury by reason of LTFV imports. 89/ These factors include: (1) increases in production capacity or existing unused or underutilized capacity in the exporting country that might lead to a significant increase in imports; (2) any rapid increase in U.S. market penetration and the likelihood that the penetration will reach an injurious level; (3) the probability that imports will enter the United States at prices that will have a depressing or suppressing effect on domestic prices; (4) whether there are substantial increases in inventories of the imported products in the United States; and (5) any other demonstrable adverse trends

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87/ Report at I-33, Tables 16 & 17. Even after the imposition of the countervailing duty order, approximately one-third of Thai production was directed at the U.S. market. Furthermore, production in Thailand has been undertaken by Japanese producers who were subject to an antidumping order issued in 1986.

88/ 19 U.S.C. § 1677(7)(F)(ii). While an analysis of the statutory threat factors necessarily involves projection of future events, our determination is not made based on supposition, speculation, or conjecture, but on the statutory directive of real and imminent injury. See e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 88-89 (1979); Hannibal Industries Inc. v. United States, 712 F. Supp. 332, 338 (CIT 1989); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1095 (CIT 1988).

89/ 19 U.S.C. § 1677(7)(F)(i).

that indicate the probability that the imported products will be the cause of actual injury. 90/ The presence or absence of any single threat factor shall not necessarily be dispositive. 91/

Data obtained from Chinese producers 92/ show an almost ten-fold increase in capacity from 1989 to 1991. Production by these producers increased by a similar amount. Capacity utilization rose slightly, but there remained significant excess capacity in China. 93/ Data from Thai producers 94/ indicated that capacity increased by almost 10 percent from 1989 to 1991. Production increased by over 30 percent during that same period. Capacity utilization was relatively high in 1991, but data from the Thai industry show increases in capacity for 1992, and a drop in capacity utilization. 95/

90/ See 19 U.S.C. § 1677(7)(F)(i)(I)-(X). Factors I, VIII, IX and X are not relevant to the threat determinations in these investigations and need not be discussed in great detail. Since these investigations do not involve either a subsidy or an agricultural product, Factors I and IX are not applicable. None of the foreign producers' butt-weld pipe fitting facilities are used to produce other products subject to final antidumping or countervailing duty orders. Thus, Factor VIII is also inapplicable. Finally, the butt-weld pipe fittings industry is a mature industry with little, if any, development and production of derivative products. Therefore Factor X is not significant in these investigations. We also must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or merchandise suggest a threat of material injury to the domestic industry. 19 U.S.C. § 1677(7)(F)(iii)(I). We received no information about dumping findings against the subject products in foreign markets in these investigations.

91/ See e.g., Rhone Poulenc, S.A., v. United States, 592 F. Supp. 1318, 1324 n. 18 (CIT 1984).

92/ Data were obtained from Chinese producers representing 31 percent of imports from China in 1991. Report at I-32.

93/ Report at I-32-I-33, Table 16.

94/ Data were obtained from all Thai producers. Report at I-33.

95/ Report at I-32-I-33, Table 17.

Market penetration for cumulated imports from China and Thailand increased slightly during the period of investigation, and was at all times well in excess of one-third of the domestic market. 96/ Furthermore, the United States was a primary export market for both Chinese and Thai producers throughout the period of investigation. Given the huge increases in capacity and the historical significance of the U.S. market, it is likely that imports from China and Thailand will increase their market share in the imminent future. Also, the composition of the subject imports shifted away from unfinished product (where at least some U.S. value is added) toward finished product (to which no U.S. value is added). This shift increases the likelihood that future imports will injure the U.S. industry.

In addition, end-of-period inventories of imports from China and Thailand increased sharply. The ratio of inventories to shipments for imports from China and Thailand also increased. 97/ Further, Chinese producers were able to ship 9 million pounds of pipe fittings to the United States for entry in July 1991 alone, around the time of the Commission's preliminary determinations. 98/ This demonstrates the rapidity with which imports may respond to market conditions in the United States.

As noted previously, domestic prices declined significantly throughout the period of investigation. Prices for imports also generally declined. Furthermore, imports from China and Thailand consistently undersold the domestic product. The margins of underselling were extremely high. 99/ The

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96/ Report at I-36, Table 20.

97/ Report at I-32-I-33, Table 15.

98/ See Report at I-15, Table 2 and I-24, Table 8.

99/ Report at I-38-I-57.

impact of imports from China and Thailand on domestic prices, however, is affected by alleged quality differences among the products and the extent to which there is segmentation of the domestic market due to approved supplier lists.

There is conflicting evidence regarding differences in quality between the domestic product and imports from Thailand, on the one hand, and imports from China, on the other. A number of purchasers noted quality differences between Chinese imports and other products, 100/ but the differences appear to be based on the fact that there is a higher reject rate for Chinese pipe fittings than there is for either Thai or domestic fittings. 101/ The higher reject rate may be attributable to the lack of adequate testing and inspection facilities in China. 102/ Rejected pipe fittings are returned to the sellers.

There is no evidence that pipe fittings from Thailand have higher reject rates than does the domestic industry. Nor is there any evidence that pipe fittings from any country that meet industry standards differ significantly in quality. 103/ The apparent problem with Chinese pipe fittings is that they

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100/ See Report at I-10-I-11.

101/ Report at I-11. The reject rate for domestic product reportedly ranged from 1.5 to 2.5 percent of total shipments. Thirteen of 27 importers reported rejecting imports from China for quality reasons. Their reject rates ranged from 0.05 percent to 100 percent of particular shipments. Id. Half of the purchasers responding to the Commission's questionnaire also reported rejecting Chinese imports. Their reject rates ranged from 1 to 10 percent. The other half of the purchasers reported no rejection of Chinese product. Id. at I-11. Five of 13 purchasers reported rejections of Thai fittings at less than a 2-percent rate.

102/ Posthearing Brief of Shenyang Billiongold, Ex. 1 at 2. U.S. importers and distributors do inspect and test pipe fittings, however.

103/ 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. See Report at I-8-I-9 and n. 26.

too often fail to meet those standards. A significantly higher reject rate for a manufacturer's product may affect the willingness of end users to purchase that product. 104/

While we believe that differences in reject rates and conditions of sale affect the relative substitutability of Chinese and Thai pipe fittings, such differences explain neither the very large disparities in price between the imports and the domestic product, nor the declining prices for all producers. 105/ Thus, we conclude that the differences in quality between imports from China and Thailand and the domestic product had a limited impact on purchasing decisions.

Further, the existence of an approved market, noted previously, does not affect our determination that there is significant competition among imports from China and Thailand and the domestic like product. 106/ The record indicates that finished imports from China are not on approved manufacturer lists used by major oil and petrochemical companies. 107/ Thus, pipe fittings

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104/ See Report at I-11. There may, of course, be significant non-price factors affecting the purchasing decision that are not intrinsic to the products themselves. Differences in conditions of sale may affect purchase prices. Such differences most notably would include different delivery schedules. In this case, the domestic producers can deliver their product in a matter of days; imports from Thailand and China may take 3 to 5 months to arrive. Some purchasers also noted that delivery of Chinese products was unpredictable. See Economics Memorandum EC-P-028 at 17. It should be noted, however, that purchasers of unfinished imports tend to make large-volume purchases and maintain large inventories that may not be processed into finished fittings for over a year.

105/ Respondents' sales literature states that imports from China are comparable to the domestic product. Petitioner's Posthearing Brief at App. F.

106/ For a discussion of the marketing of domestic and imported pipe fittings and the approved markets, see Economics Memorandum EC-P-028 at 4-5.

107/ For a discussion of how the approved market affects the substitutability of imports from China for the domestic product, see Economics Memorandum EC-P-028 at 16-19.

finished in China do not compete for sales in the approved market. 108/ They do compete with the domestic products and imports from Thailand in the non-approved market, 109/ which ranges from 50 to 95 percent of the domestic market. 110/ Accordingly, complete market segmentation between the Chinese and other products does not exist. 111/

It appears that purchasers in the approved market are not as price-sensitive as purchasers in the non-approved market. However, as noted above, the parameters of each market are not clearly defined, and some purchasers will not consistently rely on approved lists during recessionary periods. 112/ Therefore, competition between imports from China and other products is relatively limited in the approved market, but is significant in the non-approved market and for the market as a whole.

Based on our analysis of the record and the statutory threat factors, we find that the domestic industry is threatened with material injury by reason of the LTFV imports from China and Thailand. Existing unused or underutilized capacity in China and Thailand, and increases in that capacity, will likely

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108/ Unfinished pipe fittings from China, however, may be imported into the United States, finished by an approved manufacturer and sold in the approved market. It appears likely that unfinished imports from China have been finished domestically and sold on the approved market, at least to some degree. See Petitioner's Posthearing Brief at App. A (Answer to Question A). Since domestic producers apparently do not segregate their inventory of finished fittings by source, the extent to which a Chinese import, finished domestically, has been sold in the approved market is difficult to discern.

109/ Domestic producers found it difficult to estimate the size of the approved market because they sold to distributors who had customers in both markets. See Report at I-19.

110/ See Report at I-19.

111/ The Economics Memorandum notes that suppliers to the non-approved market "will purchase from any source." Economics Memorandum EC-P-028 at 4.

112/ Economics Memorandum EC-P-028 at 4.

result in an increase in both the volume and domestic market share of imports from those countries. Given our determination that the domestic and imported products are relatively substitutable for one another and that the non-approved market is price sensitive, we determine that LTFV imports from China and Thailand will enter the domestic market at prices that will have both a depressing and suppressing effect on domestic prices. The inventory buildup and the ability to ship large volumes in a short period of time further increases the likelihood of increased market share for the foreign producers and greater price effects of the imports on the domestic industry, as does the shift toward finished imports. Finally, in light of the declining profitability of the domestic industry and the vulnerability of the domestic industry to unfair imports, 113/ we find that the threat of material injury is real and that actual injury is imminent.

In accordance with 19 U.S.C. § 1673d(b)(4)(B), we must make an additional finding as to whether material injury by reason of the subject imports would have been found but for the suspension of liquidation of entries of such imports. 114/ This finding is required so that Commerce may impose dumping duties as of the appropriate date. Suspension of liquidation occurred in these investigations as of December 26, 1991, the date of Commerce's

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113/ Vice Chairman Watson does not reach a conclusion that the domestic industry is vulnerable to the continued effects of LTFV imports.

114/ Since our affirmative determination is based upon a threat of material injury by reason of LTFV imports, not on current injury, the critical circumstances issue is no longer relevant. A finding that retroactive imposition of antidumping duties is necessary to prevent recurrence of material injury would be inconsistent with our finding that the industry is only threatened with material injury at this time. See 19 U.S.C. § 1673d(b)(4)(A).

preliminary affirmative determinations. 115/ Imports declined in the months immediately prior to the suspension of liquidation and there was an insignificant volume of imports after that date. Accordingly, we do not find that, had there not been suspension of liquidation, the domestic industry would have been materially injured by reason of the subject imports.

115/ 56 Fed. Reg. 66831 (Dec. 26, 1991).

Additional Views of Commissioner Anne E. Brunsdale

Certain Carbon Steel Butt-Weld Pipe Fittings
from China and Thailand
Inv. Nos. 731-TA-520-521 (Final)

I concur with my colleagues' affirmative determination that the domestic industry producing certain carbon steel butt-weld pipe fittings (fittings) is materially injured or threatened with material injury by reason of dumped imports from China and Thailand.[1] I base my decision, however, on present injury rather than on the threat of future injury.[2] I join in their discussion of like product, domestic industry, related parties, and condition of the industry. I write these additional views to present my analysis of causation and to discuss the various issues that I found most important in this case.

Material Injury by Reason of Dumped Imports

In considering whether an industry is materially injured by reason of the dumped imports, the Commission is required to consider (1) the volume of subject imports, (2) the effect of those imports on the price of the domestic like product, and (3) the impact of those imports on domestic producers. Commissioners may consider other economic factors that are relevant to their determinations.

[1] I find no critical circumstances in this case.

[2] The decision to exclude Weldbend as a related party is not necessary for my determination that the domestic industry is materially injured by reason of the dumped imports.

In addition to assessing the effects of the volume of imports in absolute terms, we are instructed to consider the market share of the subject imports.[3] The larger the market share of the dumped imports, the greater the effect of the dumping on demand for the domestic like product. Subject imports of fittings from China and Thailand accounted for about a third of domestic consumption in terms of value, declining slightly over the period of investigation.[4] Fairly traded imports accounted for over 10 percent of domestic consumption also declining over the period of investigation.

The dumping margin calculated by the Department of Commerce indicates the percentage difference between the dumped price of the subject imports and their price at fair value. The higher the dumping margin, the greater the difference between the dumped price and the fair price of the subject imports. It stands to reason that if subject imports are sold at 100 percent below their fair price, dumping will cause more lost sales for domestic producers and suppress domestic prices more than if imports are sold at only 5 percent below their fair price, all other things being equal. In this case, Commerce found the dumping margin for the Chinese product to range from 42 to 182 percent and the dumping margin for the Thai product to range from .2 to 51

[3] See 19 U.S.C.1677(7)(C)(i).

[4] The exact market share is confidential.

percent.[5]

The degree of substitutability between the domestic like product and the subject imports is crucial to the analysis of causation. If the products are close substitutes, customers will be more likely to switch to buying the dumped imports if their relative price falls. If the products are perceived as being different, relative price changes will not affect purchases to the same extent. Therefore, dumping will not cause the domestic producers to lose a significant volume of sales.

In this case there is strong evidence that the Chinese product is of lower quality. I generally agree with the majority's discussions of product quality and the approved, non-approved markets. It is clear that the unapproved market where all products compete is sufficiently large to be quite important to domestic producers. In addition, although Chinese fittings cannot be substituted for domestic fittings in many applications, domestic fittings can always be substituted for Chinese fittings. Therefore, lack of substitutability in this case does not affect the current injury determination, although it may limit any future injury. There is a general consensus that the Thai product is a good substitute for the domestic like product in both market segments.

Because the dumping margin is so large in this case, the relevant question is this: if the subject imports had been sold

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[5] The margins for the majority of producers was at the high end. See Report at 19.

at fair value, would customers have switched to buying the domestic product? Frankly, the dumping margins found by Commerce were so large that it is hard to believe that Chinese and Thai producers would have many sales at the "fair price." Of course, all sales would not go to domestic firms. Some might go to fairly traded imports. But, given the small market share of fairly traded imports, it is safe to conclude that a large portion would go to domestic firms.

It is unlikely that dumped imports expanded the market for fittings rather than taking sales from domestic firms. The demand for fittings depends on the activity of key U.S. industries such as construction, petrochemicals and oil refining, and there are no close substitutes for these fittings.

The statute requires me to consider the effects of the dumped imports on prices of the like product. The record shows that it is likely that domestic producers would be able to raise their output to some extent if demand increased.[6] I conclude, therefore, that dumping of fittings is likely to have a greater effect on domestic producers' volume of sales than on the domestic price.

Conclusion

I determine that the domestic industry producing fittings is materially injured by reason of dumped imports from China and Thailand. The volume of subject imports is substantial and the

[6] See Economics Memo EC-P-028 at 10-12.

average dumping margin is quite large. It is not likely much fittings, particularly from China, would be sold in the domestic market at "fair value." Although the substitutability of Chinese and domestic fittings is limited, the domestic product is a close substitute in all applications where the Chinese and Thai product is currently used.

I also conclude that there are no critical circumstances in this case. There was not a massive increase in imports during the period for which retroactive dumping duties would apply. I, therefore, do not believe that retroactive duties are necessary to ensure the effectiveness of the dumping order, nor would they have a significant effect of the condition of the industry.

Additional and Dissenting Views of Commissioner David. B Rohr In Certain Butt-Weld Pipe Fittings from China and Thailand

Invs. Nos. 731-TA-520 and 521 (Final)

I set forth these separate views because I determine that the domestic industry in this investigation is not threatened with material injury by reason of imports of certain carbon steel butt-weld pipe fittings from Thailand. I find that the domestic industry is threatened with material injury by reason of imports of certain carbon steel butt-weld pipe fittings from China. I concur in the views of my colleagues about the proper definition of the like product and the domestic industry. Additionally, I concur with my colleagues on the related party issue.

I. CONDITION OF THE DOMESTIC INDUSTRY

I concur with my colleagues' description of the condition of the industry. I further find that the industry is not currently experiencing material injury. 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. My overall evaluation of the condition of this industry based on the balance of the indicators is that the industry is not currently experiencing material injury. Production, capacity, capacity utilization, domestic shipments and

net sales of the domestic industry all rose over the three year period of investigation. Market share by the domestic industry also rose substantially.

Employment and operating income declined. Despite the decline in operating income, the margin of operating income relative to net sales remained above the level I would view as indicative of material injury for this industry. I conclude that the indicators are not at levels indicative of current injury.

Recent declines in profitability due to a price-cost squeeze have left the industry vulnerable to material injury in the imminent future. With significant unused domestic capacity,[1] further increases in LTFV imports could easily lead to variable-cost pricing by domestic producers attempting to maintain production volumes to cover fixed costs, despite operating losses. The downward trends in key indicators and very low capacity utilization rates for domestic producers indicate serious vulnerability to the potential effects of increased LTFV imports.

II. THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

The statute directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of imports "on the basis of evidence that the threat of

[1] Capacity utilization for the domestic industry remained steady at very low level over the period of investigation. Report at I-22, Table 5, not including Weldbend and Tubeline.

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."[2]

A. Cumulation

At the outset, I must consider whether to cumulate imports from the two subject countries for purposes of our threat analysis. The statute indicates that, in its threat analysis, "[t]o the extent practicable...the Commission may cumulatively assess the volume and price effects of imports from two or more countries..."[3] Hence, cumulation for threat analysis, in contrast to cumulation for material injury analysis, is discretionary.[4]

The Court of International Trade has held that

> cumulative analysis for threat purposes [is] feasible in certain circumstances. For example, if imports are increasing at similar rates in the same markets and have relatively similar margins of underselling, it is likely that cumulation could be undertaken. This does not mean that each country's

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[2]19 U.S.C. § 1677(7) (F) (ii).

[3]19 U.S.C. § 1677(7)(F)(iv)(emphasis added).

[4]Compare 19 U.S.C. § 1677(7)(F)(iv)(Commission "may" cumulate for threat analysis) with 19 U.S.C. § 1677(7)(C)(iv)(Commission "shall" cumulate for present injury analysis).

imports need threaten injury by themselves...Here, the ITC found great disparity in the patterns of volume increases and decreases among imports from the various countries...Finally ITC notes that patterns of underselling, or lack thereof, varied greatly from one country to the next.[5]

I have determined to exercise my discretion not to cumulate the subject imports for a number of reasons. First, there is a lack of uniformity in the import trends among the imports from China and Thailand. Volume and market penetration of imports from China have increased significantly. In contrast, volume and market penetration of imports from Thailand have declined.[6] In addition, Chinese imports are of distinctly lower quality than the Thai imports. Chinese producers have been exporting more finished pipe fittings and less unfinished pipe fittings to the United States, whereas the imports of fittings from Thailand have followed an opposite pattern of reduced imports of finished fittings, and stable imports of unfinished fittings.[7] The lower quality pipe fittings produced and finished in China compete primarily in the unapproved segment of the market, while the Thai pipe fittings

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[5]Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1072 (CIT 1988)("Asocoflores").

[6] Report at I-20, table 4, and I-36, table 20.

[7] Report at I-20, table 4.

compete in the approved segment of the market.[8] In addition, the patterns of underselling vary widely between the imports from China and Thailand.[9] These factors, which render meaningful cumulative analysis difficult in the context of threat, have been held to constitute a sufficient basis for the Commission to decline to cumulate for its threat analysis.[10]

B. Statutory Factors to be Considered in Determining Threat

The Commission must consider ten factors in its threat analysis.[11] In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the merchandise, the Commission shall consider, among other relevant economic factors--

> **(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),
>
> **(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

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[8] Staff Report at I-10 and I-11 and Economics Memorandum at 4-5 and 16-19.

[9] See Report at I-38 to I-48.

[10] Asocoflores, 704 F. Supp. at 1072.

[11] 19 U.S.C. § 1677(7)(F)(ii). See Metallverken Nederland, 744 F. Supp at 287.

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 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 subtitle 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 1671d(b)(1) or 1673d(b)(1) of this title 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.

Factors I, VII, XI, and X are not relevant to the threat determinations in these investigations. Since these investigations do not involve a subsidy or an agricultural product, factors I and IX are not applicable. None of the foreign producers' butt weld-pipe fitting facilities is used to produce other products subject

to final antidumping or CVD orders. Thus factor VIII is also inapplicable. Finally, the butt-weld pipe fittings industry is a mature industry with little, if any, development and production of derivative products. Therefore, factor X is not significant in this case. Finally, since there are no other remedies in place in other markets with respect to Thai and Chinese butt-weld pipe fittings, such remedies in foreign markets are not at issue in these investigations. [12]

C. Threat of Material Injury by Reason of the LTFV Imports from China.

All six of the relevant statutory factors support finding that the U.S. industry is threatened with material injury by reason of imports of carbon steel butt-weld pipe fittings from China.[13] The production capacity of the Chinese butt-weld pipe fitting industry has increased markedly over the period of investigation. Capacity utilization in China is at low level of roughly 50%[14] The rapid increase in imports of the subject pipe fittings over the period of investigation demonstrates a real threat that the Chinese

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[12] 19 U.S.C. § 1677(7)(F)(iii)(I).

[13] The Court of International Trade has said that the Commission need only consider those factors that are relevant to its determination. Citrosuco Paulista S.A. v. United States 704 F.Supp. 1094 (CIT 1988).

[14] Transcript of the Commission Meeting, June 18, 1992, at p.10.

producers will further increase exports to the United States in an attempt to utilize this new productive capacity. In July 1991 alone, Chinese producers were able to ship 9 million pounds of pipe fittings to the United States.

Market penetration of the subject pipe fittings from China increased significantly in both 1990 and 1991. In addition, inventories of the Chinese pipe fittings by U.S. importers increased substantially over the period of investigation. Given increased inventories and excess capacity in China, it is likely that market penetration by the Chinese producers would reach injurious levels in the imminent future. This is especially true given the vulnerable condition of the domestic industry, with its substantial excess capacity and declining financial performance.

Over the period of investigation, the imports from China undersold the domestic pipe fittings by large and increasing margins.[15] During this same period, U.S. industry prices declined, despite increases in costs. It is therefore probable that the increase in the already large volume and market share of imports from China would have a further depressing and suppressing effect on domestic prices.

A further demonstrable adverse trend that indicates the probability that imports from China will be an actual cause of injury to the domestic industry is the shift from selling unfinished butt-weld pipe fitting in the U.S. market to selling

[15] Staff Report at I-38 to I-57, figures 2 through 7.

finished pipe fittings.[16] The export of finished pipe fittings from China to the United States leaves U.S. combination producers no opportunity to add value to the subject imports before their resale to distributors in the U.S. market. The likely continued shift to export of finished fittings by the Chinese producers increases the likelihood of injury to the U.S. industry.

In light of the evidence that imports of the subject pipe fittings from China are likely increase in the imminent future in a way that will cause injury to a vulnerable U.S. industry, I find that the threat of material injury by reason of the imports from China is real and that actual injury is imminent.

D. No Threat of Material Injury by Reason of Imports from Thailand.

In contrast to imports from China, imports of the subject merchandise from Thailand demonstrated virtually no adverse trends that could support a finding that they pose a real and imminent threat to the domestic industry. Thailand's capacity to produce butt-weld pipe fittings was virtually unchanged over the period of investigation, increasing only slightly in 1991. Thailand's existing capacity was almost fully utilized in 1991, indicating that significant increases in imports to the United States are

[16] Staff report at I-20.

unlikely.[17] Market penetration by Thai imports has significantly declined over the period of investigation and was at a relatively low level in 1991. Furthermore, other export markets have become increasingly important to Thai producers. It is unlikely that market penetration by Thai imports will increase to an injurious level. Inventories of the Thai imports by U.S. importers also declined over the period of investigation.

Although Thai imports consistently undersold the U.S. product, there was no discernable increase in underselling and it is unlikely that the relatively low and declining volumes of imports of Thai pipe fittings will have either a price depressing or suppressing effect on domestic prices. With no other demonstrable adverse trends indicating a threat of injury, I conclude that Thai imports do not threaten to cause material injury to the domestic industry.

III. NO MATERIAL INJURY BUT FOR SUSPENSION OF LIQUIDATION

In accordance with 19 U.S.C. § 1673(b)(4)(B), I must make an additional finding as to whether material injury by reason of the subject imports would have been found but for the suspension of liquidation of entries of such imports.[18] Imports were declining

[17] Staff Report at I-33.

[18] Since my affirmative determination with respect to imports from China is based upon a threat of material injury, I find critical circumstances do not exist. Retroactive imposition of antidumping duties is not necessary to prevent recurrence of material injury in that I have found the industry to be not

in the months period to the December 26, 1991 suspension of liquidation and there was an insignificant volume of imports after that date. I join my colleagues in not finding that, had there not been suspension of liquidation, the domestic industry would have been materially injured by reason of the subject imports.

currently materially injured. See 19 U.S.C. § 1673(b)(4)(A).

INFORMATION OBTAINED IN THE INVESTIGATIONS

INTRODUCTION

Following a preliminary determination by the U.S. Department of Commerce that imports of certain carbon steel butt-weld pipe fittings[1] from China and Thailand are being, or are likely to be, sold in the United States at less than fair value (LTFV) (56 F.R. 66831), the U.S. International Trade Commission, effective December 24, 1991, instituted investigations Nos. 731-TA-520 and 521 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register on January 23, 1992 (57 F.R. 2783).[2] The hearing was held in Washington, DC, on May 14, 1992, at which time all interested parties were allowed to present information and data for consideration by the Commission.[3] The Commission voted on these investigations on June 18, 1992.

Commerce's final LTFV determinations were made on May 14, 1992.[4] The applicable statute directs that the Commission make its final injury determinations within 45 days after the final determinations by Commerce; the Commission's administrative deadline in these investigations is June 24, 1992.

BACKGROUND

These investigations result from a petition filed by counsel for the U.S. Fittings Group (USFG),[5] on May 22, 1991, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain carbon steel butt-weld pipe fittings from China and Thailand. In response to that petition the Commission instituted investigations Nos. 731-TA-520 and 521 (Preliminary) under section 733 of the

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[1] 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 14 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). Carbon steel butt-weld pipe fittings are classified in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States (HTS).

[2] A copy of the Commission's Federal Register notice is presented in appendix A.

[3] A list of participants in the hearing is presented in appendix B.

[4] A copy of Commerce's Federal Register notice is presented in appendix A.

[5] 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.).

Tariff Act of 1930 (19 U.S.C § 1673b(a)) and, on July 8, 1991, determined that there was a reasonable indication of such material injury.[6]

PREVIOUS AND RELATED INVESTIGATIONS

On June 28, 1985, the Commission instituted investigation No. 332-216, Competitive Assessment of the U.S. Forging Industry. 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.[7] Part of the investigation dealt with pipe fittings and flanges.

On January 13, 1986, the U.S. Butt-Weld Pipe Fittings Committee[8] 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, March 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 a final determination that such fittings from Brazil and Taiwan were being sold in the United States at LTFV.[9] 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 this determination on December 8, 1986. Effective December 29, 1986, Commerce issued a final determination that such fittings from Japan were also being sold in the United States at LTFV.[10] 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.

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[6] U.S. producer data presented in this report differ from U.S. producer numbers provided in the report of the preliminary investigations in that this report ***.

[7] USITC, 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, April 1986.

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

[9] The weighted-average margin on all sales compared was determined to be 52.25 percent for Brazil and ranged from 6.84 to 87.30 for Taiwan.

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

On May 2, 1991, Commerce published the final results of its administrative review of the antidumping duty order on Taiwan. The review covered shipments made by two exporters during the period December 1, 1987, through November 30, 1988, and found dumping margins of 8.31 percent and 6.89 percent. Two other exporters were not subject to the review and retained a margin of 87.30 percent. On December 13, 1991, Commerce published a notice of intent to revoke the antidumping duty order on Brazil because it had not received a request to conduct an administrative review of the order for the most recent four consecutive annual anniversary months. An interested party objected to the intent to revoke, and on February 3, 1992, Commerce published its determination not to revoke the antidumping duty order on Brazil.

On August 3, 1989, the U.S. Butt-Weld Pipe Fittings Committee filed a petition with Commerce alleging that manufacturers, producers, or exporters in Thailand[11] of carbon steel butt-weld pipe fittings receive certain benefits which constitute bounties or grants within the meaning of the countervailing duty (CVD) law. Effective January 18, 1990, Commerce determined that the estimated net bounty or grant rate is 2.53 percent ad valorem. On February 13, 1992, Commerce published the final results of its administrative review of the countervailing duty order. Commerce determined the total bounty or grant to be 1.02 percent ad valorem for the period November 3, 1989, through December 31, 1989, and 1.76 percent ad valorem for the period January 1, 1990, through December 31, 1990, for all exports of the subject merchandise to the United States.

THE PRODUCT

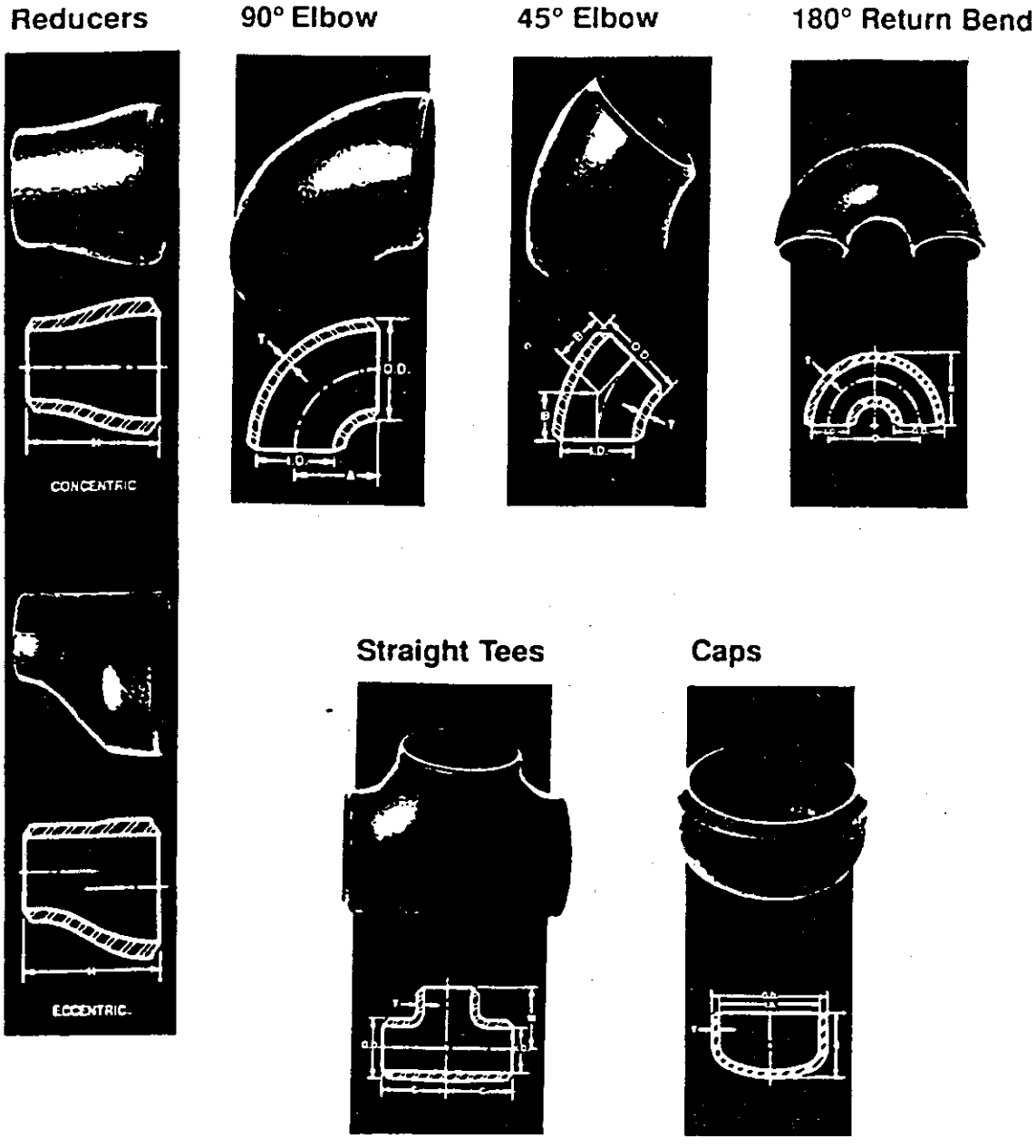
Description

Butt-weld pipe 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 pipe fittings come in several basic shapes, the most common of which are elbows, tees, reducers, and caps. 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. Caps seal the end of a pipe or a fitting. There are variations within each class of fitting based on differences in the size of one or more of the outlets (for example, there are reducing elbows and reducing tees). Figure 1 shows the most common butt-weld pipe fittings.

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

Figure 1.
Typical carbon steel butt-weld pipe fittings



Source: Weldbend catalog.

Butt-weld pipe 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. Fittings over 14 inches in inside diameter are classified in a different HTS subheading and are less of a commodity product. The cost of producing larger fittings is much greater because larger equipment is required, the production process is different for some producers, and after a certain diameter a producer can no longer purchase ready made pipe but instead must make its own pipe.[12] The end uses for carbon steel butt-weld pipe fittings over 14 inches are the same as for fittings under 14 inches.

Manufacturing Process

The manufacture of butt-weld pipe fittings typically begins with seamless carbon steel pipe[13] although some types of fittings, such as caps, are formed from carbon steel plate, billet, or bar stock and machined (bored) or punched to shape and size in a press. One of the domestic companies has announced its intention to begin producing other types of butt-weld fittings, such as elbows, from billet during 1992.[14]

Most of the domestic industry uses pipe as the starting material to produce reducers, tees, and elbows. There are two basic methods for manufacturing these three products that are distinguished by whether the section of pipe to be used is heated[15] before processing or whether it is processed cold. This description of the manufacturing process uses the terms hot-process and cold-process and focuses on elbows, reducers, and tees. Depending on the type of fitting to be made, one process may be preferred to the other. For example, the hot-process is preferred to form elbows and reducers, whereas the cold-process is preferred to form tees.

Reducers are hammer-forged to size in the cold-process, followed by heat-treatment to reduce metallurgical stresses, followed by finishing operations that are similar for those reducers produced by the hot-process. In the hot-process, the pipe section from which reducers are made is heated and then formed in a series of progressively smaller dies in a swedge press and with several heats to near final size. During finishing operations, the reducers are machined to final size, the ends are cropped, and the pieces are shot blasted and beveled.[16] The hot-process for manufacturing reducers is described by industry officials as having better process control, requiring less force, having less changeover or setup time, and allowing a greater

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[12] Conversation with ***.

[13] According to interviews with industry executives, the pipe classification is ASTM A-106, Grade B, a classification that typically corresponds to line pipe.

[14] According to officials at ***, the billets would be heated, the edges rounded, and the center pierced with a mandrel to form a pipe-like section, with forming and finishing operations continuing as is now done. ***.

[15] Heating may be accomplished by induction heating the pipe section or placing it in a gas-fired furnace. Heating by electrical induction is faster and the temperature of the steel is more susceptible to control than in a gas-fired furnace.

[16] Telephone interview with ***.

amount of reduction than does the cold-process. One company indicated that it can produce *** as many reducers using the hot-process as when it used the cold-process.[17]

When manufacturing an elbow using the hot-process the pipe is cut to length, the section is heated to a cherry red, and it is 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 hot elbow is dropped off the mandrel and immediately resized in a die under pressure. In manufacturing an elbow using the cold-process, the pipe is cut to length, the ends are miter-cut to a 45-degree angle, the interior surfaces are lubricated, it is pushed over a mandrel, and then it is resized in a press.[18] The cold-worked product must be heat-treated (termed annealing, a controlled heating process) to relieve metallurgical stresses that build up during the cold-working process.[19]

The hot-process for manufacturing elbows is more efficient, less labor intensive, and capable of higher volume production than is the cold-process. For one thing, the initial miter-cut and the annealing step, necessary in cold-working, are eliminated in the hot-process; there is less labor involved with moving the pieces from station to station, and little or no lubrication is necessary (lubricant can be considered a hazardous waste and its use and disposal are becoming more strictly regulated as well).[20] One company indicated that when it switched from the cold- to the hot-process, it was able to increase production by ***, depending on the size of the elbow.[21] Achieving high volume is especially desirable in the production of elbows because this product segment represents 67 percent of U.S. producers' 1991 domestic shipments.[22]

As distinguished from the production of elbows and reducers, the cold-process for forming tees is said to be more efficient and capable of higher volume production than is the hot-process. However, tees measuring 12 inches

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[17] Telephone interview with ***.

[18] After forming, the pipe 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. In both processes, the resizing is often performed following bending, although in the hot-process the resizing die is often part of the heating and bending machine; it is often a separate machine and a separate step (following de-lubrication) in the cold-process. Irrespective of the process, resizing 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 (which is typical in the cold-process) or above 1,800 degrees F must also undergo a heat treatment to relieve metallurgical stress built up within the fitting during the forming process.

[19] *** is apparently the only domestic company that cold-forms elbows. Interview with ***.

[20] Telephone conversations with industry officials.

[21] Telephone interview with ***.

[22] Based on questionnaire responses for producers' domestic shipments.

and larger in diameter cannot be produced using the cold-process. In the cold-process, the pipe is cut to length, the section is enclosed in a die that matches the shape and size of the finished tee within a press. The die is closed, plugs seal the ends, and a fluid (water or a light oil) under pressure forces metal into the shape of the die.[23] Finishing operations re-round, resize, and anneal the piece. When manufacturing tees using the hot-process, the starting point is an oversized piece of pipe, which is then made oval in shape in a press. A hole is burned in one of the ends, the piece is heated in a furnace and then placed in a T-shaped die in a press, and the hot metal is forced into the shape of the die.[24] The hot-process is more labor and energy intensive and requires a longer manufacturing time than the cold-process for manufacturing tees.[25]

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, 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.[26] Finally, the fittings are painted with a protective coating.[27]

Some manufacturers use semiautomated machinery that bevels, bores, tapers, and grinds in one operation. Some of the equipment may also be distinguished by the number of pieces that may be simultaneously beveled as well. The manufacturing process may be continuous: that is, carbon steel pipe 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 Chinese and Thai industries tend to be based on the hot-process for making elbows and do not possess the capability for heat-treatment or shot

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[23] Telephone interview with *** on Apr. 10, 1992. In a variant of this process, a hole is punched in the side of the pipe section; after the section has been placed in the die, a mandrel is inserted through the hole and begins to pull the wall of the fitting into the die. At a later stage, the mandrel is withdrawn and metal is forced into the third die by pressure alone. Telephone interview with ***.

[24] Ibid.

[25] Telephone interview with ***.

[26] 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. According to industry experts, there is random inspection for quality assurance of the incoming pipe and in-process piece inspection (which is usually done by the operator performing the beveling).

[27] Ladish and Weldbend paint their fittings green, Hackney paints its fittings grey, while the rest of the domestic producers paint their fittings black.

blasting.[28] This may account for why the hot-process was chosen and for some of the reported quality differences.

The domestic industry includes integrated producers and combination producers. Integrated producers generally begin with seamless pipe as their raw material and perform both forming and machining operations. Combination producers produce some fittings in an integrated process and other fittings in a conversion process (performing only machining and finishing operations).

The combination producers Hackney, Tube Forgings, Tube-Line, and Weldbend purchase and/or import rough-formed unfinished fittings which they bevel, bore, taper, grind, shot blast, die stamp, inspect, and paint. Weldbend also purchases beveled unfinished fittings which it shot blasts, inspects, die stamps, and paints. Estimates of the value added by finishing operations were provided by *** as follows: 46-60 percent for raw material (pipe), 25-31 percent for forming, 11-20 percent for beveling, boring and tapering, and 3-9 percent for any remaining finishing steps. In the Commission's investigations on carbon steel butt-weld pipe fittings from Brazil and Taiwan (Invs. Nos. 731-TA-308 and 310 (Final)) *** reported that finished fittings produced from purchased beveled unfinished fittings had a raw material cost of *** percent.[29]

Uses

The primary industries that use carbon steel butt-weld pipe fittings include chemicals, oil refining, energy generation, construction, and shipbuilding. These industries use butt-weld fittings in permanent, fixed piping systems that convey gases or liquids in plumbing, heating, refrigeration, air-conditioning, automatic fire sprinkler, electrical conduit, irrigation, and process-piping systems for application in energy production, power generation, and manufacturing.[30] Butt-weld pipe fittings are used to join pipes in straight lines, and to change or divide the flow of fluids (oil, water, natural gas or other gases, or steam) in commercial, residential, or industrial piping systems. Butt weld fittings are also used in structural applications, where pipe and fittings are used as support members in a variety of applications. Structural uses for these products include joining pipes that form 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. Two of seven U.S. producers reported that Chinese butt-weld fittings are inferior in quality to the domestic product, while the remaining five indicated no quality differences between the two products. Both producers noting quality differences stated that butt-

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[28] Telephone interview with ***.

[29] Butt-Weld Pipe Fittings From Brazil and Taiwan, Investigations Nos. 731-TA-308 and 310 (Final), report to the Commission, p. 8.

[30] 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.

weld fittings from China often do not meet ASTM and/or ANSI specifications when tested by distributors and end users. One of the five producers indicating no quality differences noted that fittings from China are often not on approved manufacturers lists of some end users. None of the domestic producers noted any quality differences between domestic and Thai butt-weld fittings. U.S. producers reported reject rates of their integrated production of finished fittings ranging from 1.5 percent to 2.5 percent.

Ten of 27 U.S. importers reported that quality differences do exist between domestic and imported butt-weld pipe fittings, while 17 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. Thirteen importers reported rejecting imports of Chinese fittings for quality reasons. Their reject rates ranged from 0.05 percent to 100 percent.

In their questionnaire responses, 10 of 17 purchasers responding to questions about quality reported that quality differences were not a significant factor in sales between domestic and imported butt-weld pipe fittings from China, while 7 reported quality differences were a factor. Fourteen of 18 purchasers cited the Thai product as being comparable in quality to the domestic product. In response to questions concerning product rejection, half the purchasers reported rejecting Chinese fittings at a rate of 1 to 10 percent, while the other half of purchasers reported no rejections of Chinese product. Five of 13 purchasers reported rejecting Thai product at less than a 2 percent rate, while 8 purchasers reported no rejections of Thai product during the period examined.

As with two domestic producers, importers also noted that Chinese butt-weld pipe fittings often do not meet ASTM and ANSI specifications. Twelve U.S. importers reported that Chinese fittings are not on approved manufacturers lists of major U.S. oil companies and petrochemical companies, effectively shutting them out of that market. In addition, four importers reported that a number of U.S. distributors refuse to carry the imported Chinese product. The U.S. fittings market was described by two importers as polarized between quality-approved domestic and Thai fittings on one side and non-approved low-quality Chinese fittings on the other side. Thai fittings produced by Thai Benkan are accepted and used by most of the major U.S. oil companies and are similar in quality to U.S.-produced fittings. Thai producer TTU is not on any approved manufacturers list, but its fittings are still perceived to be of a higher quality than Chinese 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 will do so and make a settlement claim with the supplier. Otherwise, they are returned to the supplier.[31] Another U.S. producer and purchaser of butt-weld fittings (Weldbend) reported that its rejected fittings were returned to the importer and melted down.[32]

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

[32] Transcript of the conference, p. 80.

Substitute Products

Butt-weld fittings compete in some applications with threaded, grooved, or bolted fittings. However, the specific application (composition of the fluid being transported or the pipe system's pressure) may limit the use of other types of fittings because welded connections provide a better seal than threaded, grooved, or bolted connections, which are more likely to fail under pressure. Ductile iron grooved fittings[33] 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. Plastics (high-density polyethylene, polyvinylchloride) would not be used in high-pressure or high-heat[34] applications, but are becoming more widespread in lawn sprinkler and some residential and commercial water systems, which carry fluids under lower pressure than do welded pipe systems.

Specialty pipe fittings, often made from alloy steel or stainless steel, are usually made to the specifications of the purchaser.[35] [36] A carbon steel alloyed with chromium or a stainless steel[37] would typically be used in specialized applications requiring resistance to corrosion, such as a specific pipe line in a fertilizer or petrochemical plant. Specialty pipe fittings can feature non-standard wall thicknesses, 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 mm are classified in HTS subheading 7307.93.30; no distinction is made between forged, finished, or unfinished products, as was the case under the TSUS.[38] The column 1-general rate of duty on butt-weld fittings (including those from Thailand and China) is 6.2 percent ad valorem; the column 2 duty rate is 45 percent ad valorem.

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[33] So-called because the ends of the fitting and the pipe have a flange over which a coupling fits; the coupling acts as a clamp joining the ends tightly together.

[34] Fire-fighting sprinkler systems in buildings, for example.

[35] Transcript of conference, p. 86.

[36] The end uses for stainless steel butt-weld pipe fittings include digester lines, blow lines, pharmaceutical production lines, petrochemical stock lines, automotive paint lines, and various processing lines such as those in breweries, paper mills, and general food facilities.

[37] Stainless steels are alloy steels containing, by weight 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements.

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

THE NATURE AND EXTENT OF SALES AT LTFV

On May 18, 1992, Commerce published in the Federal Register (57 F.R. 21058)[39] its final determinations that imports of certain carbon steel butt-weld pipe fittings from China and Thailand are being, or are likely to be, sold in the United States at LTFV. The countries subject to the investigations, the manufacturers therein exporting to the United States, and their respective dumping margins are presented in table 1.

To determine whether sales of butt-weld pipe fittings from China to the United States were made at LTFV, Commerce compared the United States price to the foreign market value,[40] except for Liaoning Metals, Shenzhen Machinery, and Shenyang Machinery. Commerce based the margins for Liaoning Metals, Shenzhen Machinery, and Shenyang Machinery on the best information available.

To determine whether sales of pipe fittings from Thailand to the United States were made at LTFV, Commerce compared the U.S. price to the foreign market value,[41] except for Thai Benkan. Commerce based the margins for Thai Benkan on the best information available. The margins for imports from Awaji Sanygo (Thailand) Co., Ltd. (AST) were found by Commerce to be de minimis and imports from AST are presented separately throughout the report.

Section 772(d)(1)(D) of the Act prohibits assessing dumping duties on any portion of a dumping margin attributable to an export subsidy.[42] In the case of Thailand, the product under investigation is subject to an outstanding CVD order. To obtain the most accurate estimate of antidumping duties, Commerce subtracted the cash deposit rate attributable to the export subsidies found in the most recent countervailing review (1.76 percent) from the antidumping bonding rate for TTU and Thai Benkan. Accordingly, for duty deposit purposes, the net antidumping assessment rates are shown in table 1.

CRITICAL CIRCUMSTANCES

Petitioners alleged the existence of "critical circumstances" within the meaning of section 735(a)(3) of the act with respect to imports of the subject merchandise from China. Section 735(a)(3) states that in any investigation in which the presence of critical circumstances has been alleged under section 733(e), Commerce shall make a finding as to whether--

(A)(i) there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) the person by whom, or for whose account, the merchandise was imported, knew or should have known that the exporter

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[39] A copy of Commerce's Federal Register notice is presented in appendix A.

[40] Commerce used surrogate foreign market value data from India and Indonesia.

[41] In the case of TTU, Commerce used surrogate foreign market value data from Australia.

[42] Commerce's notice of final determination, Federal Register (57 F.R. 21058).

Table 1
Butt-weld pipe fittings: Countries subject to the investigations, the manufacturers therein exporting to the United States, and their respective dumping margins

Country	Manufacturer exporting to the United States	Dumping margin (percent)
China	China North Industries Corp.	167.09
	Jilin Provincial Machinery & Equipment Import & Export Corp.	81.97
	Liaoning Machinery & Equipment Import & Export Corp.	146.25
	Liaoning Metals & Minerals Import & Export Corp.	113.55
	Shenyang Billiongold Pipe Fittings Co. Ltd.	120.72
	Shandong Metals & Minerals Import & Export Corp.	41.77
	Shenyang Machinery & Equipment Import & Export Corp.	182.90
	Liaoning Metals	182.90
	Shenzhen Machinery Industry Corp.	182.90
	All others	182.90
Thailand	TTU	10.68
	AST	0.22
	Thai Benkan	50.84
	All others	39.10

Source: Compiled from Commerce's notices of final determinations.

was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) there have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

Commerce found that there is a reasonable basis to believe or suspect that imports of certain carbon steel butt-weld pipe fittings from China met the requirements for an affirmative determination of critical circumstances. In its final determination regarding China, Commerce noted that the dumping margins are sufficiently high (25 percent or greater) to find that knowledge of dumping exists, and that imports have been massive over a relatively short period of time. Table 2 presents monthly U.S. imports of certain carbon steel butt-weld pipe fittings from China for the period March 1991 to March 1992.

THE U.S. MARKET

Petitioners identify butt-weld pipe fittings as a mature product with a modestly increasing demand in the U.S. market. The demand for butt-weld pipe fittings in the U.S. market appears to be relatively stable throughout the

Table 2
Butt-weld pipe fittings: U.S. imports from China, by months, March 1991-March 1992

(In thousands of pounds)

Year and month	U.S. imports
1991:	
March	1,064
April	1,499
May	2,128
June	2,162
July	9,186
August	3,558
September	2,834
October	1,498
November	474
December	318
1992:	
January	35
February	0
March	0

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

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 may have an adverse effect on the butt-weld pipe fittings market. Seven U.S. importers reported in their questionnaire responses that the economic slow-down in recent years has had a direct impact on the demand for their pipe fittings. However, in answer to a question on the effect of the decrease in economic activity in the United States, the petitioners at the hearing indicated that their particular commodity never really follows the general trend of economic recessions.[43] In their post-hearing brief petitioners stated that demand for butt-weld pipe fittings is tied to maintenance and repair requirements as well as new construction. Demand does not necessarily decline immediately in a recession. Rather, maintenance and repair tend to increase during such periods because they are the less expensive alternative to new construction.[44]

Apparent consumption rose 6.6 percent from 1989 to 1990 and fell 7.2 percent from 1990 to 1991. Three factors cited to explain a projected increase in consumption in 1992 are the Clean Air Act, the Gulf War, and local regulation. Major industrial markets in 1992 are expected to be oil and gas, chemical, pulp and paper, and power.[45]

[43] Transcript of hearing, pp. 61-62.
[44] Petitioners' post-hearing brief, appendix A, p. 27.
[45] Mark Beach, post-hearing brief, appendix A.

U.S. Producers

There are currently seven U.S. producers of fittings.[46] All seven responded to the Commission's questionnaire, accounting for an estimated 100 percent of U.S. production. Five of the seven reporting U.S. producers are petitioners. Table 3 presents the names of the producing firms, type of producer, position on the investigations, share of total U.S. production, and plant locations.

Hackney, Inc. (Hackney), a Dallas-based company, is ***. ***. Hackney, a petitioner, has three fittings production facilities located 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 ***. During the period of investigation, Hackney ***. Hackney was ***. ***.

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 fitting production facilities located in Cynthiana, KY, and Russellville, AR. Ladish is an integrated producer and does not purchase or import any unfinished fittings.

Mills Iron Works, Inc. (Mills), located 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 or import any fittings. Mills was one of ***. *** purchased unfinished caps and reducers from Mills. These unfinished shipments accounted for *** percent of Mills' total shipments of fittings in 1989, *** percent in 1990, and *** percent in 1991.

Steel Forgings, Inc. (Steel Forgings), located in Shreveport, LA, is a petitioner and integrated producer that does not purchase or import fittings. Steel Forgings makes tees, reducers, and caps, but no elbows. Steel Forgings reported that, due to increased competition from imports over the last 3-5 years, it has produced fewer commodity carbon steel butt-weld pipe fittings and instead shifted more of its production toward specialty fittings not within the scope of these investigations.

Tube Forgings of America, Inc. (Tube Forgings), located in Portland, OR, is a petitioner and combination producer. Tube Forgings was one of *** U.S. producers to report shipments of unfinished fittings. ***.

Tube-Line Co. (Tube-Line) has two fittings production facilities located in Union and New Brunswick, NJ. The New Brunswick facility was built in 1991. Tube-Line is ***. Tube-Line was exclusively a converter that imported

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[46] 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.

Table 3
Butt-weld pipe fittings: U.S. producers, type of producer, position on investigations, share of 1991 U.S. finished fittings production, and plant locations

Firm	Position	Share of production	Plant locations
Integrated petitioners:			
Ladish	***	***	Cynthiana, KY Russellville, AR
Mills	***	***	Gardena, CA
Steel Forgings	***	***	Shreveport, LA
Combination petitioners:			
Hackney	***	***	West Memphis, AR Elkhart, IN Enid, OK
Tube Forgings	***	***	Portland, OR
Combination nonpetitioners:			
Tube-Line	***	***	New Brunswick, NJ Union, NJ
Weldbend	***	***	Chicago, IL

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

unfinished fittings and finished them until 1990, when it became an integrated producer. It reports that it will soon become capable of producing *** and will no longer require imports of unfinished fittings. ***.

Weldbend Corp. (Weldbend), located in Argo, IL, is the largest U.S. producer of butt-weld fittings and is the ***. During the period of investigation, Weldbend constructed a new building and purchased new forging equipment in an effort to lower its cost of production. 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; Mitsui in Chicago, IL; and Vallourec USA in Houston, TX.[47] The largest source of these imports is ***.

The seven U.S. producers and the percent of their respective 1991 shipments of finished fittings represented by the various types of fitting are presented in the following tabulation:

[47] Transcript of conference, p. 54.

Firm	Caps	Elbows	Reducers	Tees
Hackney.....	***	***	***	***
Ladish.....	***	***	***	***
Mills.....	***	***	***	***
Steel Forgings...	***	***	***	***
Tube Forgings....	***	***	***	***
Tube-Line.....	***	***	***	***
Weldbend.....	***	***	***	***
Average.....	6	67	8	19

Note.-- Due to rounding, numbers may not total to 100.

U.S. Importers

The Commission sent importers' questionnaires to 68 firms and received 55 responses. Of these responses, 27 firms reported imports of fittings and 28 reported no imports. Of the 27 importing firms, 17 firms imported finished fittings from China, 10 imported finished fittings from Thailand, 6 imported unfinished fittings from China, and 5 imported unfinished fittings from Thailand.

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

Three U.S. importers of unfinished fittings, ***, reported that their imports are sold almost exclusively to Weldbend. Weldbend ***. The foreign unfinished fittings are ***.[48] None of the three importers ***. ***.

Market Characteristics and Channels of Distribution

Both domestic manufacturers and importers sell virtually all their finished fittings to distributors, who then resell to end users.[49] The 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. Distributors do not stock unfinished fittings. U.S. producers, the only purchasers of unfinished fittings, either import them directly or purchase them from U.S. importers or other U.S. producers. 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, account for 25 percent of the overall butt

[48] Telephone conversation with ***.
[49] Transcript of conference, pp. 40, 89-90. ***.

weld pipe fitting market and generally do not compete with standard-sized carbon steel butt-weld pipe fittings.[50]

Six of the seven producers market nationwide, while one producer markets primarily in the Midwest and Eastern states. Imported butt-weld pipe fitting sales are somewhat more concentrated. Among the 18 importers providing information on the location of their customers, 7 indicated nationwide sales, 4 indicated sales in Texas, 2 indicated sales in California, and the remaining importers indicated other limited markets.[51]

As mentioned in an earlier section, end users, particularly in the petroleum, nuclear energy, and power generation industries often maintain approved supplier lists of qualified carbon steel butt-weld pipe fitting manufacturers. Due to quality problems, Chinese fittings have not been given an approval rating on the vendor lists of these industries. The only reported restriction on Thai products is on fittings produced by TTU.[52] There is also a non-approved market consisting of end users in the plumbing and construction industry. Distributors may resell butt-weld pipe fittings to approval markets, non-approval markets, or both.[53] Because U.S. producers' sales are made to distributors, it is difficult for them to give solid estimates on how large a segment the approved market represents. Petitioners report that some approved manufacturers lists are formalized and fairly strictly adhered to by the purchasing agents of the companies that issue them, while other lists are less formal or not consistently applied. Petitioners' estimates of the approved market range from 5 percent to 50 percent. *** estimates industry share of the approved market as 40 percent refining and processing, 25 percent chemical, 20 percent utilities, 10 percent gas pipelines, and 5 percent nuclear.[54] The low end of the market consists of noncritical applications such as some commercial grade construction, low- or no-pressure piping, drainage or waste handling, and exhaust and structural applications.

Apparent U.S. Consumption

Data on apparent U.S. consumption of fittings, table 4, are derived from imports of finished and unfinished fittings plus U.S. shipments of integrated and U.S.-origin finished fittings. U.S. consumption of butt-weld fittings increased by 6.6 percent from 1989 to 1990, and fell 7.2 percent from 1990 to 1991, with an overall decrease of 1.1 percent from 1989 to 1991. The value of U.S. consumption increased by 1.7 percent from 1989 to 1990, and fell 3.7 percent from 1990 to 1991, with an overall decrease of 2.1 percent from 1989 to 1991.

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[50] Transcript of hearing, p. 14.

[51] According to ***.

[52] It is estimated that TTU's share of Thai fittings exported to the United States at LTFV represented *** percent in 1989, *** percent in 1990, *** percent in 1991, and are projected to be *** percent in 1992.

[53] *** reported that some distributors maintain dual inventories of approval listing and non-approval listing pipe fitting manufacturers.

[54] Petitioners' post-hearing brief, appendix A, p. 2.

Table 4
Butt-weld pipe fittings: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 1989-91

Item	1989	1990	1991
	Quantity (1,000 pounds)		
Producers' U.S. shipments of finished fittings:			
Integrated petitioners	***	***	***
Combination petitioners	***	***	***
Combination nonpetitioners	***	***	***
U.S. imports:[1]			
Finished fittings:			
Total	40,602	37,342	42,029
Unfinished fittings:			
Total	26,439	32,498	10,028
Apparent consumption[2]	98,919	105,437	97,870
	Value (1,000 dollars)		
Producers' U.S. shipments of finished fittings:			
Integrated petitioners	***	***	***
Combination petitioners	***	***	***
Combination nonpetitioners	***	***	***
U.S. imports:[1]			
Finished fittings:			
Total	30,603	27,722	30,591
Unfinished fittings:			
Total	20,254	20,885	6,543
Apparent consumption[2]	87,819	89,350	86,011

[1] The quantity of imports of butt-weld pipe fittings from Thailand at LTFV is overstated because *** was unable to break out its imports from AST at fair value.

[2] In order to avoid double counting, consumption is derived from imports of finished and unfinished fittings plus U.S. shipments of integrated and U.S.-origin finished fittings.

Note.--There appears to be some discrepancy in importers identifying certain fittings as finished that are reported by producers as being unfinished fittings consumed to produce a finished fitting.

Source: Except where noted, "other sources" imports are compiled from official statistics of the U.S. Department of Commerce; all other figures are compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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 all seven producers of butt-weld fittings, accounting for an estimated 100 percent of total U.S. production.

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

Data for production, capacity, and capacity utilization for the firms producing fittings are summarized in table 5. Capacity to produce fittings increased by 1 percent from 1989 to 1991, which reflects ***. Weldbend reported capacity ***.[55] ***.

*** increased production during the period of investigation, whereas *** decreased production. Capacity utilization rose irregularly from 47.9 percent in 1989 to 49.2 percent in 1991. ***.

U.S. Producers' Shipments

U.S. producers' domestic and export shipments of finished fittings are presented in table 6. There were no reported company transfers of finished fittings during the period of investigation.

Domestic Shipments

U.S. producers' domestic shipments of finished fittings increased *** percent from 1989 to 1991. Similarly, the value of these shipments increased *** percent from 1989 to 1991. The unit value of domestic shipments of finished fittings decreased from $*** per pound in 1989 to $*** per pound in 1991. *** were the only producers to report shipments of unfinished fittings to other U.S. producers for finishing. Such shipments *** in 1989 to *** in 1991, ***.

Export Shipments

*** were the only producers to report exports of finished fittings. These exports *** in 1991, *** of their total shipments. *** were the export markets for these fittings and their unit value ***.

Total Shipments

Total U.S. producers' shipments of domestically produced fittings increased irregularly by 11 percent from 1989 to 1991, while the value of such shipments increased irregularly by 6 percent.

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[55] Weldbend reported ***.

Table 5
Finished butt-weld pipe fittings: U.S. capacity, production,[1] and capacity utilization, by types of firms, 1989-91

Item	1989	1990	1991
	End-of-period capacity (1,000 pounds)		
Integrated petitioners.....	***	***	***
Combination petitioners.....	***	***	***
Combination nonpetitioners...	***	***	***
Total.....	117,387	118,379	118,410
	Production (1,000 pounds)		
Integrated petitioners.....	***	***	***
Combination petitioners.....	***	***	***
Combination nonpetitioners...	***	***	***
Total.....	56,239	65,047	58,312
	Capacity utilization (percent)		
Integrated petitioners.....	***	***	***
Combination petitioners.....	***	***	***
Combination nonpetitioners...	***	***	***
Average.....	47.9	54.9	49.2

[1] ***.

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

U.S. Producers' Purchases

Four U.S. producers of finished fittings import and/or purchase unfinished imports, or purchase domestically-produced unfinished fittings, to meet their needs. These four U.S. producers (Hackney, Tube Forgings, Tube-Line, and Weldbend), the ratio of purchased and/or imported unfinished fittings to their finished fittings production, and the share of total imports from China and Thailand they purchased and/or imported are presented in table 7. All four producers' ratios of purchases and/or imports of unfinished fittings to production of finished fittings declined from 1989 to 1991. Hackney, Tube-Line, and Tube Forgings purchase unfinished fittings that have not been beveled. Weldbend reported that in 1989, *** percent of its purchases of unfinished fittings were beveled, *** percent in 1990, and *** percent in 1991.[56] In its post-hearing brief Weldbend reported that from 1989 to 1991, *** were produced from purchases of imported unfinished beveled fittings.[57]

[56] Telephone conversation with counsel for Weldbend on June 3, 1992.
[57] Mayer, Brown & Platt post-hearing brief, p. 4.

Table 6
Finished butt-weld pipe fittings: Shipments by U.S. producers, by types of firms and by types of shipments, 1989-91

Item	1989	1990	1991
	Quantity (1,000 pounds)		
All firms:			
Domestic shipments	***	***	***
Exports	***	***	***
Total	54,603	62,062	60,859
	Value (1,000 dollars)		
All firms:			
Domestic shipments	***	***	***
Exports	***	***	***
Total	57,562	63,313	61,152
	Unit value (per pound)		
All firms:			
Domestic shipments	***	***	***
Exports	***	***	***
Average	1.05	1.02	1.00

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

Table 7
Butt-weld pipe fittings: U.S. combination producers', ratio of consumed purchased and/or imported unfinished fittings to their finished fittings production, and the share of finished and unfinished imports from China and Thailand they purchased and/or imported, 1989-91

Firm	1989	1990	1991

* * * * * * *

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

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 all of the seven reporting producers (table 8). Inventories increased irregularly by 2 percent from 1989 to 1991. Inventories as a share of total U.S. shipments decreased irregularly from 33.3 percent in 1989 to 30.6 percent in 1991.

U.S. Employment, Wages, and Productivity

Data on employment and productivity for the U.S. producers of butt-weld pipe fittings are shown in table 9. The number of workers producing fittings rose by 4 percent from 1989 to 1991. Weldbend ***.[58] Ladish's ***. Tube-Line's ***. ***.

Hours worked, wages paid, and total compensation increased by 2 percent 15 percent, and 17 percent, respectively, from 1989 to 1991. Hourly wages and hourly total compensation increased by 13 percent and 15 percent, respectively, from 1989 to 1991. Productivity increased by 1 percent from 1989 to 1991 and unit labor costs rose 18 percent.

Table 8
Finished butt-weld pipe fittings: End-of-period inventories of U.S. producers, by types of firms, 1989-91

Item	1989	1990	1991
	Quantity (1,000 pounds)		
Integrated petitioners.....	***	***	***
Combination petitioners.....	***	***	***
Combination nonpetitioners...	***	***	***
Total.....	18,190	21,176	18,629
	Ratio to total shipments (percent)		
Integrated petitioners.....	***	***	***
Combination petitioners.....	***	***	***
Combination nonpetitioners...	***	***	***
Average.....	33.3	34.1	30.6

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

[58] Mayer, Brown & Platt post-hearing brief, p. 7.

Table 9
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, hourly total compensation, productivity,[2] and unit production costs,[3] by types of firms, 1989-91

Item	1989	1990	1991
*	*	*	*
*	*	*	*
*	*	*	*

[1] Includes hours worked plus hours of paid leave time.
[2] ***.
[3] On the basis of total compensation paid.

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

Financial Experience of U.S. Producers

Six producers, accounting for *** percent of U.S. production of butt-weld pipe fittings in 1991, furnished financial information on both their overall establishment operations and on their operations producing butt-weld pipe fittings.[59] [60]

Overall Establishment Operations

In addition to the products under investigation, these producers indicated that they also produce larger pipe fittings and other types of forged and/or formed steel products. Butt-weld pipe fittings (under 14 inches) accounted for *** percent of overall establishment sales in 1989, *** percent in 1990, and *** percent in 1991. Income-and-loss data on the U.S. producers overall establishment operations are presented in table 10.

Butt-Weld Pipe Fittings

The aggregate income-and-loss experience of the U.S. producers of butt-weld pipe fittings is presented in table 11. Net sales increased by *** percent from *** in 1989 to *** in 1990. Sales in 1991 were ***, a decline of *** percent from 1990 sales. Operating income was *** in 1989, *** in 1990, and *** in 1991. Operating income ratios, as a share of net sales, were ***

[59] These producers are Hackney, Ladish, Mills, Steel Forgings, Tube Forgings, and Weldbend. Additional financial tables, by type of producer, are presented in appendix C.
[60] ***.

Table 10
Income-and-loss experience of U.S. producers on the overall operations of their establishments wherein butt-weld pipe fittings are produced, fiscal years 1989-91[1] [2]

Item	1989	1990	1991
*	*	*	*	*	*	*

[1] These producers are ***.
[2] Fiscal years are Dec. 31 for all producers except ***.

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

Table 11
Income-and-loss experience of U.S. producers on their operations producing butt-weld pipe fittings, fiscal years 1989-91[1] [2]

Item	1989	1990	1991
*	*	*	*	*	*	*

[1] These producers are ***.
[2] Fiscal years are Dec. 31 for all producers except ***.

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

percent in 1989, *** percent in 1990, and *** percent in 1991. None of the firms incurred operating losses in 1989 or 1990, but one firm incurred an operating loss in 1991. Selected income-and-loss data of the U.S. producers, by firms, are shown in table 12.

Verification and Reliability of Data

Verifications were conducted on two *** of the largest producers.[61] There were some minor adjustments to their data.[62]

[61] Information related to *** operations are discussed later.
[62] ***.

Table 12
Selected income-and-loss data of U.S. producers on their operations producing butt-weld pipe fittings, by firms, fiscal years 1989-91[1]

Item	1989	1990	1991
*	*	*	*	*	*	*

[1] Fiscal years are Dec. 31 for all producers except ***.

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

These two companies as well as the other producers had difficulty preparing the questionnaire data. Estimates were used to varying degrees by all of the producers. This was due to a combination of two factors, the various types (elbows, tees, caps, and reducers) of products and the size limitation (under 14 inch). The record-keeping capabilities of the producers do not encompass size limitations and in some cases other types of products are included in the data base. Companies may have numerous sizes within each of the four types of fittings. For example, ***.[63] ***.[64]

In most investigations, data such as shipments, production, and inventory are readily available from internal records. But in these investigations, companies had to extract and/or estimate these basic types of data from a larger data base such as all elbows or all fittings. All producers' employment data and income-and-loss data were based partially or fully on allocations by the producers. Notwithstanding the limitations mentioned above, these data are the best available under the circumstances.

***'s reported data in the questionnaire for finished production, shipments, and sales consist of fittings produced internally from U.S.-made steel pipe as well as those fittings that result from finishing operations ***.[65] In 1991, ***.[66]

***. These finishing functions are for both ***.

[63] ***.
[64] Post-hearing brief of Mayer, Brown, and Platt, p. 2.
[65] ***.
[66] ***.

Value Added by U.S. Producers

Petitioners were asked to provide information on value added.[67] Only *** provided data. ***'s data were not usable as a basis for determining value added. The responses for *** are shown in the following tabulation (as a percent of cost of goods sold in 1991):

* * * * * * *

Value added (derived from producer's questionnaires) as a percent of cost of goods sold and total operating expenses for the producers of butt-weld pipe fittings is presented in the following tabulation:

* * * * * * *

Unit Value and Cost Analysis

The product mix for the producers has not remained constant over the course of the investigation; therefore, the per-unit computations may be influenced by changing product types as well as changes in a particular product's per unit-sales value or cost. This impact is exacerbated as overall average per-unit sales values have declined and overall quantity sold has increased. As an example, in the case of ***.

The unit sales and costs of the producers differ, because of product mix and degree of integration. A summary of the sales unit values and cost unit values for each producer's fiscal year is shown in the following tabulation (in dollars per pound):

* * * * * * *

Investment in Productive Facilities

U.S. producers' investment in property, plant, and equipment and returns on investment are shown in table 13.

Capital Expenditures

Capital expenditures by U.S. producers are shown in table 14.

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[67] Transcript of hearing, p. 43.

Table 13
Value of assets and return on assets of U.S. producers' establishments wherein butt-weld pipe fittings are produced, fiscal years 1989-91[1]

Item	1989	1990	1991
*	*	*	*

[1] ***.

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

Table 14
Capital expenditures by U.S. producers of butt-weld pipe fittings, by products, fiscal years 1989-91[1]

(In thousands of dollars)

Item	1989	1990	1991
*	*	*	*

[1] ***.

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

Research and Development Expenses

* * * * * * *

Impact of Imports on Capital and Investment

The Commission requested U.S. producers to describe any actual or negative effects of imports of butt-weld pipe fittings from China and/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 the merchandise, the Commission shall consider, among other relevant economic factors[68]--
>
> (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),
>
> (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 706 or 736, are also used to produce the merchandise under investigation,

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[68] 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."

(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.[69]

Items I and IX do not apply to these investigations. 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.

U.S. Inventories of Fittings From China and Thailand

End-of-period inventories reported by U.S. importers are presented in table 15. The end-of-period inventories of butt-weld fittings from China, on the basis of quantity, increased by *** percent from 1989 to 1991. Inventories of subject fittings from Thailand decreased *** percent from 1989 to 1991. The inventories of subject fittings from China and Thailand combined increased by 76 percent from 1989 to 1991.

The ratio of U.S. importers' end-of-period inventories to their U.S. shipments of imports from China increased *** in 1989 to *** percent in 1991. The ratio of U.S. importers' inventories to their U.S. shipments of subject imports from Thailand decreased from *** percent in 1989 to *** percent in 1991. The ratio of U.S. importers' inventories to their U.S. shipments of Chinese and Thai subject products combined increased irregularly from *** percent in 1989 to *** percent in 1991.

---

[69] 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."

Table 15
Butt-weld pipe fittings: End-of-period inventories of U.S. importers, by sources, 1989-91

Item	1989	1990	1991
	Quantity (1,000 pounds)		
China	***	***	***
Thailand (subject)	***	***	***
Subtotal	***	***	***
Thailand (nonsubject)	***	***	***
Other sources	***	***	***
Total	3,156	2,960	2,990
	Ratio to total shipments of imports (percent)		
China	***	***	***
Thailand (subject)	***	***	***
Average	***	***	***
Thailand (nonsubject)	***	***	***
Other sources	***	***	***
Average	***	***	***

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.

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

The Commission requested counsels for the respondents in the subject investigations, China's Shen Yan Billiongold Pipe Fittings Co. (Billiongold), Fushun North Pipe Fittings Co., Ltd. (Fushun), Dalian Pipe Fitting Plant (Dalian Pipe), North Pipe Fittings Industries Corp. (North Pipe), Dalian Huacheng Pipe Fittings Factory (Dalian Huacheng), and Weifang Pipe Fittings Factory (Weifang), and Thailand's TTU Industrial Corp. Ltd. (TTU), to provide information on their clients' fittings operations. Counsel for Mitsui was able to provide information on Shenzhen Machinery. In addition, counsel for Thai Benkan Co., Ltd. (Benkan) provided information in response to the American Embassy's request for information. Commerce found the exports of Thai producer Awaji Sangyo Co., Ltd. (AST) to be at fair value. The information totaled separately for Chinese and Thai producers is provided in tables 16 and 17.

The Chinese producers providing information accounted for approximately 9 percent of imported Chinese fittings in 1989, 19 percent in 1990, and 31 percent 1991. Chinese capacity increased *** in 1989 to *** in 1991, and is projected to *** in 1992. Chinese production increased *** in 1989 to *** in 1991. Capacity utilization increased *** in 1989 to *** in 1991, and is projected to *** in 1992. End-of-period inventories increased *** in 1989 to

Table 16
Butt-weld pipe fittings: Chinese capacity, production, inventories, capacity utilization, and shipments, 1989-91 and projected 1992

(In thousands of pounds)

Item	1989	1990	1991	Projected 1992
	*	*	*	*	*	*	*

Note.--Capacity utilization is calculated from data provided by firms providing both numerator and denominator information.

Source: Compiled from data submitted by counsel for Billiongold, Dalian Pipe, Dalian Huacheng, Fushun, North Pipe, Shenzhen Machinery, and Weifang in response to a request for information by the Commission.

Table 17
Butt-weld pipe fittings: Thailand's capacity, production, inventories, capacity utilization, and shipments, 1989-91 and projected 1992

(In thousands of pounds)

Item	1989	1990	1991	Projected 1992
	*	*	*	*	*	*	*

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

*** in 1991. Reported exports to the United States increased *** from 1989 to 1991. Exports to the United States are projected *** from 1991 to 1992. Total shipments increased by *** percent from 1989 to 1991, and are projected to *** percent from 1991 to 1992. Other export markets include ***.

The Thai producers providing information accounted for approximately *** percent of subject imported Thai fittings in 1989, *** percent in 1990, and *** percent 1991. The Thai producers' capacity *** from 1989 to 1991, and is projected to *** in 1992. Their production *** from 1989 to 1991, *** projected to *** in 1992. Capacity utilization for the Thai producers *** in 1989 to *** percent in 1991, *** projected to *** in 1992. End-of-period inventories *** from 1989 to 1991. Exports to the United States *** from 1989 to 1991. Total shipments *** from 1989 to 1991, and are projected to *** from 1991 to 1992. Other export markets include ***.

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 18.[70] Imports from China increased irregularly by 19 percent from 1989 to 1991. The value of these imports increased by 10 percent from 1989 to 1991. Subject imports from Thailand decreased *** percent from 1989 to 1991. The value of these imports decreased *** from 1989 to 1991. Combined, the quantity and value of Chinese and Thai imports increased *** and decreased ***, respectively, from 1989 to 1991. Total U.S. imports of butt-weld pipe fittings decreased by 22 percent from 1989 to 1991.

U.S. imports from China and Thailand broken out into finished and unfinished fittings are presented in table 19. Based on quantity, imports of finished fittings increased by 64 percent from 1989 to 1991, whereas imports of unfinished fittings decreased by 63 percent. From 1989 to 1991, the unit value of unfinished fittings was higher than the unit value of finished fittings from both China and Thailand. Respondents reported that the Chinese manufacturers' ex-plant prices for finished fittings are about 5-6 percent higher than those for unfinished fittings of the same size and type. However, product mix could have an influence on the unit value. Reducers and tees are more expensive than elbows. Therefore, if the imported unfinished pipe fittings contain mainly reducers and tees, the unit value for unfinished fittings would be higher than the unit value of imported finished elbows.

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 20. Based on quantity, market penetration of imports from China increased irregularly from 25.4 percent in 1989 to 30.5 percent in 1991. Based on value, market penetration of imports from China increased irregularly from 17.5 percent in 1989 to 19.7 percent in 1991.

Based on quantity, market penetration of imports from Thailand decreased from *** percent in 1989 to *** percent 1991. Based on value, market penetration of imports from Thailand decreased *** in 1989 to *** in 1991.

Combined imports from China and Thailand accounted for *** of U.S. consumption by quantity in 1989 and rose to *** in 1991. Similarly, the value of these imports *** of U.S. consumption in 1989 to *** in 1991.

---

[70] Imports from China and Thailand are compiled from data submitted in response to questionnaires of the U.S. International Trade Commission. Official statistics of the U.S. Department of Commerce reported quantity and value of Chinese imports as 24,004 thousand pounds and $12,388 thousand in 1989, 32,730 thousand pounds and $18,909 thousand in 1990, and 27,110 thousand pounds and $14,367 thousand in 1991. Quantity and value of Thai fittings (both subject and nonsubject) were reported as 14,537 thousand pounds and $13,158 in 1989, 12,352 thousand pounds and $9,421 in 1990, and 10,641 thousand pounds and $7,946 in 1991.

Table 18
Butt-weld pipe fittings: U.S. imports, by sources, 1989-91

Item	1989	1990	1991
	Quantity (1,000 pounds)		
China	25,111	34,472	29,810
Thailand (subject)	***	***	***
Subtotal	***	***	***
Thailand (nonsubject)	***	***	***
United Kingdom	3,323	2,902	2,661
Venezuela	4,177	7,238	1,638
Taiwan	5,262	2,850	1,121
Japan	1,214	1,018	1,063
India	501	1,187	847
Italy	1,838	2,334	801
Germany	346	225	683
France	1,541	2,830	636
Other sources	7,087	3,268	1,670
Total	67,040	69,839	52,056
	Value (1,000 dollars)		
China	15,375	20,424	16,914
Thailand (subject)	***	***	***
Subtotal	***	***	***
Thailand (nonsubject)	***	***	***
United Kingdom	2,795	3,190	2,526
Venezuela	1,693	2,661	760
Taiwan	5,484	3,191	1,235
Japan	1,338	1,244	1,178
India	380	821	639
Italy	2,044	2,210	1,811
Germany	398	433	996
France	1,173	1,753	448
Other sources	6,739	3,100	1,763
Total	50,858	48,607	37,132
	Unit value (per pound)		
China	$0.61	$0.59	$0.57
Thailand (subject)	***	***	***
Average	***	***	***
Thailand (nonsubject)	***	***	***
United Kingdom	.84	1.10	.95
Venezuela	.41	.37	.46
Taiwan	1.04	1.12	1.10
Japan	1.10	1.22	1.11
India	.76	.69	.75
Italy	1.11	.95	2.26
Germany	1.15	1.92	1.46
France	.76	.62	.70
Other sources	.95	.95	1.06
Average	.76	.70	.71

Note.--Because of rounding, figures may not add to the totals shown; unit values are calculated from unrounded figures.

Source: Imports from China and Thailand are compiled from data submitted in response to questionnaires of the U.S. International Trade Commission. All other data are compiled from official statistics of the U.S. Department of Commerce.

Table 19
Butt-weld pipe fittings: U.S. imports from China and Thailand, by products, 1989-91

Item	1989	1990	1991
*	*	*	*	*	*	*

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

Table 20
Butt-weld pipe fittings: Share of apparent consumption[1] supplied by U.S. producers and U.S. imports, 1989-91

Item	1989	1990	1991
	Share of the quantity of U.S. consumption (percent)		
Producers' U.S. shipments of finished fittings:			
Integrated petitioners	***	***	***
Combination petitioners	***	***	***
Combination nonpetitioners	***	***	***
U.S. imports:[2]			
Finished fittings:			
Total	41.0	35.4	42.9
Unfinished fittings:			
Total	26.7	30.8	10.2
	Share of the value of U.S. consumption (percent)		
Producers' U.S. shipments of finished fittings:			
Integrated petitioners	***	***	***
Combination petitioners	***	***	***
Combination nonpetitioners	***	***	***
U.S. imports:			
Finished fittings:			
Total	34.8	31.0	35.6
Unfinished fittings:			
Total	23.1	23.4	7.6

[1] In order to avoid double counting, consumption is derived from imports of finished and unfinished fittings plus U.S. shipments of integrated and U.S.-origin finished fittings.

[2] The quantity of imports of butt-weld pipe fittings from Thailand at LTFV is overstated because *** was unable to break out its imports from AST at fair value.

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

Source: Except where noted, "other sources" imports are compiled from official statistics of the U.S. Department of Commerce; all other figures are compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Prices

Marketing Considerations

Seven domestic producers and 22 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. Most pay shipping charges within the continental United States on orders exceeding a specified value, usually list values of $30,000-$50,000. Most importers reported quoting f.o.b. port of entry or f.o.b. warehouse prices to their customers, while a few reported selling on a delivered basis. Five of 15 importers responding to questions on transportation costs reported paying freight charges on purchases of a specific minimum quantity or value; the value of purchases required for this benefit ranged from $3,500 to $15,000 after discounts.[71]

Six of the seven domestic producers returning Commission questionnaires, reported publishing price lists for their distributor customers. These price lists are reportedly used by the purchasers to place orders and to compare prices among competing domestic and foreign products, and are made available to end users to provide 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 usually provided with the price list.[72]

Most importers do not publish price lists, but base prices on their costs and the volume of their business, or negotiate prices directly with the purchaser.[73] The one importer that reported using price lists in sales to its customers ***.[74]

Questionnaire Price Data

The Commission requested U.S. producers and importers to report net U.S. f.o.b. selling prices for sales of carbon steel butt-weld pipe fittings to

---

[71] ***.

[72] Most discounts in the industry are made using multiplier factors ranging from ***, depending on the producer, the size or value of the order, and whether shipments are to distributors' inventory or direct to end users. The total value from the price list 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 ***. According to ***, this discounting policy was established in the industry a number of years ago and is entrenched in the industry. Most manufacturers are reluctant to abandon price lists for lower base prices and smaller discounts because they do not want to confuse or lose their customers to another supplier. In addition, ***.

[73] Three importers refer to U.S. producers' price lists during negotiations.

[74] This importer reported ***.

unrelated U.S. distributors, 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. The price data were requested for the largest single sale and for total sales of the products specified, by quarters, from January 1989 through December 1991. Importers were also requested to report separately for each of these products imported from China and from Thailand. Distributors were requested to provide data on their net f.o.b. purchase prices from U.S. producers and importers for carbon steel butt-weld pipe fittings. The products for which pricing data were requested are as follows:

Product 1: Elbows: Carbon steel butt-weld, finished, 4-inch nominal diameter, 90°, long radius, standard weight, meeting ASTM A-234, grade WPB or equivalent specifications.

Product 2: Elbows: Carbon steel butt-weld, finished, 6-inch nominal diameter, 90°, long radius, standard weight, meeting ASTM A-234, grade WPB or equivalent specifications.

Product 3: Elbows: Carbon steel butt-weld, finished, 8-inch nominal diameter, 90°, long radius, standard weight, meeting ASTM A-234, grade WPB or equivalent specifications.

Product 4: Tees: Carbon steel butt-weld, 2-inch nominal diameter, standard weight, meeting ASTM A-234, grade WPB or equivalent specifications.

Product 5: Concentric reducers: Carbon steel butt-weld, finished, 6-inch by 4-inch nominal diameters, standard weight, meeting ASTM A-234, grade WPB or equivalent specifications.

U.S. Producers' and Importers' Prices

Seven domestic producers and 16 importers provided pricing data for sales of the 5 requested products in the U.S. market, although not necessarily for all 5 products or all quarters over the period examined. In general, U.S. producers' weighted-average prices for all products showed slightly declining trends in 1989-91. Importers' prices were less consistent. ***.[75]

Elbow products.--Weighted-average prices for U.S.-produced 4-inch, 6-inch, and 8-inch elbows sold to distributors *** (tables 21-23 and figures 2-3). Prices for 4-inch elbows ***. Prices for 6-inch elbows *** and prices for 8-inch elbows ***. Reported quantities sold for these products ***.

Weighted-average prices for butt-weld elbow fittings imported from China ***. Prices for 4-inch elbows ***. The overall ***. Prices for 6-inch elbows ***. Prices for 8-inch elbows ***. Reported quantities sold for Chinese products 1-3 ***.

Prices reported for 4-inch elbows imported from Thailand ***. Prices for 4-inch elbows were ***. The average price during 1991 was ***. Prices

[75] ***.

Table 21
Weighted-average net f.o.b. prices for sales to distributors of 4-inch elbows reported by U.S. producers and importers and margins of underselling, by quarters, January 1989-December 1991

Period	United States		China			Thailand[1]		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1989:								
January-March.....	$***	***	$***	***	34.2	$***	***	20.0
April-June.....	***	***	***	***	33.6	***	***	11.6
July-September....	***	***	***	***	36.6	***	***	16.1
October-December..	***	***	***	***	38.1	***	***	15.1
1990:								
January-March.....	***	***	***	***	27.0	***	***	8.2
April-June.....	***	***	***	***	29.2	***	***	13.1
July-September....	***	***	***	***	29.5	***	***	11.9
October-December..	***	***	***	***	36.8	***	***	17.3
1991:								
January-March.....	***	***	***	***	38.4	***	***	14.7
April-June.....	***	***	***	***	34.9	***	***	9.6
July-September....	***	***	***	***	37.7	***	***	8.4
October-December..	***	***	***	***	32.2	***	***	11.2

[1] ***.

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

Table 22
Weighted-average net f.o.b. prices for sales to distributors of 6-inch elbows reported by U.S. producers and importers and margins of underselling, by quarters, January 1989-December 1991

Period	United States		China			Thailand[1]		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1989:								
January-March.....	$***	***	$***	***	26.5	$***	***	14.0
April-June.....	***	***	***	***	26.6	***	***	11.9
July-September....	***	***	***	***	26.3	***	***	15.2
October-December..	***	***	***	***	27.1	***	***	13.2
1990:								
January-March.....	***	***	***	***	24.7	***	***	6.1
April-June.....	***	***	***	***	26.0	***	***	7.1
July-September....	***	***	***	***	26.7	***	***	7.1
October-December..	***	***	***	***	26.4	***	***	17.7
1991:								
January-March.....	***	***	***	***	26.5	***	***	15.5
April-June.....	***	***	***	***	33.5	***	***	9.0
July-September....	***	***	***	***	31.6	***	***	8.0
October-December..	***	***	***	***	30.7	***	***	8.1

[1] ***.

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

Figure 2

U.S. selling prices of butt-weld pipe fittings produced in the United States and imported from China and Thailand, by specified product and by quarter, January 1989-December 1991

* * * * * * *

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

Table 23
Weighted-average net f.o.b. prices for sales to distributors of 8-inch elbows reported by U.S. producers and importers and margins of underselling, by quarters, January 1989-December 1991

Period	United States		China			Thailand[1]		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1989:								
January-March.....	$***	***	$***	***	22.4	$***	***	11.3
April-June.....	***	***	***	***	19.5	***	***	17.0
July-September....	***	***	***	***	19.7	***	***	13.2
October-December..	***	***	***	***	25.1	***	***	10.6
1990:								
January-March.....	***	***	***	***	20.1	***	***	8.9
April-June.....	***	***	***	***	16.7	***	***	13.8
July-September....	***	***	***	***	21.1	***	***	16.4
October-December..	***	***	***	***	30.6	***	***	24.4
1991:								
January-March.....	***	***	***	***	31.0	***	***	8.6
April-June.....	***	***	***	***	32.5	***	***	8.6
July-September....	***	***	***	***	27.6	***	***	15.4
October-December..	***	***	***	***	24.5	***	***	15.3

[1] ***.

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

Figure 3

U.S. selling prices of butt-weld pipe fittings produced in the United States and imported from China and Thailand, by specified product and by quarter, January 1989-December 1991

* * * * * * *

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

for 6-inch elbows ***. Prices for 8-inch elbows ***. Reported quantities sold for Thai products 1-3 ***.

Price comparisons were possible between domestic and Chinese elbows sold to distributors in each of the 12 quarters of the investigation period. In all instances for the three elbow sizes, the Chinese product was priced below the domestic product by margins ranging from 16.7 percent to 38.4 percent.[76]

Price comparisons between domestic and Thai butt-weld elbow fittings were possible in all 12 quarters of the period examined. In each of these 12 quarters and for each product, the Thai product was priced below the domestic product with margins ranging from 6.1 to 24.4 percent.[77]

Tees and reducers.--Weighted-average prices for U.S.-produced tees and reducers ***. Prices of 2-inch tees ***. Prices for 6-inch by 4-inch concentric reducers *** (tables 24-25 and figures 3-4).[78]

Prices for sales of 2-inch tees from China ***[79] and ranged from ***[80] per piece ***. Prices for 6-inch by 4-inch concentric reducers ***. ***.

Price comparisons between domestic and Chinese 2-inch tees showed margins of underselling ranging from 43.6 to 62.0 percent for the four quarters, October-December 1990 through July-September 1991, for which Chinese prices were reported. Prices of Chinese 6-inch by 4-inch concentric reducers were below domestic product in all 12 quarters during the period examined, with margins ranging between 32.6 and 47.6 percent.

Prices for 2-inch tees from Thailand ***.[81] Prices for 2-inch tees ***.[82] Prices for Thai 6-inch by 4-inch concentric reducers ***.

Price comparisons between domestic and Thai 2-inch tees and 6-inch by 4-inch concentric reducers showed underselling for all instances. In 10 of 12 quarters during the period examined price comparisons were made for 2-inch tees. In these 10 instances the Thai product was priced below the domestic product by margins ranging from 9.6 to 50.6 percent. Margins were generally highest in 1990 and lowest in 1989. In each of the 12 possible price comparisons for 6-inch by 4-inch concentric reducers, the Thai product was

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[76] Margins of underselling for 4-inch elbows ranged from 27.0 to 38.4 percent. Margins of underselling for 6-inch elbows ranged between 24.7 and 33.5 percent, and margins of underselling for 8-inch elbows ranged from 16.7 to 32.5 percent.

[77] Margins of underselling for 4-inch elbows ranged from 8.2 to 20.0 percent, margins of underselling for 6-inch elbows ranged between 6.1 and 17.7 percent, and Thai 8-inch elbows were priced below the domestic product by margins ranging from 8.6 to 24.4 percent.

[78] Prices for 2-inch tees ***.

[79] Reported quantities ranged from ***.

[80] Three importers of Chinese ***.

[81] *** reported prices for Thai concentric reducers during first quarter 1989 and the fourth quarter of 1991, with reported quantities of ***.

[82] ***.

Table 24
Weighted-average net f.o.b. prices for sales to distributors of 2-inch tees reported by U.S. producers and importers and margins of underselling, by quarters, January 1989-December 1991

Period	United States		China			Thailand[1]		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1989:								
January-March.....	$***	***	$***	***	(2)	$***	***	(2)
April-June.....	***	***	***	***	(2)	***	***	13.2
July-September....	***	***	***	***	(2)	***	***	17.1
October-December..	***	***	***	***	(2)	***	***	13.3
1990:								
January-March.....	***	***				***	***	49.0
April-June.....	***	***	***	***	(2)	***	***	50.6
July-September....	***	***	***	***	(2)	***	***	47.2
October-December..	***	***	***	***	62.0	***	***	43.2
1991:								
January-March.....	***	***	***	***	43.6	***	***	36.8
April-June.....	***	***	***	***	57.0	***	***	9.6
July-September....	***	***	***	***	53.8	***	***	21.3
October-December..	***	***	***	***	(2)	***	***	(2)

[1] ***.

[2] Margins not calculated.

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

Table 25
Weighted-average net f.o.b. prices for sales to distributors of 6-inch by 4-inch concentric reducers reported by U.S. producers and importers and margins of underselling, by quarters, January 1989-December 1991

Period	United States		China			Thailand[1]		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1989:								
January-March.....	$***	***	$***	***	44.5	$***	***	40.6
April-June.....	***	***	***	***	38.2	***	***	22.0
July-September....	***	***	***	***	32.6	***	***	31.3
October-December..	***	***	***	***	34.0	***	***	20.9
1990:								
January-March.....	***	***	***	***	40.4	***	***	26.8
April-June.....	***	***	***	***	33.7	***	***	28.4
July-September....	***	***	***	***	45.9	***	***	9.7
October-December..	***	***	***	***	41.8	***	***	29.4
1991:								
January-March.....	***	***	***	***	37.5	***	***	11.6
April-June.....	***	***	***	***	37.6	***	***	5.9
July-September....	***	***	***	***	47.6	***	***	14.4
October-December..	***	***	***	***	44.8	***	***	2.7

[1] ***.

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

Figure 4

U.S. selling prices of butt-weld pipe fittings produced in the United States and imported from China and Thailand, by specified product and by quarter, January 1989-December 1991

* * * * * * *

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

priced below the domestic product with margins ranging from 2.7 to 40.6 percent.

Purchaser Price Data

Purchase prices for the domestically produced and imported carbon steel butt-weld pipe fittings from China and Thailand were based on average net f.o.b. prices reported by distributors in questionnaire responses. Twenty distributors purchasing domestic and Chinese- and/or Thai-produced butt-weld pipe fittings provided usable price data for January 1989-December 1991, but not necessarily for each product or for each quarter of the period.

Elbows.--Weighted-average purchase prices for U.S.-produced 4-inch, 6-inch, and 8-inch elbows reported by distributors *** (tables 26-28 and figures 5-6). Prices for 4-inch elbows ***. Prices for 6-inch elbows *** and prices for 8-inch elbows ***. Reported quantities sold for products 2 and 3 ***.

Weighted-average purchase prices for 4-inch butt-weld elbow fittings imported from China ***, while prices for 6-inch and 8-inch elbows ***. Prices for 4-inch elbows ***. Purchase prices for 6-inch elbows ***. Prices for 8-inch elbows ***.

Prices reported for elbows imported from Thailand ***. Prices for 4-inch elbows were ***. Prices *** during the period examined. Prices for 6-inch elbows ***. After a ***. Prices for 8-inch elbows ***. Prices ***. Price comparisons were possible between domestic and Chinese elbows purchased by distributors in each of the 12 quarters of the period examined. In all instances, the Chinese product was priced below the domestic product, by margins ranging from 24.1 percent to 41.2 percent.[83]

Price comparisons between domestic and Thai butt-weld elbows were possible in all 12 quarters during the period of investigation. In each instance the Thai product was priced below the domestic product, with margins ranging from 14.1 to 36.5 percent.[84]

Tees and reducers.--Weighted-average purchase prices reported by butt-weld pipe fitting distributors for U.S.-produced 2-inch tees and 6-inch by 4-inch concentric reducers *** (tables 29-30 and figures 6-7). Prices for 2-inch tees ***. Prices for 6-inch by 4-inch concentric reducers (product 5) ***. Prices *** during the period examined. Prices for product 5 were ***.

After *** in 1989, prices for sales of tees from China ***. Prices for 2-inch tees ***. Prices for product 5 from China were ***. Prices *** over the period examined.

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[83] Margins of underselling for 4-inch elbows from China ranged from 32.4 to 41.2 percent, for 6-inch elbows from 28.6 to 37.6 percent, and for 8-inch elbows from 24.1 to 37.2 percent.

[84] Margins of underselling for 4-inch elbows from Thailand ranged from 15.5 to 36.5 percent, for 6-inch elbows from 15.1 to 26.8 percent, and for 8-inch elbows from 14.1 to 29.9 percent.

Table 26
Weighted-average net f.o.b. purchase prices, U.S. point of shipment, and quantities reported by distributors for 4-inch elbows from domestic producers and importers, and margins of underselling, by quarters, January 1989-December 1991

Period	United States		China			Thailand		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1989:								
January-March.....	$***	***	$***	***	40.9	$***	***	26.3
April-June.....	***	***	***	***	40.6	***	***	27.3
July-September....	***	***	***	***	39.0	***	***	24.1
October-December..	***	***	***	***	41.1	***	***	25.8
1990:								
January-March.....	***	***	***	***	41.2	***	***	29.8
April-June.....	***	***	***	***	41.0	***	***	26.9
July-September....	***	***	***	***	37.6	***	***	24.1
October-December..	***	***	***	***	37.6	***	***	22.5
1991:								
January-March.....	***	***	***	***	35.3	***	***	36.5
April-June.....	***	***	***	***	34.0	***	***	29.6
July-September....	***	***	***	***	32.4	***	***	33.4
October-December..	***	***	***	***	34.3	***	***	15.5

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

Table 27
Weighted-average net f.o.b. purchase prices, U.S. point of shipment, and quantities reported by distributors for 6-inch elbows from domestic producers and importers, and margins of underselling, by quarters, January 1989-December 1991

Period	United States		China			Thailand		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1989:								
January-March.....	$***	***	$***	***	35.3	$***	***	18.6
April-June.....	***	***	***	***	35.2	***	***	17.5
July-September....	***	***	***	***	35.7	***	***	16.6
October-December..	***	***	***	***	37.0	***	***	20.7
1990								
January-March.....	***	***	***	***	37.6	***	***	23.7
April-June.....	***	***	***	***	34.6	***	***	23.2
July-September....	***	***	***	***	32.9	***	***	23.9
October-December..	***	***	***	***	35.8	***	***	22.5
1991:								
January-March.....	***	***	***	***	31.6	***	***	26.8
April-June.....	***	***	***	***	28.6	***	***	21.7
July-September....	***	***	***	***	30.3	***	***	24.4
October-December..	***	***	***	***	33.0	***	***	15.1

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

Figure 5

U.S. purchase prices of butt-weld pipe fittings produced in the United States and imported from China and Thailand, by specified product and by quarter, January 1989-December 1991

* * * * * * *

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

Table 28
Weighted-average net f.o.b. purchase prices, U.S. point of shipment, and quantities reported by distributors for 8-inch elbows from domestic producers and importers, and margins of underselling, by quarters, January 1989-December 1991

Period	United States		China			Thailand		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1989:								
January-March.....	$***	***	$***	***	34.3	$***	***	19.2
April-June.....	***	***	***	***	35.1	***	***	17.2
July-September....	***	***	***	***	30.1	***	***	22.4
October-December..	***	***	***	***	37.2	***	***	21.8
1990:								
January-March.....	***	***	***	***	36.9	***	***	23.2
April-June.....	***	***	***	***	33.1	***	***	24.3
July-September....	***	***	***	***	30.9	***	***	22.6
October-December..	***	***	***	***	36.0	***	***	24.2
1991:								
January-March.....	***	***	***	***	30.9	***	***	22.1
April-June.....	***	***	***	***	24.1	***	***	14.9
July-September....	***	***	***	***	25.4	***	***	29.9
October-December..	***	***	***	***	30.3	***	***	14.1

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

Figure 6

U.S. purchase prices of butt-weld pipe fittings produced in the United States and imported from China and Thailand, by specified product and by quarter, January 1989-December 1991

* * * * * * *

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

Table 29
Weighted-average net f.o.b. purchase prices, U.S. point of shipment, and quantities reported by distributors for 2-inch tees from domestic producers and importers, and margins of underselling, by quarters, January 1989-December 1991

Period	United States		China			Thailand		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1989:								
January-March.....	$***	***	$***	***	45.5	$***	***	4.2
April-June.....	***	***	***	***	55.7	***	***	12.5
July-September....	***	***	***	***	53.5	***	***	0.3
October-December..	***	***	***	***	57.5	***	***	4.9
1990:								
January-March.....	***	***	***	***	55.9	***	***	55.8
April-June.....	***	***	***	***	53.5	***	***	52.8
July-September....	***	***	***	***	53.1	***	***	33.5
October-December..	***	***	***	***	54.2	***	***	33.6
1991:								
January-March.....	***	***	***	***	52.3	***	***	25.4
April-June.....	***	***	***	***	50.6	***	***	50.2
July-September....	***	***	***	***	47.7	***	***	8.3
October-December..	***	***	***	***	48.9	***	***	47.3

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

Table 30
Weighted-average net f.o.b. purchase prices, U.S. point of shipment, and quantities reported by distributors for 6-inch by 4-inch concentric reducers from domestic producers and importers, and margins of underselling, by quarters, January 1989-December 1991

Period	United States		China			Thailand		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	$/piece	Pieces	$/piece	Pieces	Percent	$/piece	Pieces	Percent
1989:								
January-March.....	$***	***	$***	***	44.6	$***	***	33.7
April-June.....	***	***	***	***	49.5	***	***	36.8
July-September....	***	***	***	***	46.0	***	***	39.3
October-December..	***	***	***	***	46.0	***	***	35.6
1990:								
January-March.....	***	***	***	***	43.2	***	***	33.4
April-June.....	***	***	***	***	41.5	***	***	30.6
July-September....	***	***	***	***	39.6	***	***	19.4
October-December..	***	***	***	***	39.4	***	***	18.6
1991:								
January-March.....	***	***	***	***	38.7	***	***	20.7
April-June.....	***	***	***	***	29.9	***	***	25.9
July-September....	***	***	***	***	43.2	***	***	40.1
October-December..	***	***	***	***	35.2	***	***	17.0

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

Figure 7

U.S. purchase prices of butt-weld pipe fittings produced in the United States and imported from China and Thailand, by specified product and by quarter, January 1989-December 1991

* * * * * * *

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

Purchase price comparisons between domestic and Chinese 2-inch tees and 6-inch by 4-inch concentric reducers showed underselling for both products in all 12 quarters during the period examined. In these 12 instances the Chinese tees were priced below the domestic product by margins ranging from 45.5 to 57.5 percent, and reducers by margins ranging from 29.9 to 49.5 percent.

Purchase prices for 2-inch tees from Thailand ***.[85] Prices reported by ***. Additional distributors reported ***. Sporadic reporting ***. Prices for Thai 6-inch by 4-inch concentric reducers ***.

Purchase price comparisons between domestic and Thai 2-inch tees and 6-inch by 4-inch concentric reducers showed underselling for both products in all 12 quarters during the period examined. In these 12 instances the Thai tees were priced below the domestic product by margins ranging from 0.3 to 55.8 percent, and reducers by margins ranging from 17.0 to 40.1 percent.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that during January-March 1989 through October-December 1991 the nominal value of the Thai baht fluctuated, depreciating overall less than 1 percent relative to the U.S. dollar (table 31).[86] Adjusted for movements in producer price indexes in the United States and Thailand, the real value of the Thai currency appreciated 8.4 percent overall between January-March 1989 and the fourth quarter of 1991.

Market exchange-rate data for the Chinese renminbi are not available. The Chinese Government pegs the renminbi to the value of the U.S. dollar and controls the convertibility with other currencies.

Lost Sales and Lost Revenues

Among the seven domestic producers responding to the Commission's questionnaires in the final investigation, ***.[87] Four other producers alleged the ***.[88] [89]

* * * * * * *[90]

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[85] *** reported purchase prices for Thai product for all 12 quarters. These reported purchase prices ranged from *** to *** for 2-inch tees from Thailand. ***.

[86] International Financial Statistics, March 1992.

[87] ***.

[88] In order to investigate such allegations, the Commission requests information such as the accepted and rejected price quotes, or the dates and quantities involved in each transaction.

[89] ***.

[90] Discounts from list price are standard practice.

Table 31
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 1989-December 1991

Period	U.S. producer price index	Thai producer price index	Nominal exchange rate index	Real exchange rate index[3]
1989:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	101.8	102.6	98.6	99.4
July-September.....	101.4	105.0	98.1	101.6
October-December....	101.8	103.2	98.3	99.7
1990:				
January-March.....	103.3	103.6	98.4	98.8
April-June.....	103.1	104.6	98.0	99.4
July-September.....	104.9	105.6	99.4	100.0
October-December....	108.1	111.1	101.1	103.9
1991:				
January-March.....	105.9	112.8	100.5	107.1
April-June.....	104.8	113.4	98.9	107.0
July-September.....	104.7	114.2	98.8	107.8
October-December....	104.8	114.0[4]	99.7	108.4[4]

[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 Thai price data reported for October only.

Note.--January-March 1989 = 100.

Source: International Monetary Fund, International Financial Statistics, March 1992.

APPENDIX A

COMMISSION'S AND COMMERCE'S FEDERAL REGISTER NOTICES CONCERNING THESE INVESTIGATIONS

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

Certain Carbon Steel Butt-Weld Pipe Fittings From China and Thailand; Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731–TA–520 and 521 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China and Thailand of certain carbon steel butt-weld pipe fittings,[1] provided for in subheading

[1] 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).

Continued

7307.93.30 of the Harmonized Tariff Schedule of the United States.

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

EFFECTIVE DATE: December 24, 1991.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202-205-3200), 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 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of certain carbon steel butt-weld pipe fittings from China and Thailand are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigations were requested in a petition filed on May 22, 1991, by counsel for the U.S. Fittings Group (USFG).[2]

Participating in the Investigations and Public Service List

Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) 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.

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).

[2] 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.).

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 final investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than twenty-one (21) 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.

Staff report

The prehearing staff report in these investigations will be placed in the nonpublic record on May 1, 1992, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on May 14, 1992, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 4, 1992. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 7, 1992, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules.

Written submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is May 11, 1992. Parties may also file written testimony in connecting with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is May 22, 1992; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before May 22, 1992. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either 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 § 207.20 of the Commission's rules.

By order of the Commission.

Issued: January 16, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-1639 Filed 1-22-92; 8:45 am]

BILLING CODE 7020-02-M

International Trade Administration

[A-570-814]

Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 18, 1992.

FOR FURTHER INFORMATION CONTACT: Steve Alley or Lori Way, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5288 or (202) 377-0656, respectively.

FINAL DETERMINATION: The Department of Commerce ("the Department") determines that certain carbon steel butt-weld pipe fittings ("pipe fittings") from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

[1] On December 10, 1991, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, authorized Ulysses International to engage in certain export transactions that might benefit Amiri and RACC. That exception letter remains in full force and effect unless and until it is modified or otherwise changed as a result of action by the Director, Office of Export Licensing, following consultation with the Director, Office of Export Enforcement.

[2] In connection with this extension of the existing TDO, the parties have agreed that the request filed by the Department on April 20, 1992, shall constitute a request to renew this TDO. In addition, the parties have agreed that no appeal from the issuance of this brief TDO extension shall be made, although, if the TDO is renewed at the end of this extension period, all rights of the parties under the Regulations shall be applicable to such renewal.

Case History

Since our preliminary determination on December 18, 1991 (56 FR 66831, December 26, 1991), the following events have occurred.

On December 20, 1991, six of the seven participating respondents in this investigation requested that the Department postpone its final determination until not later than 135 days after the date of publication of the preliminary determination. On January 13, 1992, we published a notice postponing the final determination until not later than May 11, 1992 (57 FR 1253).

On December 30, 1991, and January 8, February 3, and February 14, 1992, we received revised questionnaire responses from respondents. We rejected certain of these responses that contained Chinese prices as untimely filed.

On January 3, 1992, all respondents (except Billiongold) requested that the Department hold a public hearing. On January 6, 1992, petitioner and Billiongold indicated that they would participate in the hearing. On April 13, 1992, Mitsui & Co. (U.S.A.), Inc. (Mitsui), an interested party to this proceeding, requested that they be allowed to present oral arguments at the hearing.

On January 8, 1992, Shenyang Machinery and Equipment Import & Export Corporation, (Shenyang Machinery) informed the Department that it had not reported factors of production information for most of its manufacturers that produced pipe fittings for sale in the United States. On January 27, 1992, the Department determined that it would not verify the responses of Shenyang Machinery and its manufacturers and would assign it a rate based on best information available (BIA) for the final determination. (See, the Fair Value Comparisons section of this notice and the Memorandum from Gary Taverman to Francis J. Sailer, dated January 27, 1992.)

Prior to the preliminary determination, Weldbend Corporation (Weldbend), a domestic producer of the subject merchandise, indicated its opposition to this proceeding and challenged the standing of the petitioner in this investigation. We issued a standing questionnaire to Weldbend on January 17, 1992. On January 29, 1992, Weldbend questioned the Department's presumption that petitioner has standing and requested that we reconsider the use of the standing questionnaire in this case. On February 12, 1992, we addressed Weldbend's concerns and again informed Weldbend that it would be required to respond to the

Department's standing questionnaire. On February 24, 1992, Weldbend indicated that it would not submit a complete response to the Department's standing questionnaire. On March 27, 1992, we informed Weldbend that since it had not presented evidence to overcome the presumption that the petitioner has standing, the Department would take no further action on this issue. (See *Comment 7* concerning standing.)

On February 12, 1992, the Department rejected a submission made on February 6, 1992, by Mitsui concerning imports of the subject merchandise from Shenzhen Machinery Industry Corporation (Shenzhen Machinery). On February 14, 1992, Mitsui requested that the Department reconsider its decision. On February 20, 1992, the Department informed Mitsui that it would not waive the filing requirement of 19 CFR 353.31(a)(i) that data be submitted not later than seven days prior to the scheduled start of verification. (See, *Comment 17.*)

From February 10 through 25, 1992, we conducted verification in the PRC of the manufacturers' and exporters' responses submitted in this investigation. We verified the responses of five exporters, China North Industries Corporation (China North), Jilin Provincial Machinery & Equipment Import & Export Corporation (Jilin Machinery), Liaoning Machinery & Equipment Import & Export Corporation (Liaoning Machinery), Liaoning Metals & Minerals Import & Export Corporation (Liaoning Metals), and Shandong Metals & Minerals Import & Export Corporation (Shandong), four manufacturers who supplied pipe fittings to these exporters, North Pipe Fittings Industries Corporation (North Pipe), Fushun North Pipe Fittings Co., Ltd. (Fushun), Dalian Pipe Fittings Plant (Dalian Pipe), and Weifang Pipe Fittings Factory (Weifang), and one manufacturer/exporter, Shenyang Billiongold Pipe Fittings Co., Ltd. (Billiongold). On March 31, 1992, we verified the response of China North's U.S. subsidiary, Nic Max, Inc., in Fairfield, New Jersey.

Liaoning Metals (Liaoning) and Shenzhen Machinery failed to respond to our questionnaire. Shenyang Machinery submitted an inadequate response, and therefore, we did not verify its information or use it in calculating out final determination margin. We relied upon BIA to determine the final margins for these three companies. (See, the Fair Value Comparisons section of this notice.)

Petitioner and respondents filed case briefs on April 13, 1992, and rebuttal briefs on April 15, 1992. Mitsui filed a case brief on April 13, 1992. A public hearing was held on April 17, 1992.

Separate Rates

At the preliminary determination, we issued company-specific dumping margins for participating respondents, including Shenyang Machinery, based on information submitted for the record. We found nothing at verification to indicate that the participating respondents were not entitled to separate rates, based on the criteria outlined in the preliminary determination (56 FR 66831), and have issued company-specific margins for these respondents, except Shenyang Machinery, for the final determination. Because Shenyang Machinery submitted an incomplete response that was not verified, as BIA we determine that it has not met the criteria for receiving a separate rate. Since we have no evidence that Shenyang Machinery, Liaoning, or Shenzhen Machinery are independent from each other or the government, we presume that they are related and subject to a single rate. Furthermore, because these companies have not demonstrated their independence, the dumping margin assigned to them will also serve as the PRC-wide rate for all companies not receiving a separate rate in this determination.

Scope of Investigation

The products covered by this investigation are carbon steel butt-weld pipe fittings, having an inside diameter of less than 14 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). 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.

Based on the January 17, 1992, request from petitioner that we clarify the scope, we have eliminated the reference to the inside diameter being less than 360 mm.

Period of Investigation

The period of investigation (POI) is December 1, 1990 through May 31, 1991.

Fair Value Comparisons

To determine whether sales of pipe fittings from the PRC to the United States were made at less than fair value, we compared the United States price to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice, except for Liaoning, Shenzhen Machinery, and Shenyang Machinery.

At the preliminary determination, because Liaoning and Shenzhen Machinery had not responded to our antidumping questionnaire, and Shenyang Machinery had not reported a significant percentage of its U.S. sales during the POI, we based the margins for these companies on BIA, in accordance with section 776(c) of the Act. For the final determination, as at the preliminary determination, Liaoning and Shenzhen Machinery, as non-cooperative respondents, have been assigned the higher of the highest margin alleged in the petition (182.90 percent), or the highest calculated margin for any participating respondent in this investigation. Because Shenyang Machinery initially attempted to comply with the Department's requests for information, it was not assigned the most adverse BIA rate for the preliminary determination. However, because of its subsequent failure to report complete factor of production information for the majority of its manufacturers, we now consider Shenyang Machinery to be an uncooperative respondent and have also assigned Shenyang Machinery the highest margin alleged in the petition for the final determination.

Billiongold and Liaoning Machinery's manufacturer did not report factors of production data for some models sold to the United States during the POI. As BIA, we assigned to those sales the highest single margin calculated for the company in question. Nearly all of Billiongold's unreported products were unfinished pipe fittings, which Billiongold contended were not covered by the scope of this investigation. However, the scope of this investigation specifically includes unfinished as well as finished pipe fittings and factors for these products should have been reported. In addition, China North did not report all of its POI sales made through its U.S. subsidiary. For these China North sales, we have assigned a margin based on the highest non-aberrational margin calculated for China North. (See, *Comment 8.*)

At the preliminary determination, we based Billiongold's margin on the U.S. sales for which it had reported actual, as opposed to estimated, factors of production. For the final determination, we have examined all of Billiongold's U.S. sales, including those for which

estimated factors have been reported. Given the general accuracy of Billiongold's data, we have no reason to believe that the estimated factors of production are any less accurate.

Billiongold's included in its sales listing sales it made to a PRC trading company, another respondent in this investigation, who in turn resold the merchandise to unrelated customers in the United States. As in our preliminary determination, we have excluded these sales from Billiongold's margin calculation because they are not Billiongold's sales to the United States, but are U.S. sales made by a different PRC trading company.

United States Price

For all respondents except Liaoning, Shenzhen Machinery, and Shenyang Machinery, we based United States price on purchase price, in accordance with section 772(b) of the Act, because the merchandise was sold to unrelated purchasers in the United States prior to importation, and because exporter's sales price (ESP) methodology was not indicated by other circumstances.

For the six companies that responded substantially to our questionnaire; we calculated purchase price as we did in the preliminary determination, with the exceptions noted below.

We based the deduction for foreign inland freight on truck and rail freight rates in India, as the respondents reported the use of PRC transportation services in incurring this charge. At the preliminary determination, we based this deduction on freight data for Pakistan. For the final determination, we are basing this deduction on Indian freight rates reported by our post in India subsequent to our preliminary determination, because India is our primary surrogate country in this case.

Respondents were unable to report the actual packed weight for individual pipe fittings models for use in calculating the per-unit amount of foreign inland freight. Therefore, for the final determination, we used an average of the gross weight and the net weight of the steel inputs as an estimate of the packed weight of the pipe fittings and packing materials.

For Liaoning Machinery, based on findings at verification, we reduced the deduction for ocean freight expenses for certain sales by the amount of freight reimbursement reported by Liaoning Machinery to reflect the amount actually repaid by the customer. Liaoning Machinery did not provide data to enable us to identify which sales were shipped to port by truck and which were shipped by rail. As BIA, we have calculated foreign inland freight for all sales based on truck freight rates in India because Liaoning Machinery shipped most U.S. sales to port by truck.

For Jilin Machinery, at vertification we found that a customer did not pay the full amount for one invoice. Because Jilin Machinery could not explain this discrepancy, we have adjusted the price for all sales covered by that invoice to reflect the unpaid portion of the invoice.

For Shandong, we revised the distance between the factory and the port in calculating foreign inland freight, based on findings at verification.

Foreign Market Value

Section 773(c)(1) of the Act provides that the Department shall determine FMV using a factors of production methodology if (1) the merchandise is exported from a nonmarket economy country (NME), and (2) the information does not permit the calculation of FMV using home market prices, third country prices, or constructed value under section 773(a).

The Department treated the PRC as an NME for purposes of the preliminary determination. Since no party to these proceedings has disputed this finding, and given that there is no information in the record of these proceedings to support a different determination, the Department has treated the PRC as an NME for purposes of the final determination.

The participating respondents in this investigation have claimed that many of their manufacturers' factor inputs were purchased at market-oriented prices and that, accordingly, we should use the actual PRC prices for valuing these inputs. We have determined that the market oriented industry (MOI) test outlined in the notice of Redetermination of Sales at Less than Fair Value: Lug Nuts from the People's Republic of China (57 FR 15052, April 24, 1992) (Lug Nuts Redetermination) has not been met in this investigation. The criteria for determining whether a MOI exists are: (1) For the merchandise under investigation, there must be virtually no government involvement in setting prices or amounts to be produced; (2) the industry producing the merchandise under investigation should be characterized by private or collective ownership; and (3) market-determined prices must be paid for all significant inputs, whether material or non-material (*e.g.*, labor and overhead), and for all but an insignificant proportion of all the inputs accounting for the total value of the merchandise under investigation. In this investigation, we have determined that market-determined prices were not paid for steel pipe, a significant input in the production of pipe fittings, by any respondent. (See *Comment 1* for further discussion of this issue.) Therefore, we have used surrogate values in calculating FMV, as discussed below.

In accordance with section 773(c)(4) of the Act, as amended by the Omnibus Trade and Competitivness Act of 1988, we have calculated FMV based on the factors of production methodology. These factors have been valued in market economy countries that are at a level of economic development comparable to that of the PRC and that are significant producers of comparable merchandise.

Of the countries that are known producers of pipe fittings, we determined that India, Pakistan, Kenya, Sri Lanka, Indonesia, and the Philippines, in that order, are the most comparable to the PRC in terms of overall economic development, based on per capita gross national product (GNP), the national distribution of labor, and growth rate in per capita GNP.

We obtained information for valuing factors of production from either U.S. diplomatic posts in response to information requests for this investigation, or from publicly available statistical references at the Department. With respect to the latter sources, we adjusted the factor values to the POI using wholesale price indices published by the International Monetary Fund.

We were able to obtain useable surrogate value data for this case from India, our first choice surrogate country, for all but two factors, selling, general, and administrative expenses (SG&A), and profit. We used surrogate data reported by our Embassy in Jakarta to value these factors because no post in any of the other surrogate countries responded to our requests for these data, and the reported data were greater than the statutory minimums of 10 and eight percent. (See, *Comment 2* for further discussion of the Department's surrogate value methodology in this investigation.)

For those companies that reported the distance between steel suppliers and the pipe fittings factory, we calculated the cost of raw material input freight based on the gross weight of the steel pipe input and freight rates as valued in India. For companies that did not report the distance between suppliers and factories, as BIA, we used the highest ranged distance derived from the public versions of questionnaire responses submitted by respondents who provided the information.

As explained in the preliminary determination, no circumstance of sale adjustments were made.

We made currency conversions in accordance with 19 CFR 353.60(a).

For Dalian Pipe and Fushun, we revised the variable consumption of electricity to exclude non-factory consumption, based on information found at verification. For Dalian Pipe, we also revised the reported labor factors.

For Weifang, we corrected the reported labor factor for one model, based on information obtained at verification. We also re-classified the reported direct labor factors for supervisory and administrative labor as indirect labor. (See, *Comment 13.*)

For North Pipe, we recalculated paint consumption to correct a discrepancy in the reported consumption based on information found at verification. (See, *Comment 10.)*

Final Affirmative Determination of Critical Circumstances

Under section 735(a)(3) of the Act, critical circumstances exist if we determine that there is either a history of dumping, or the importer knew or should have known that the exporter was selling the merchandise at less than fair value, and if there have been massive imports of the merchandise over a relatively short period. At the preliminary determination, we found that critical circumstances exist with respect to imports of pipe fittings from the PRC from each of the respondents. Since then, none of the available data indicate that our finding of massive imports over a relatively short period of time should be reversed. Further, since the estimated margins in our detemination are sufficiently high (25 percent or greater for purchase price sales), we find that knowledge of dumping exists and, as such, we need not consider whether there is a history of dumping. Therefore, we find that critical circumstances exist with respect to imports from these companies. (See the Critical Circumstances section of the preliminary determination notice (56 FR 66831) for a discussion of how we determined that critical circumstances exist and *Comment 6* for further discussion of this issue.)

Verification

Pursuant to section 776(b) of the Act, we verified information used in reaching our final determination. We used standard verification procedures, including examination of relevant accounting records and original source documents provided by the respondents.

Interested Party Comments

Comment 1: Billiongold argues that the Department cannot reject the prices that Billiongold paid for its steel in the PRC on the grounds that such prices are not market-determined. Specifically, the Department cannot assume, as it has, that in-plan production of one type of steel prevents the existence of market-based prices for other types of steel. Second, even if steel can be viewed as a fungible commodity, the effect of in-plan production of certain types of steel is that a certain amount of steel is removed from the maket, with no effect on the price of out-of-plan steel. This result can be demonstrated through the use of a "kinked" supply function. Finally, Billiongold argues that the effect of in-plan production is to force the supply function for out-of-plan steel to assume a sharper slope, thereby resulting in a higher price for any given level of demand.

DOC Position: We disagree with Billiongold's analysis. In its first argument, Billiongold has segregated the "market" for its input from the "market" for other steel products. Given the substitutability of various types of steel, both on the supply and demand sides, it is not possible to look at this input in isolation. Billiongold itself recognizes that its conclusion has to be qualified to account for cross-elasticities of demand.

With respect to the second argument, we do not agree with Billiongold's modelling of the effect of in-plan production when steel is treated as a fungible commodity. Instead of a kinked supply curve, the aggregate supply curve would be a summation of the supply curves for various steel products. Some of these supply functions (those for products where all production is in-plan) would be inelastic over their entire range. Therefore, rather than producing a kinked supply function for steel generally, in-plan production affects the shape of the supply curve along its entire length.

Finally, Billiongold appears to be arguing either that out-of-plan production must absorb some of the costs incurred to produce in-plan steel (leading to a steeper supply function for out-of-plan steel) or that without state-required production there would be an increase in steel supplied in the market (an outward shift in the supply function). Under the former, there is no reason to expect that revenues from out-of-plan sales are used to cover the costs of in-plan sales. With respect to the latter, Billiongold ignores that there would also be an increase in demand (an outward shift in the demand function) as customers who once purchased in-plan steel would now have to purchase steel in the market. Thus, there is no basis to conclude that the presence of in-plan steel increases the price of out-of-plan steel.

Comment 2: Respondents state that the Department should not rely on surrogate values from Indonesia because Indonesia is at a much higher stage of economic development than China, and the Indonesian producers of pipe fittings, from which the information in the cable from Jakarta was obtained, are not significant producers of the subject merchandise.

DOC Position: We disagree with the respondent. The Department determines which countries are acceptable surrogates for use in investigations involving NMEs by applying the two factors outlined in section 773(C)(4) of the Act. In this case, India, Pakistan, Kenya, Sri Lanka, Indonesia, and the Philippines, in that order, were determined to be (1) at a comparable level of economic development to the PRC and (2) significant producers of comparable merchandise (See, Memorandum to Gary Taverman from David Mueller, dated August 1, 1991). Billiongold's conclusion that Indonesia is not a significant producer of comparable merchandise because there are only three pipe fitting manufacturers in Indonesia and these manufacture only pipe fittings up to three inches in diameter is not supportable because the number of producers in any given country is a separate question from the volume of merchandise they may produce. Although numerous attempts were made to collect data on SG&A and profit from each of the surrogate countries identified in the memorandum above, only the U.S. Embassy in Jakarta supplied the data necessary to value those factors of production.

Comment 3: Billiongold maintains that the Department should rely on the statutory minimum 10 and eight percent for SG&A and profit, respectively, and Billiongold's reported factory overhead percentage instead of the information obtained from the U.S. Embassy in Jakarta.

Petitioner argues that the statute limits the use of minimums for SG&A and profit to the calculation of constructed value, when actual SG&A and profit are lower than the minimums or not available.

DOC Position: We disagree with respondent. Because data pertaining to SG&A and profit was provided by the U.S. Embassy in Jakarta, there is no reason for the Department to use the statutory minimum of 10 percent SG&A and eight percent profit, as advocated by Billiongold.

Regarding factory overhead, we do not consider Billiongold's reported

factory overhead to be any more reliable than any other reported Chinese factor price simply because overhead is expressed as a percentage of total materials, labor, and energy costs. The possible distortions to materials, labor and/or energy costs in an NME render the resulting overhead percentage figure based on these costs equally suspect. Therefore, we have used the factory overhead reported in a cable from the U.S. Consulate in Calcutta, India, which reports factory overhead based on the experience of pipe fitting manufacturers in India, our primary surrogate country in this investigation.

Comment 4: Billiongold states that the surrogate value data received from the U.S. Consulate in Calcutta (the Calcutta cable) is unreliable because it states that the data provided in the cable "would not be representative," and "are likely to be misleading." Billiongold argues that the Department should rely on publicly available Indian steel export prices to value steel.

China Chamber (Shandong, Liaoning Metals, China North, Shenyang Machinery, Liaoning Machinery, Jilin Machinery, Weifang Dalian Pipe, North Pipe, Dalian Huacheng, and Fushun) also argues that the Calcutta cable is unreliable because the information is based on only one company, and the Indian company from which the data were obtained is a trading company, not a pipe manufacturer. Like Billiongold, China Chamber also holds that steel should be valued using Indian export prices instead of import prices because import prices bear no relation to the price of steel produced in India. China Chamber urges the Department to follow instructions contained in the memorandum to Gary Taverman from David Mueller dated August 1, 1991, which recommends that the Department use publicly available information, that the Department stay within one surrogate as much as possible, and that export prices be used in the event that publicly available factor price information cannot be obtained.

Petitioner contends that, except for the price of steel pipe, the Calcutta cable is less representative of the costs of producing the subject merchandise than other publicly available data because these data are based on aggregated data for the manufacture of butt-weld pipe fittings and industrial piping. Petitioner argues that if the Department chooses to use Indian data, the Calcutta cable is acceptable for steel pipe because it reports a price paid for pipe "suitable for the production of carbon steel butt-weld pipe fittings." Petitioner states that is has not advocated the use of Indian data previously because it is believed that steel prices in India are fixed by the Indian government.

For all other factors, petitioner states that the Department should use company-specific data received from U.S. embassies in Pakistan and Indonesia, as in the preliminary determination, because both countries are at a comparable level of economic development to China, the data are from significant producers of the subject merchandise in both countries, and the most usable surrogate value data come from Pakistan and Indonesia.

DOC Position: Regarding the reliability of the Calcutta cable, we agree with petitioner, in part, insofar as analysis of each factor should be performed to determine whether the fact that the cable data are based on aggregated data for the manufacture of butt-weld pipe fittings and industrial piping could render specific factor information "not representative" or "misleading." We disagree with petitioner that only the data in that cable for steel could be determined to be acceptable.

However, the language appended to the cable by the U.S. Consulate in Calcutta, and the resulting questions regarding the integrity of the information in the cable raised by both respondents and petitioner, highlight the difficulties the Department has encountered in soliciting and using cable data in its factor calculations for NME investigations.

First, inconsistency in the quality of cable data obtained from various embassies and consulates has been a continuing source of difficulty in determining what to use as the most appropriate data. Second, because many embassies never respond to the Department's requests for information or respond at a relatively late date in the course of the investigation, neither interested parties nor the Department can make decisions or recommendations as to the most appropriate data that should be used in an investigation until relatively late in the proceeding. In fact, Billiongold argued that the Calcutta cable should be rejected as untimely in this investigation. The length of the case and rebuttal briefs on this topic is a testament to the unpredictability that results from the Department's receipt of cable information well after the preliminary determination.

For the above reasons, the Department believes it is more appropriate in NME cases to rely, to the extent possible, on public, published statistics from the first choice surrogate country to value any factors for which such information is available. We agree with the China Chamber that the Department should also endeavor to remain within one surrogate country to the extent possible. Thus, for factors for which public statistical information is not available (typically SG&A, factory overhead, and profit), the Department will continue to rely on information obtained from U.S. embassies and consulates from the first choice surrogate country when necessary. If there is no reliable information from the first choice surrogate country for a particular factor, we will attempt to use public, published statistical data and then cable data, in that order, from the second choice surrogate country, and so on. In this way, we will maintain the dual hierarchy of valuing factors of production following the preferred order of surrogate countries as recommended by our Office of Policy and the preference to base our factor values on publicly available published data.

The establishment of a clear surrogate value hierarchy, with a preference first, for single country data, and then, for public statistical information readily available early in investigations, should work to increase the certainty and predictability of the outcome of the Department's factor valuations. Such a methodological framework should also help to focus comments made by petitioner and respondent in the case and rebuttal briefs and to reduce miscellaneous submissions and comments made by all parties throughout the course of investigations regarding the appropriateness of various surrogate values.

Lastly, relying on public published statistical data will alleviate the administration burden caused by requests for large amounts of data from our embassies and consulates in the future. In fact, future requests for information for a smaller number of items for which we have no public published statistical data may encourage more fulsome and more frequent responses.

We disagree with respondents that Indian export data are more appropriate than Indian import data for valuation of steel pipe. We believe that basket import statistics that closely correspond to the factor input, such as that provided by the Monthly Statistics of the Foreign Trade of India for steel pipe in this investigation, more accurately reflect the market price of that factor in India. Export prices may not account for drawback schemes and other government sponsored export programs which may distort the export price of the merchandise. In addition, the use of

Indian export prices to only the United States is flawed because the U.S. steel pipe market may be considerably different from other steel pipe markets. Import statistics allow us to aggregate all market economy steel pipe export prices to India. The cited memorandum from David Mueller to Gary Taverman, which states that export prices should be used in the event that publicly available factor price information cannot be obtained, is misinterpreted by China Chamber. This memorandum contemplates that, in the event that the Department is unable to find publicly available factor price information, which includes cable data placed on the public record as well as public published statistical data, the Department may base FMV on the Indian export price of the subject merchandise (*i.e.*, butt-weld pipe fittings) in accordance with section 773(C)(2) of the Act. It does not mean that export prices should be used to value certain factors, such as steel pipe.

Comment 5: Petitioner argues that a cable received from Calcutta on February 20, 1992, was untimely filed because it was received after the deadline for the submission of factual information.

Respondents note that the Secretary may request any person to submit factual information at any time during a proceeding.

DOC Position: We agree with respondents. See, 19 CFR 353.31(b).

Comment 6: Billiongold argues that the Department should rescind its critical circumstances determination with respect to Billiongold. Billiongold contends that since it had no knowledge of what values the Department would assign to its factors of production, it is unreasonable and arbitrary to impute knowledge of dumping based on estimated margins calculated using surrogate data. Furthermore, Billiongold contends that the increase in imports did not result from and was not related to the filing of the petition or the initiation of this investigation.

China Chamber contends that there cannot be a history of dumping, given that most PRC producers of pipe fittings did not begin production until 1990. China Chamber argues that any 1991 sales would be an increase over no 1990 sales.

Petitioner contends that Billiongold's argument ignores the language of the statute in two fundamental respects: (1) The primary basis for an affirmative critical circumstances determination is a history of dumping of the class or kind of merchandise and only secondarily is knowledge of dumping a basis for the determination; and (2) it is the knowledge of the importer, not that of "the foreign producer," as Billiongold asserts. Given that antidumping duty orders are already in effect for imports of the subject merchandise from Brazil, Japan, and Taiwan, petitioner contends that the first element of the critical circumstances test is met on the basis of history alone.

Finally, petitioner contends that Billiongold's argument that it had no knowledge of what values the Department would assign to its factors of production ignores the purpose of the critical circumstances provision (*i.e.*, to prevent post-petition import surges).

DOC Position: We disagree with respondents. When determining whether critical circumstances exist pursuant to section 735(a)(3) of the Act, the Department can consider the question whether to impute knowledge of dumping when we use the factor of production methodology to calculate FMV. (See, Final Determination of Sales at Less than Fair Value: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the PRC, 56 FR 241 (January 5, 1991); Final Determination of Sales at Less Than Fair Value: Tapered Roller Bearings and Parts Thereof, Finished or Unfinished from the Hungarian People's Republic, 52 FR 17428 (May 8, 1987)). Regarding Billiongold's assertion that the increase in imports did not result from and was not related to the filing of the petition or the initiation of this investigation, no evidence was provided by respondents indicating that shipment schedules were established prior to the filing of the petition in this investigation.

Since we can impute knowledge of dumping when margins in a purchase price situation are in excess of 25 percent, and have made such a determination of imputed knowledge of dumping in this case, we do not need to consider whether there has been a history of dumping. Furthermore, because our analysis of whether there were massive increases in imports since the filing of the petition did not include a comparison of 1990 shipments to 1991 shipments but was based entirely on 1991 data, China Chamber's argument that any 1991 U.S. sales would be an increase over no 1990 sales is irrelevant.

Lastly, there is no support in the statute, the regulations, or Department practice for petitioner's contention that, in a critical circumstances determination, the knowledge of dumping criterion is only secondary to the history of dumping criterion.

Comment 7: Respondents argue that the Department should pursue the issue of whether petitioner has standing based on the fact that (1) Weldbend, a domestic producer of pipe fittings, has challenged petitioner's standing and (2) the petitioner does not represent the majority of total domestic production.

Petitioner argues that nothing in the Department's statute, legislative history, or regulations, requires that a petitioner establish affirmatively that it has the support of a majority of the industry.

DOC Position: We disagree with respondents. The Department's long-standing practice is to presume that the petitioner has standing unless those in opposition demonstrate that they represent a majority of the domestic production. (See, *e.g.*, *NTN Bearing Corp. of America, et. al.* v. *United States*, 757 F. Supp. 1425 (1991); and *Gray Portland Cement and Clinker from Venezuela*, 56 FR 56380 (November 4, 1991).) Because Weldbend refused to respond completely to the Department's standing questionnaire, it has failed to rebut the presumption that petitioner has standing and, therefore, we have no basis on which to question the presumption that the petitioner has standing within the meaning of section 732(b) of the Act, and poll the domestic industry. (*See, Minebea Co.* v. *United States*, 782 F. Supp. 117 (CIT 1992).)

Critical to the Department's determination of this issue is information demonstrating the percentage of the domestic industry that the opposer represents, whether the opposer is related to any producers and/or exporters of the subject merchandise in the countries under investigation and whether the opposer is, or is related to an importer of the subject merchandise or components of the subject merchandise within the meaning of section 771(4) of the Act. In addition, the Department requires challengers or opposers to provide information that delineates between domestic production and production using imported materials, and the percentage of U.S. value-added in the production process.

Because Weldbend failed to respond completely to the Department's standing questionnaire on several occasions, we were unable to ascertain the degree of opposition of the domestic industry Weldbend represented. Therefore, we have determined that petitioner has standing in this investigation.

Comment 8: China North claims it did not report certain orders as sales because it did not consider them to be finalized. Nic Max, China North's U.S. subsidiary, explained that the customer returned the first shipment pursuant to these orders because the merchandise did not conform to specifications and the rest of the orders were put on hold.

Petitioner contends that these transactions constitute sales within the meaning of the statute and should have been reported in China North's U.S. sales listing. As a result of Nic Max' failure to report these sales, petitioner contends that we should assign to these sales the highest margin for tees from the amendment to the petition as BIA for these sales.

DOC Position: We agree with petitioner that these are sales that should have been reported. The documentation provided to support the accuracy of the reported sales was prepared for these unreported sales as well. We have no reason to believe that the merchandise for these sales will not ultimately be produced and shipped. As BIA, we have assigned to these sales the highest single non-abberational margin calculated for China North.

Comment 9: Liaoning Machinery claims that sales from one shipment included in its sales listing were made outside of the POI. Liaoning Machinery argues that since its date of sale is the date of shipment and the shipment in question was made outside of the POI, these sales should not be included for purposes of calculating U.S. price.

Petitioner argues that these sales should be included for purposes of calculating U.S. price.

DOC Position: We agree with petitioner. Based on findings at verification, we determined that date of shipment was not the appropriate date of sale. These sales were included in our margin calculations at the preliminary determination and have been included in our final margin calculations.

Comment 10: Petitioner contends that as BIA, for the quantity of steel pipe used by North Pipe to produce pipe fittings, the Department should use the U.S. industry maximum gross weight standards found in North Pipe's verification exhibits. In addition, based on findings at verification, petitioner contends that the Department should adjust the quantity of paint used to produce North Pipe's pipe fittings.

North Pipe contends that the Department verified and accepted that the standard weight rather than the actual weight of raw material input be used for the final determination. Therefore, respondent contends that the Department should reject petitioner's request for using BIA.

DOC Position: We agree with North Pipe. At verification, we noted that in North Pipe's calculations of the quantity of steel pipe used to produce its pipe fittings, many of the reported gross weights fell slightly above or below the minimum and maximum weights listed in the "Product Raw Material Standard Consumption Table." Since these discrepancies were minor, we have accepted North Pipe's reported steel pipe gross weights.

We agree with petitioner concerning the paint adjustment, and have adjusted North Pipe's paint consumption according to findings at verification.

Comment 11: Petitioner claims that, because the Department was unable to verify certain aspects of respondents' data, we should use BIA to calculate the following: (1) Billiongold's containerization expenses on U.S. sales; (2) China North's credit expenses and indirect selling expenses (or at least recalculate indirect selling expenses based on findings at verification); (3) Liaoning Machinery's port charge and inspection fee; (4) Shandong's interest rate; and (5) Weifang's usage of 6-inch steel pipe and its usage of de-rust solvent.

DOC Position: We disagree with petitioner concerning Billiongold's containerization expenses. As stated in the verification report, Billiongold's containerization expenses were included in U.S. brokerage and handling expenses.

Petitioner's comments concerning China North's credit expenses and indirect selling expenses and Shandong's interest rates are not relevant in this case. Consistent with our treatment of NMEs, we made no adjustments to FMV for U.S. selling expenses. (See, *e.g.*, Final Determination of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans From the People's Republic of China, 56 FR 55271 (October 25, 1991).)

Since no evidence was provided to support Liaoning Machinery's claims that port charges and inspection fees were included in brokerage and handling expenses, we agree with petitioner and are deducting these expenses in our U.S. price calculations.

Concerning Weifang, we disagree with petitioner. We have accepted Weifang's reported 6-inch pipe usage because the company's accounting records support its claim. We did not take into account Weifang's usage of de-rust solvent since no other respondents reported this factor, it appears likely to have been included in the reported paint factor, and petitioner has not provided any information that could be used as BIA.

Comment 12: Billiongold contends that its actual swap center exchange rate should be used to calculate FMV. Dalian Pipe contends that one of its expenses was included in both SG&A and depreciation. Weifang also argues that the Department should not base depreciation on BIA and revise its reported depreciation to include the value of molds that were not included in reported depreciation.

DOC Position: Since we are not using Chinese prices to value factors of production, these issues are moot.

Comment 13: Weifang contends that direct labor hours for factory level administrators and its direct labor hours for workshop level supervisors were included in factory overhead and SG&A, respectively.

DOC Position: We agree with respondent. These factors are properly classified as indirect labor. We have not included these labor factors in our calculation of FMV because we have considered them to be part of factory overhead, which includes indirect labor.

Comment 14: Shandong contends that its reported inland freight distance is correct, as opposed to the distance measured at verification. Liaoning Machinery contends that the actual value for ocean freight reimbursement should be used.

DOC Position: We disagree with respondents, based on findings at verification. Concerning Shandong, we verified that the actual distance in question is greater than that reported. We have adjusted Liaoning Machinery's ocean freight reimbursement to reflect the amount actually repaid by the customer, as found at verification.

Comment 15: China Chamber contends that the steel pipe net weight should be used for calculating foreign inland freight and packing costs.

DOC Position: We disagree with respondents. Since respondents were unable to provide a packed weight, we have used the average of reported gross and net weights in order to approximate packed weight for purposes of calculating foreign inland freight. Similary, we calculated the packing expense using the average of the gross and net steel pipe weight.

Comment 16: For one invoice, Jilin Machinery contends that the difference between the amount paid by its customer and the reported invoice amount was an error in their bookkeeping.

DOC Position: We disagree with respondent. Since the difference could not be explained at verification, we have adjusted U.S. price accordingly.

Comment 17: Mitsui argues that the Department should not find critical circumstances with respect to Shenzhen Machinery for the following reasons: (1) The Department did not request monthly shipment data from Shenzhen Machinery; (2) it is inappropriate to use BIA to determine that imports from Shenzhen Machinery were massive

during the period following the filing of the petition simply because Shenzhen Machinery, through no fault of its own, did not receive or respond to the questionnaire; (3) Mitsui provided the Department with shipment data on exports from Shenzhen Machinery to Mitsui and that Mitsui accounts for all of Shenzhen Machinery's exports to the United States; (4) the Department can determine from Customs' data that imports from Shenzhen Machinery were not massive; and (5) Shenzhen Machinery is not a part of "China Inc." and therefore merits both a separate dumping rate and a company specific critical circumstances determination.

DOC Position: We disagree with respondent. The Department considers respondents to be uncooperative and non-participating if they fail to respond to the questionnaire. At the time the Department requested monthly shipment data from other respondents, Shenzhen Machinery was considered to be a non-cooperative respondent because it had not responded to the Department's questionnaire. Consequently, the Department did not request monthly shipment data from Shenzhen Machinery.

After considerable attempts were made to identify potential respondents in this investigation, the Department was forced to rely on the PRC Embassy to distribute the questionnaire to the appropriate respondents. Consequently, we believe it is appropriate to consider Shenzhen Machinery a non-cooperative respondent.

As the Department explained to Mitsui in its February 20, 1992, letter, even had Mitsui submitted information on imports from Shenzhen Machinery on a timely basis, we would nevertheless have been unable to make a company-specific critical circumstances finding for Shenzhen Machinery because: (1) The Department would have been required to verify that Shenzhen Machinery did not export the subject merchandise to any other U.S. importers besides Mitsui; and (2) it has not been the Department's practice to make importer-specific critical circumstances findings.

The Department cannot rely on Customs' data to determine whether imports from Shenzhen Machinery were massive because we cannot determine the percentage of total imports from the PRC accounted for by Shenzhen Machinery, the basket categories on which Customs' data is based may not adequately correspond to the subject merchandise, and the date of importation into the United States that provides the basis for Customs' data is not the date of shipment used to determine whether critical circumstances exist.

Without a questionnaire response from Shenzhen Machinery, we are unable to determine whether Shenzhen Machinery merits a separate company-specific dumping margin and, therefore, must assume, as BIA, that Shenzhen Machinery is a state-controlled enterprise. We cannot issue company-specific critical circumstances determinations for state-controlled enterprises.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of pipe fittings from the PRC subject to this investigation which are entered, or withdrawn from warehouse, for consumption on or after September 27, 1991, which is 90 days prior to the date of publication of our preliminary determination in the Federal Register. The U.S. Customs Service shall require a cash deposit or bond equal to the estimated amount by which the foreign market value exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted average margin percentage
China North Industries Corporation	167.09
Jilin Provincial Machinery & Equipment Import & Export Corp	81.97
Liaoning Machinery & Equipment Import & Export Corporation	146.26
Liaoning Metals & Minerals Import & Export Corporation	113.56
Shenyang Billiongold Pipe Fittings Co. Ltd	120.72
Shandong Metals & Minerals Import & Export Corporation	41.77
Shenyang Machinery & Equipment Import & Export Corporation; Liaoning Metals; Shenzhen Machinery Industry Corporation; and all others	162.90

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our determination.

APO Notification

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 CFR 353.20(a)(4)).

Dated: May 11, 1992.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-11606 Filed 5-15-92; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. A-549-807]

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

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 18, 1992.

FOR FURTHER INFORMATION CONTACT: Steve Alley or Michelle Frederick, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5288 or (202) 377-0186, respectively.

FINAL DETERMINATION: The Department of Commerce ("the Department") determines that certain carbon steel butt-weld pipe fittings (collectively "pipe fittings") from Thailand are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our preliminary determination on December 16, 1991, (56 FR 66831, December 26, 1991), the following events have occurred:

On December 20, 1991, TTU Industrial Corp. Ltd., (TTU) requested that the Department postpone its final determination until not later than 135 days after the date of publication of the preliminary determination. On January 13, 1992, we published a notice postponing the final determination until not later than May 11, 1992 (57 FR 1253). On January 6 and 21, 1992, respectively, TTU and petitioner requested that the Department hold a public hearing.

Prior to the preliminary determination, Weldbend Corporation (Weldbend), a domestic producer of the subject

merchandise, indicated its opposition to this proceeding and challenged the standaing of the petitioner in this investigation. (See, *Standing below.*)

We received a new sales tape and cost diskette from TTU in January and February, respectively, as well as a revised cost diskette from Awaji Sangyo (Thailand) Co., Ltd. (AST) in January.

On January 27, 1992, we rejected petitioner's December 13, 1991, request to expand the period of investigation (POI) to capture certain sales made by AST called pilot orders (long-term contracts). (See, *Comment 10.*) On February 18, 1992, petitioner requested that the Department examine issues regarding AST's steel prices and pilot orders in detail at verification. We verified AST and TTU's sales and cost responses in Thailand from February 24–29, 1992.

Petitioner and respondents filed case briefs on April 9, 1992, and rebuttal briefs on April 13, 1992. Silbo Industries, Inc. (Silbo) submitted a rebuttal brief on April 17, 1992. On April 16, 1992 the Department held a public hearing.

Scope of Investigation

The products coverd by this investigation are carbon steel butt-weld pipe fittiings, having an inside diameter of less than 14 inches, imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sectons 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 proposes, our written description of the scope of this proceeding is dispositive.

Based on the January 17, 1992, request for petitioner that we clarify the scope, we have eliminated the reference to the inside diameter being less than 360 mm.

Standing

We issued a standing questionnnaire to Weldbend on January 17, 1992. On January 29, 1992, Weldbend questioned the Department's presumption that petitioner has standing and requested that we reconsider the use of the standing questionnaire in this case. On February 12, 1992, we addressed Weldbend's concerns and again informed Weldbend that it would be required to respond to the Department's standing questionnaire. On February 24, 1992, Weldbend indicated that it would not submit a complete response to the Department's standing questionnaire. On March 27, 1992, we informed Weldbend that it had not presented evidence to overcome the presumption that the petitioner has standing and that the Department would take no further action on this issue.

The Department's long-standing practice is to presume that the petitioner has standing unless those in oppositon demonstrate that they represent a majority of the domestic production. (See, *e.g., NTN Bearing Corp. of America, et. al.* v. *United States*, 757 F. Supp. 1425 (1991); and *Gray Portland Cement and Clinker from Venezuela*, 56 FR 56390 (November 4, 1991). Because Weldbend refused to respond completely to the Department's standing questionnaire, it has failed to rebut the presumption that petitioner has standing and, therefore, we have no basis on which to question the presumption that petitioner has standing within the meaning of section 732(b) of the Act and poll the domestic industry. (*See, Minebea Co.* vs. *United States* 782 F. Supp. 117 (CIT 1992).)

Critical to the Department's determination of this issue is information demonstrating the percentage of the domestic industry that the opposer represents, whether the opposer is related to any producers and/or exporters of the subject merchandise in the countries under investigation and whether the opposer is, or is related to an importer of the subject merchandise or components of the subject merchandise within the meaning of section 771(4) of the Act. In addition, the Department requires challengers or opposers to provide information that delineates between domestic production and production using imported material, and the percentage of U.S. value-added in the production process.

Because Weldbend failed to respond completely to the Department's standing questionnaire on several occasions, we were unable to ascertain the degree of opposition of the domestic industry Weldbend represented. Therefore, we have determined that petitioner has standing in this investigation.

Period of Investigation

The POI is December 1, 1990 through May 31, 1991.

Fair Value Comparisons

For AST and TTU, to determine whether sales of certain carbon steel butt-weld pipe fittings from Thailand to the United States were made at less than fair value, we compared the United States price to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

For AST and TTU, we compared merchandise sold in the United States to merchandise sold in the home market, and third country market, respectively or to constructed value (CV), where appropriate. For TTU, we limited our analysis to U.S. sales of merchandise that could be compared to identical merchandise sold in the third country (Australia). (see, *Comment 4*). For TTU, we converted all prices and adjustments from a weight basis to a unit (per piece) basis because merchandise is sold by piece instead of weight. (See, *Comment 8*).

Best Information Available

Although the Department issued it a questionnaire, Thai Benkan Co. did not respond. Accordingly, we used best information available (BIA) to assign a margin to that company, pursuant to 19 CFDR 353.37, as we did for the preliminary determination.

For TTU, we were unable to verify the material costs for caps, a type of pipe fitting. We therefore assumed, as BIA, that all of TTU's sales of caps to Australia were at prices below the cost of production. (See, Foreign Market Value below.) Furthermore, because we were likewise unable to base FMV for sales of caps to the United states on constructed value (material costs could not be verified), we used the highest single margin percentage calculated for TTU as BIA for these U.S. sales.

TTU also failed to report costs of manufacturing for one product. As with sales of caps above, we used the highest single margin percentage calculated for TTU as BIA for U.S. sales of this product.

United States Price

A. TTU

For TTU, we based U.S. price on purchase price, in accordance with section 772(b) of the Act, because all sales were made directly to unrelated parties prior to importation into the United States and because exporter's sales price methodology was not indicated by other circumstances. We calculated purchase price as we did for the preliminary determination with the following exceptions.

We recalculated marine insurance on a value basis because it was incurred on this basis and not on a weight basis, as reported by TTU.

Based on findings at verification, we made adjustments to TTU's purchase price sales tape for minor discrepancies

in packing costs, bank fees and ocean freight, where appropriate.

We determined that the business and municipal import taxes operate, in effect, like other import duties. Accordingly, we added the full amount of TTU's claimed "drawback" (which included both the drawback and the rebate of these taxes) on exportation of the merchandise to the U.S. price. (At the preliminary determination we treated these as consumption taxes and added to U.S. price only the drawback attributable to the import duty. (See, *Comment 6.*)

We did not include U.S. sales of semi-finished fittings in our analysis for the final determination because these could not be matched to identical merchandise in Australia and the volume of value of these pipe fitttings were insignificant.

B. AST

For AST, we based U.S. price on purchase price, in accordance with section 772(b) of the Act, because all sales were made directly to unrelated parties prior to importation into the United States and because exporter's sales price methodology was not indicated by other circumstances. We calculated purchase price as we did for the preliminary determination with the following exceptions.

AST submitted revised payment dates, freight and handling expenses for U.S. sales on December 11, 1991, seven days prior to the preliminary determination. We did not consider this information for purposes of the preliminary determination, however, we verified the information and used it for purposes of the final determination.

Based on findings at verification, we made adjustments to AST's purchase price sales tape for minor discrepancies in payment dates and movement charges, where appropriate.

We revised our treatment of the business and municipal import taxes as described above for TTU.

Foreign Market Value

In order to determine whether there were sufficient sales of certain carbon steel butt-weld pipe fittings in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales in the such or similar category to the volume of third country sales in the such or similar category to the volume of third country sales in the such or similar category in accordance with section 773(a)(1) of the Act. For AST, we determined that the home market was viable. For TTU, we determined that the home market was not viable. Of the third country markets having an adequate sales volume of identical sales, we selected Australia as the most appropriate market for comparision purposes in accordance with 19 CFR 353.49(b) as explained in the notice of preliminary determination. (See, also *Comment 4*).

Petitioner alleged that TTU's and AST's third country and home market pipe fitting sales, respectively, were made at prices below the cost of production (COP). Based on petitioner's October 4 and 31, 1991, allegations of sales below cost, we gathered and verified pipe fitting production cost data for both respondents. Although both respondents submitted COP data prior to the preliminary determination, this information was submitted too late to be analyzed for the preliminary determination.

If over 90 percent of a respondent's sales were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities over an extended period of time. If between ten and 90 percent of a respondent's sales were at prices above the COP, we disregarded only the below-cost sales. Where we found that more than 90 percent of respondent's sales were at prices below the COP, we disregarded all sales and calculated FMV based on CV. In such cases, we determined that the respondent's below-cost sales were made in substantial quantities over an extended period of time.

A. TTU

We relied on the submitted COP information in calculating the COP for the subject merchandise, except in the following instances where the costs were not appropriately quantified or valued:

1. Direct labor, overhead and general administrative costs were adjusted to correct for minor discrepancies identified at verification.

2. We could not verify the COP material costs for caps because of errors in TTU's calculations. Because we were not able to accurately recalculate material costs for caps, we assumed, as BIA, that all sales of caps in Australia were made at prices below the COP. (See, Best Information Available above.)

We compared Australian sales prices, net of all applicable movement charges, to each pipe fitting product's COP. Our below-cost analysis of TTU's Australian sales prices was restricted to only those sales of identical merchandise chosen for comparison to the United States price. We found that between 10 to 90 percent of sales of the such or similar merchandise were made at prices above the COP and considered only the above-cost sales as the basis for determining FMV.

For those pipe fitting products determined to have a sufficient number of Australian sales made at prices above the COP, we calculated FMV as we did for the preliminary determination with the following exceptions. We recalculated the imputed credit expense on sales to the United States and Australia using the short-term credit rate found at verification. We recalculated TTU's U.S. indirect selling expenses on a value basis. We recalculated marine insurance on value basis because it was incurred on this basis and not on a weight basis, as reported by TTU. Based on findings at verification, we made adjustments to packing costs, late payments expenses, and credit. Finally, we added the business and municipal import taxes on which "drawback" was received on exportation to Australian price.

For those pipe fitting products determined to have over 90 percent of third country sales made at prices below the COP, we based FMV on the product's CV. CV for each of these products was calculated in accordance with section 773(e) of the Act, using TTU's general expenses and profit in Australia, and U.S. packing costs. All modifications made to TTU's COP information, as described above, were also made to the company's reported CV data. We reduced interest expenses for an amount attributed to maintaining trade accounts receivable to avoid double counting imputed credit. We used TTU's general expenses when they exceeded the statutory minimum of ten percent pursuant to section 773(e)(1)(B)(i) of the Act. For profit, we applied eight percent of the combined cost of materials, fabrication, and general expenses, pursuant to section 773(e)(1)(B)(ii) of the Act, because the actual figure was less than the statutory minimum of eight percent.

We made circumstance of sale adjustments, where appropriate, for differences in direct selling expenses including credit expenses, late payment and bank fees, and fumigation charges. We deducted Australian commissions from CV and added U.S. indirect selling expenses up to the amount of the Australian commission. In addition, we added an amount to CV for duty drawback received on export sales because the materials costs were net of import duties and taxes.

B. AST

We relied on the submitted COP information in calculating COP for the subject merchandise, except in the

following instances where the costs were not appropriately quantified or valued:

1. Material costs were increased to account for the excess of actual material usage over standard, and for duties and import taxes incurred on imports of carbon steel pipe used in the production of pipe fittings for sale in the home market. (See, *Comment 5.*)

2. Direct labor and packing labor costs were adjusted to correct for minor discrepancies identified at verification.

3. Interest expense was recalculated based on the combined financing expenses of AST and Awaji Sangyo K.K. (Japan) Company Limited, (ASK), and allocated over the combined cost of sales exclusive of intercompany sales.

We compared home market sales prices, net all applicable movement charges, to each pipe fitting product's COP. We found that between 10 and 90 percent of sales of the such or similar merchandise were made at prices above the COP and considered only the above-cost sales as the basis for determining FMV.

For those pipe fitting products determined to have a sufficient number of home market sales made at prices above the COP, we calculated FMV as we did for the preliminary determination with the following exceptions. Based on findings at verification, we determined that there were no differences in variable costs of manufacturing for claimed difference in merchandise adjustments. Finally, we added the "drawback" attributable to business and municipal import duties to U.S. price.

For those pipe fitting products determined to have over 90 percent of home market sales made at prices below the COP, we based FMV on the product's CV. CV for each of these products was calculated in accordance with section 773(e) of the Act, using AST's general expenses and profit in the home market, and U.S. packing costs. All modifications made to AST's COP information, as described above, were also made to the company's reported CV data. We reduced interest expenses for an amount attributed to maintaining trade accounts receivable to avoid double counting imputed credit. We used general expenses because they exceeded the statutory minimum of ten percent pursuant to section 773(e)(1)(B)(i) of the Act. For profit, we applied eight percent of the combined cost of materials, fabrication, and general expenses, pursuant to section 773(e)(1)(B)(ii) of the Act, because the actual figure was less than the statutory minimum of eight percent.

We made circumstance of sale adjustments for differences in credit expenses. We deducted home market commisions and added U.S. indirect selling expenses up to the amount of the home market commission. Because AST failed to report U.S. indirect selling expenses, we assumed, as BIA, that U.S. indirect selling expenses were equal to home market commissions.

Currency Conversion

In accordance with 19 CFR 353.60, we converted foreign currency into the equivalent amount of United States currency using the official exchange rates in effect on the appropriate dates. All currency conversions were made at rates certified by the Federal Reserve Bank.

Verification

Pursuant to section 776(b) of the Act, we verified information used in reaching our final determination. We used standard verification procedures, including examination of relevant accounting records and original source documents provided by the respondents.

Interested Party Comments

Comment 1: Petitioner asserts that because TTU's material usage variance calculation, submitted on February 14, 1992, could not be verified, the Department should use TTU's originally-reported usage variance. Petitioner further claims that the Department should not rely on the physical inventory count submitted by TTU after verification in support of the February 14, 1992, submission, because it was untimely submitted.

TTU argues that its submitted February 14, 1992, material usage variance was verified by business records (perpetual inventory records) taken by the Department as verification exhibits. Additionally, TTU claims that its post verification submission to the Department was merely a notification that TTU had inadvertently based its revised submission, at verification, on an incorrect worksheet, and that the February 14, 1992, submission was in fact correct.

DOC Position: We agree with petitioner in part. TTU attempted to revise its February 14, 1992, steel pipe usage variance calculation based on inventory count information submitted at verification. The Department could not reconcile the "actual" November 28, 1990, inventory count, submitted at verification, to company records. After verification, TTU claimed the document submitted at verification to reflect its November 28, 1990, inventory count was an incorrect worksheet and not the actual inventory count document. TTU's submitted post-verification physical inventory count was not relied upon because it was untimely filed. However, we used the steel pipe material usage variance reported in the February 14, 1992, submission as BIA, because in all cases the November 28, 1990, steel pipe inventory counts, as reported in the February 14, 1992, submission, were greater than or equal to TTU's perpetual inventory records.

Comment 2: Petitioner asserts that the Department should adjust TTU's submission for additional quantities and increased costs of plate type materials consumed for cap production, as identified at verification.

DOC Position: The Department could not verify TTU's submitted steel plate material usage and steel plate cost for cap production. TTU's initial submission failed to include the quantity and cost of plate semi-product material consumed during the POI. TTU provided a revised material usage schedule for plate at verification. This revised schedule reported inaccurate piece weights, and failed to account for the cost of plate semi-product. Therefore, the Department assumed as BIA, that all cops sold in Australia were at prices below the COP. Because the Department was likewise unable to calculate CV for U.S. sales of caps, as BIA we used the highest single margin calculated for TTU's other sales for these sales of caps.

Comment 3: TTU asserted after verification that it made transpositional errors in its submission of TTU's steel pipe material usage variance.

DOC Position: The Department did not make an adjustment to TTU's steel pipe material usage variance for transpositional errors because the claim was not made until after verification.

Comment 4: TTU argues that the Department should use all third country sales of identical merchandise as the basis for foreign market value. TTU states that doing so would enhance the accuracy of the margin calculations because the calculations would be based on nearly 100 percent of TTU's U.S. sales. TTU adds that the Department has all third country sales data on record, and that the price adjustments are similar for all third country and U.S. sales. Therefore, the use of all third country data would not complicate the Department's analysis according to TTU.

Petitioner argues that the Department should limit the basis of FMV to Australian sales, as determined in the Department's memorandum of September 9, 1991. Petitioner disagrees with TTU's argument that the Department normally uses a single third country as the basis of FMV because of

administrative convenience. Petitioner states that the preference for the use of a single third country is required by the Department's regulations and that the Department permits multiple third countries to serve as the basis of FMV only when sales to a single market are considered to be inadequate.

DOC Position: We agree with the petitioner. When basing FMV on third country sales, the Department normally uses sales to one third country unless sales to any single country are not adequate. Moreover, TTU requested that the Department limit its analysis to sales of U.S. products that could be matched to identical products in Australia. It is disingenuous of TTU to now claim that we should use additional third countries in our analysis to increase the number of U.S. sales examined in our analysis.

Comment 5: AST argues that it does not pay import duties or taxes on the steel pipe used to produce pipe fittings sold in the home market. Because of a bank guarantee system and a yield ratio agreed to by the Thai government, AST claims that it is able to cover the duties and taxes which would be paid on pipe imported for production of pipe fittings sold domestically with drawback earned on exported fittings. AST, therefore, did not include the associated import duty and tax amounts in its reported COP for pipe fittings sold domestically.

Petitioner argues the cost of production of domestically sold pipe fittings should include Thai import duties and import tax assessed on imported steel pipe. Petitioner contends that AST is obligated under Thai law to pay import duties on materials that are used to produce pipe fittings for domestic sales and that AST simply uses the excess drawback earned on export sales to cover duty and taxes owed on the domestic sales of pipe fittings. Petitioner alleges that this excess drawback constitutes a countervailable export subsidy that has been hidden from the Department's countervailing duty (CVD) investigation and reviews to date.

DOC Position: With regard to the inclusion of import duties in COP, we agree with petitioner. We included the combined import duty and tax amounts in the cost of input steel when calculating COP for home market products because AST, under Thai law, is liable for the import duty and taxes on pipe fittings sold in the home market. We believe it is irrelevant how AST covers this liability.

As the petitioner's allegation that any excess drawback is a subsidy and that this subsidy has been hidden from the Department, we are referring the matter to the Office of Countervailing Compliance which is responsible for conducting administrative reviews of the countervailing duty order on this product from Thailand.

Comment 6: Petitioner requests that the Department increase AST's steel price costs by 35 percent to account for the Thai import duty assessed on steel pipe imported by AST and include this amount in CV because the duty constitutes a part of AST's acquisition cost for steel pipe.

AST argues that CV should not include the Thai import duty for reasons stated above in the discussion of COP.

DOC Position: We agree with petitioner in part. For CV of the pipe fittings sold in the home market, The Department incresed AST's steel pipe costs by 49.84 percent to account for the Thai import duty and import taxes. For the preliminary determination, we considered the import tax portion of the 49.84 percent rate (14.64 percent) to be consumption taxes for which we made a circumstance of sale adjustment for AST. At verification we found that import taxes are assessed on the imports in the same manner as other import duties and, consequently, we are treating these taxes as import duties for our final determination. Duty drawback added to USP for both AST and TTU has been increased to account for these import duties.

Comment 7: AST argues that the Department should not consolidate AST and ASK in calculating interest expense for COP and CV. AST states that the Department's policy is to consolidate the interest expense of a parent and its subsidiary, for purposes of calculating the COP and CV of merchandise produced by the subsidiary, only when the parent and the subsidiary consolidate their financial statements. In those instances where the parent and subsidiary do not consolidate their financial statements, the Department combines interest expense of the parent and its subsidiary only when there is a showing that the parent has provided substantial financing to the subsidiary.

Additionally, AST claims that the "such or similar merchandise" hierarchy provided under section 771(16) of the Act requires that both "identical" and "similar" merchandise must be at least products of the "same country". Therefore, since AST's parent, ASK, is not a "producer" of pipe fittings in Thailand, including ASK's general interest expense as an element of COP and CV would contradict the statutory scheme which allows FMV determinations only on the basis of the same exporting country's cost and sales experience.

Petitioner contends that the mere fact that ASK and AST do not prepare a consolidated financial statement does not prevent the Department from consolidating the interest expenses of AST and ASK. ASK excercises complete control over AST's business operations and there is a strong interrelationship between the two with respect to the production of subject merchandise. Petitioner asserts that consolidation of AST's interest expense is clearly warranted.

DOC Position: We agree with petitioner that we should consolidate the interest expense. The Department calculates the representative financing expenses of a subsidiary based upon the expenses incurred by the consoldited entity because of the fungible nature of capital, (*i.e.*, both debt and equity). Contrary to AST's presumptions, it is the Department's policy to combine the financing activities of a parent and subsidiary when the parent exercises control over the subsidiary (*i.e.*, meets the requirements for consolidation).

Although ASK and AST chose not to prepare consolidated financial statements, ASK nevertheless maintains control over AST's operations. Expenses incurred on behalf of a subsidiary are reflective of the financing costs incurred in production and are appropriately included in the COP or CV regardless of the country in which the expenses are reported. Therefore, the Department combined the financing expenses of the parent and subsidiary and allocated the costs over the combined cost of sales exclusive of inter-company sales.

Comment 8: AST requests that Department apply the 10/90/10 guideline for measuring sales below cost of production on a product weight basis, arguing that price and cost are directly related to product weight.

Petitioner argues that AST's request is an attempt to obscure the significance of AST's below-cost sales in Thailand. Because AST sells its merchandise on a per piece basis, and AST has not supported its argument that applying the 10/90/10 rule on a per piece basis does not account for differences among heavy and light fittings, petitioner requests that the Department apply the 10/90/10 rule on a per piece basis.

DOC Position: We agree with petitioner. It is the Department's standard practice to apply the 10/90/10 guideline on the basis on which the subject merchandise is sold. In this case AST sells pipe fittings on a per piece basis. For this reason the Department also converted TTU's prices and adjustments reported on a per weight

basis to a per piece basis. (See, *Fair Value Comparisons* above.)

Comment 9: AST requests that the Department apply the 10/90/10 guideline on an entire "such or similar" category of merchandise, which is consistent with the Department's prior practice in other investigations.

Petitioner argues that the 10/90/10 guideline is best applied on a model-specific basis because there are a variety of pipe fitting models within the product class and that the "such or similar" category approach would disguise the extent and impact of the below cost sales in the home market.

DOC Position: We agree in part with both respondent and petitioner, and in this case on first performing the test on a such or similar category basis (the macro test). As the results of the macro test indicate that between 10 and 90 percent of sales of the such or similar merchandise were made above cost, we then performed the 10/90/10 test on a product specific basis.

Comment 10: Petitioner alleges that AST did not fully report its sales to the U.S. during the POI and provided purchase orders from a customer of AST's U.S. importer for five shipments of pipe fittings made during the POI as evidence. Petitioner argues that AST's failure to report these sales, which were made pursuant to pilot orders (long-term contracts), requires the use of BIA.

Petitioner also requests that the Department expand the POI to capture the sales made pursuant to pilot orders if we choose to accept AST's date of sale methodology. Petitioner argues that the POI does not adequately reflect the sales practice of AST because the current POI does not include any sales made pursuant to AST's pilot orders, most of which were shipped during the POI. Also, according to petitioner, AST failed to identify the existence of any long-term contracts for the sale of pipe fittings in its questionnaire response.

AST states that the sales petitioner alleged were sold during the POI were made pursuant to pilot orders, binding contracts in which the parties establish the terms of sale, price and quantity. AST argues that it did not report the pilot orders in its sales listing or mention them in its questionnaire response because these contracts were made prior to the POI. AST argues that petitioner has no basis for advocating the expansion of the POI because sales made through pilot orders were not its usual business practice.

Silbo argues that pilot orders are used by purchasers of pipe fittings as a means of locking in long-term supplies of fittings at fixed prices for fixed quantities from pipe fitting suppliers.

DOC Position: We agree with AST that the sales made pursuant to pilot orders were made prior to the POI. Based on findings at verification, we determined that pilot orders are binding contracts in which the parties establish the terms of sale, price and quantity.

Although we found that AST's U.S. customer ordered quantities of a few models in excess of the specified amount on the pilot orders, the number of such additional units was insignficant in comparison with the total number of pilot order sales and, therefore, we have disregarded them for our analysis.

We also agree with AST that the POI should not be expanded to capture sales made pursuant to pilot orders. We found at varification that AST's normal sales practice does not entail the use of long-term contracts, nor are AST's sales subject to seasonal variations. In addition, we determined that we have an adequate number of reported non-pilot order sales on which to base our antidumping analysis.

Comment 11: Petitioner requests that the Department issue special instructions to Customs in order to prevent the possible circumvention of antidumping orders on pipe fittings from four countries. Petitioner is concerned that companies from the other countries may sell unfinished pipe fittings to companies in Thailand that then finish the pipe fittings and claim the resulting products sold to the United States as Thai products. Petitioner states that with the existence of high deposit rates under the existing antidumping orders for both finished and unfinished pipe fittings, and the facility of converting unfinished pipe fittings to finished pipe fittings, there is "the very real potential for unfinished butt-weld fittings subject to the orders * * * to enter the United States in the guise of finished fittings from Thailand."

Both AST and TTU argue that the issue of circumvention is properly addressed under section 781 of the Act.

DOC Position: We agree with respondents that any issue of circumvention is properly addressed under section 781 of the Act. If petitioner believes it has factual information that supports the initiation of a circumvention inquiry, it may file an application for such an inquiry (19 CFR 353.29). Absent a finding of circumvention of another order, we cannot instruct Customs to collect cash deposits of antidumping duties other than those which have been determined for the merchandise subject to this investigation.

Comment 12: TTU argues that because of Thailand's cascading tax system, TTU cannot identify the amount of taxes actually incurred on inputs and therefore cannot deduct those indirect taxes for which it receives rebates upon exportation from its COP. According to TTU, the Department ordinarily would not include the amount of the indirect taxes in its COP because such taxes are not actually incurred. Because TTU was not able to exclude the rebated indirect taxes from its COP, it requests that the Department increase the Australian sales price by 4.96 percent, the amount of the rebate upon export for these indirect taxes, when making the price to cost comparisons at the next best alternative.

Doc Position: We agree with respondent in part. Because TTU is unable to identify indirect taxes on materials used to produce pipe fittings, we have adjusted the Australian sales price upward by the amount of the rebate for such taxes in order to make an apples-to-apples comparison. We increased the Australian sales price for the cost test by the amount of Tax Certificate rebate found not countervailable. The total increase is equal to 4.47 percent, not the 4.96 percent claimed, because 0.51 percent of the rebate rate represents the amount of the net over-rebate found countervailable by the Department.

Comment 13: At the hearing, the petitioner requested that the Department insert into the record of this proceeding the public version of a verification report in a recent administrative review of the countervailing duty order on pipe fitting from Thailand.

DOC Position: Absent the direct showing of the relevance of the report, the Department does not find it necessary or appropriate to insert the document into the record of this proceeding. In requesting that the report be inserted, the petitioner did not allege that it called into question any of our verification findings, nor that it provided information necessary to the calculation of dumping margins in this investigation.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of pipe fittings from Thailand subject to this investigation which are entered, or withdrawn from warehouse, for consumption on or after December 26, 1991, the date of publication of our preliminary determination in the Federal Register, with the exception of AST, whose margin is *de minimis*. Normally, we would instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-

average amount by which the foreign market value of pipe fittings from Thailand exceeds the U.S. price, which in this investigation is 12.44 percent for TTU, 52.80 percent for Thai Benkan, and 40.86 percent for all other manufacturers, producers, and exporters of pipe fitting from Thailand. However, Article VI.5 of the General Agreement on Tariffs and Trade (GATT) provides that "[n]o * * * product shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act which prohibits assessing dumping duties on the portion of the margin attributable to an export subsidy.

In this case, the product under investigation was subject to a CVD administrative review (see, Carbon Steel Butt-Weld Pipe Fittings from Thailand; Final Results of Countervailing Duty Administrative Review, 57 FR 5248 (February 13, 1992).) To obtain the most accurate estimate of antidumping duties, and to fulfill our international obligations arising under the GATT, we are subtracting the cash deposit rate attributable to the export subsidies found in the most recent CVD review (1.76 percent) from the antidumping bonding rate for TTU and Thai Benkan. See, Final Determination of Sales at Less Than Fair Value: Ball Bearings and Parts thereof From Thailand, 54 FR 19117 (May 3, 1989). We have not done so for AST because its margin is already *de minimis*. Accordingly, for duty deposit purposes, the net antidumping assessment rates are shown below.

Producer/manufacturer/exporter	Weighted-average margin percentage
TTU	10.68
AST	[1] .22
Thai Benkan	50.84
All others	39.10

[1] De minimis.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our determination.

APO Notification

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4)).

Dated: May 11, 1992.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-11609 Filed 5-15-92; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

LIST OF WITNESSES APPEARING AT THE COMMISSION'S HEARING

CALENDAR OF PUBLIC HEARING

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

Subject	:	CERTAIN CARBON STEEL BUTT-WELD PIPE FITTINGS FROM THE PEOPLE'S REPUBLIC OF CHINA AND THAILAND
Inv. No.	:	731-TA-520 and 521 (Final)
Date and Time	:	May 14, 1992 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room 101 of the United States International Trade Commission, 500 E St., S.W., Washington, D.C.

In support of Imposition of Antidumping Duties:

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

U. S. Fittings Group

James A. Bamberger, Manager of Sales, Industrial Products

Jay N. Zidell, President, Tube Forgings of America, Inc.

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

In Opposition to the Imposition of Antidumping Duties:

Baker & Hostetler
Washington, D.C.
On behalf of

Mitsui & Co. (U.S.A.)

Carol A. Rafferty)--OF COUNSEL

In Opposition to the Imposition of
Antidumping Duties:

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

Shenyang Billiongold Pipe Fittings Co. Ltd., China

George Wang, Vice President

James Taylor)
)--OF COUNSEL
Panagiotis C. Bayz)

China Chamber of Commerce for Metals, Minerals and Chemicals Importers and Exporters

Exporters

Shandong Metals & Minerals Import and Export Corporation
Liaoning Metals and Minerals Import and Export Corporation
China North Industries Corporation
Shenyang Machinery and Equipment Import and Export Corporation
Liaoning Machinery and Equipment Import and Export Corporation
Jilin Provincial Machinery and Equipment Import and Export Corporation

Producers

Weifang Pipe Fittings Factory
Dalian Pipe Fitting Plant
North Pipe Fittings Industries Corporation
Dalian Huacheng Pipe Fittings Factory
Fushun North Pipe Fittings Co., Ltd.

Dan Oliver, Distinguished Fellow,
Citizens for a Sound Economy Foundation

Bruce Aitken)
Qidi Chen)--OF COUNSEL
Munford Page Hall, II)

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

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APPENDIX C

FINANCIAL TABLES

Table C-1
Income-and-loss experience of all petitioners on the overall operations of their establishments wherein butt-weld pipe fittings are produced, fiscal years 1989-91[1]

Item	1989	1990	1991

* * * * * * *

[1] These producers are Hackney, Ladish, Mills, Steel Forgings, and Tube Forgings.

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

Table C-2
Income-and-loss experience of nonpetitioner on the overall operations of its establishment wherein butt-weld pipe fittings are produced, fiscal years 1989-91[1]

Item	1989	1990	1991

* * * * * * *

[1] This producer is Weldbend.

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

Table C-3
Income-and-loss experience of all petitioners on their operations producing butt-weld pipe fittings, fiscal years 1989-91[1]

Item	1989	1990	1991

* * * * * * *

[1] These producers are Hackney, Ladish, Mills, Steel Forgings, and Tube Forgings.

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

Table C-4
Income-and-loss experience of nonpetitioner on its operations producing butt-weld pipe fittings, fiscal years 1989-91[1]

Item	1989	1990	1991

* * * * * * *

[1] This producer is Weldbend.

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

Table C-5
Income-and-loss experience (on a per-pound basis) of all petitioners on their operations producing butt-weld pipe fittings, fiscal years 1989-91

Item	1989	1990	1991
*	*	*	*
*	*	*	

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

Table C-6
Income-and-loss experience (on a per-pound basis) of nonpetitioner on its operations producing butt-weld pipe fittings, fiscal years 1989-91

Item	1989	1990	1991
*	*	*	*
*	*	*	

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

Table C-7
Value of assets and return on assets of U.S. producers establishments wherein butt-weld pipe fittings are produced, fiscal years 1989-91

Item	1989	1990	1991
*	*	*	*
*	*	*	*
*	*	*	*

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

Table C-8
Capital expenditures by U.S. producers of butt-weld pipe fittings, by regions and by products, fiscal years 1989-91

(In thousands of dollars)

Item	1989	1990	1991
*	*	*	*
*	*	*	*
*	*	*	*

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

Table C-9
Research and development expenses of U.S. producers of butt-weld pipe fittings, by regions and by products, fiscal years 1989-91

(In thousands of dollars)

Item	1989	1990	1991
*	*	*	*
*	*	*	*
*	*	*	*

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

APPENDIX D

COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT OF IMPORTS OF BUTT-WELD PIPE FITTINGS FROM CHINA AND THAILAND ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND EXISTING DEVELOPMENT EFFORTS

The Commission requested U.S. producers to describe and explain the actual and potential negative effects, if any, of imports of butt-weld pipe fittings from China and Thailand on their growth, investment, ability to raise capital, or existing development and production efforts (including efforts to develop a derivative or improved version of butt-weld pipe fittings.) Producers were also asked whether the scale of capital investments undertaken has been influenced by the presence of imports of this product from China and Thailand. Their responses are shown below:

Actual Negative Effects

* * * * * * *

Anticipated Negative Effects

* * * * * * *

Influence of Imports on Capital Investment

* * * * * * *