

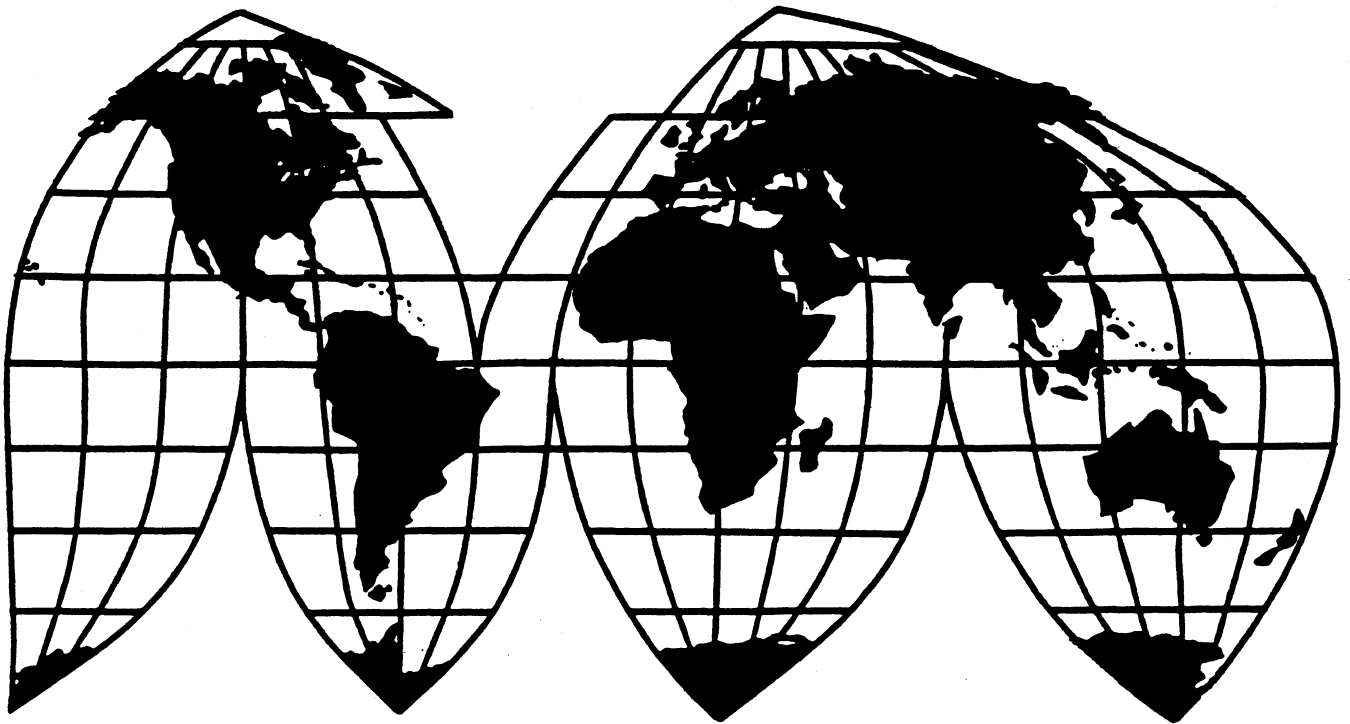
Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan

Determination of the Commission in
Investigation No. 731-TA-564 (Final)
Under the Tariff Act of 1930,
Together With the Information
Obtained in the Investigation

Publication 2641

June 1993

U.S. International Trade Commission



U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

Investigation No. 731-TA-564 (Final)

CERTAIN STAINLESS STEEL BUTT-WELD PIPE FITTINGS FROM TAIWAN

Determination

On the basis of the record¹ developed in the subject investigation, 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 by reason of imports from Taiwan of certain stainless steel butt-weld pipe fittings, whether finished or unfinished, under 14 inches inside diameter, provided for in subheading 7307.23.00 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 this investigation effective December 17, 1992, following a preliminary determination by the Department of Commerce that imports of certain stainless steel butt-weld pipe fittings from Taiwan 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 investigation 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 December 22, 1992 (57 F.R. 60823). The hearing was held in Washington, DC, on January 14, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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 did not participate.

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is materially injured by reason of less than fair value (LTFV) imports of stainless steel butt-weld pipe fittings from Taiwan.^{1/} We further determine that critical circumstances do not exist with respect to such imports.

I. Like Product and the Domestic Industry

With regard to the definition of the like product and the domestic industry in this investigation, we incorporate by reference our like product discussion in Certain Stainless Steel Butt-Weld Pipe Fittings from Korea, Inv. No. 731-TA-563 (Final), USITC Pub. 2601 (Feb. 1993). We again find that the like product is all domestically produced stainless steel butt-weld pipe fittings of less than 14 inches in diameter, whether finished or unfinished. We also again determine that the domestic industry includes all producers of stainless steel butt-weld pipe fittings.

II. Condition of the Domestic Industry

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." ^{2/} Specifically we consider, among other factors, consumption, production, U.S. shipments, market share, capacity utilization, employment, wages, productivity, domestic prices, financial performance, inventories, capital investment, and research and development expenses. In addition, the Commission considers the particular

^{1/} Commissioner Crawford did not participate in this investigation.

^{2/} 19 U.S.C. § 1677(7)(C)(iii).

nature of the industry under investigation, including any "business cycle and conditions of competition that are distinctive to the affected industry."3/

A condition of competition relevant to our consideration of the whether there is material injury to the domestic industry by reason of LTFV imports is the existence of "approved" and "non-approved" segments within the overall domestic market for stainless steel butt-weld pipe fittings. The primary criterion distinguishing these segments is product quality, generally measured by Exxon's "approved manufacturers list." The approved market includes certain firms in industries where tolerance for product failure is very low, such as petroleum and nuclear energy.4/ The non-approved market is characterized by less critical applications, such as plumbing and the construction industry. Estimates of the relative size of the two market segments vary considerably.5/ We have considered the existence of an approved market wherein U.S. producers appear to face relatively less competition from subject imports, since subject imports are not on any approved manufacturers lists.

The non-approved market, where the subject imports and the domestic products compete head-to-head, however, is still significant to the U.S. industry and constitutes the largest segment of the domestic market. In that segment of the market, all stainless steel butt-weld pipe fittings, regardless of their country of origin, can be and are used interchangeably since they all meet the standards set by the American Society of Testing and Materials (ASTM)

3/ 19 U.S.C. § 1677(7) (C) (iii).

4/ No imports from Taiwan are on Exxon's list. Report at I-38.

5/ See Report at I-38; Memorandum EC-Q-011 at 15-21. The estimates of the size of the approved market ranged from 20 to 50 percent.

and the American National Standards Institute (ANSI). Thus, for the majority of sales in the United States imports from Taiwan and the domestic product are close substitutes.

We next examine the various indicators of the domestic industry's performance. During the period of investigation, domestic consumption fell from 10.9 million pounds in 1989 to 9.2 million pounds in 1990, and increased to 10.3 million pounds in 1991. In the interim period January-September 1992, consumption declined to 6.2 million pounds, compared with 7.7 million pounds in interim 1991.6/

Domestic production decreased irregularly during the period of investigation, declining from 4.6 million pounds in 1989 to 4.2 million pounds in 1990, but increasing to 4.3 million pounds in 1991. In interim 1992, domestic production decreased to 2.2 million pounds, compared with 3.2 million pounds in interim 1991.7/ Domestic capacity increased from 6.0 million pounds in 1989 to 6.2 million pounds in 1990, and then to 6.3 million pounds in 1991. Capacity declined in interim 1992 to 4.1 million pounds, compared with 4.3 million pounds in interim 1991.8/ Capacity utilization declined irregularly from 75.5 percent in 1989 to 66.9 percent in 1990, increasing to 68.3 percent in 1991, but declining again to 53.8 percent in interim 1992, compared with 72.8 percent in interim 1991.9/

Domestic shipment data are confidential and cannot be discussed in detail but, in general, domestic shipments declined irregularly during the

6/ Report at I-10, Table 1.

7/ Report at I-15, Table 3.

8/ Report at I-15, Table 3.

9/ Report at I-15, Table 3.

period of investigation. They increased slightly from 1989 to 1990, declined by a larger amount in 1991, and continued to decline in interim 1992.^{10/} Domestic producers' market share increased from 35.3 percent in 1989 to 46.5 percent in 1990, and declined to 36.9 percent in 1991. In interim 1992, domestic market share increased to 37.2 percent compared with 32.2 percent in interim 1991.^{11/}

Domestic employment also declined irregularly during the period of investigation, dropping from 314 production and related workers in 1989 to 286 in 1990, increasing to 299 in 1991, but declining again to 263 in interim 1992.^{12/} Hours worked, wages paid, and total compensation followed similar trends. Productivity remained at 6.8 pounds per hour from 1989 through 1991, but dropped to 5.7 pounds per hour in interim 1992, compared with 7.2 pounds per hour in interim 1991.^{13/}

The financial condition of the domestic industry has steadily declined since 1989. Net sales dropped from \$36.5 million in 1989 to \$34.0 million in 1990, and then to \$29.6 million in 1991. In interim 1992, net sales continued to decline, reaching \$19.5 million, compared with \$22.9 million in interim 1991. Cost of goods sold as a percentage of net sales increased steadily, rising from 69.6 percent in 1989 to 70.2 percent in 1990, and then to 72.2 percent in 1992. In interim 1992, the cost of goods sold increased further to

^{10/} Report at I-16, Table 4.

^{11/} Report at I-35, Table 17. The market share data cited are for entirely U.S.-produced goods. Market share data for total U.S. shipments are confidential, but followed similar trends.

^{12/} Report at I-19, Table 7.

^{13/} Report at I-19, Table 7.

79.1 percent, compared with 71.4 percent in interim 1991.^{14/} Operating income similarly declined, while operating income as a percent of net sales dropped from 13.2 percent in 1989 to 13.0 percent in 1990, and then to 11.5 percent in 1991. In interim 1992 that figure reached 5.3 percent, compared with 12.4 percent in interim 1991.

Domestic prices dropped by over 13 percent for all products for which pricing data were obtained.^{15/} U.S. producers have reported that price erosion and declining profitability led to cutbacks in capital investment and expenditures.^{16/} ^{17/}

III. Cumulation

In determining whether there is material injury by reason of the LTFV imports, the Commission "shall cumulatively assess the volume and price effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market."^{18/} In addition, Congress also intended "that the marketing of imports that are [cumulated] be reasonably coincident."^{19/}

The investigations involving imports of stainless steel butt-weld pipe

^{14/} Report at I-22, Table 9.

^{15/} Report at I-39. For three of the four products surveyed, declines in prices exceeded 20 percent.

^{16/} See Report at App. D.

^{17/} Chairman Newquist and Commissioner Rohr determine, based on an analysis of the above indicators, that the domestic industry is currently experiencing material injury.

^{18/} 19 U.S.C. § 1677(7)(C)(iv).

^{19/} H.R. Rep. No. 1156, 98th Cong., 2d Sess. 173 (1984); Chaparral Steel Co. v. United States, 901 F.2d 1097, 1101 (Fed. Cir. 1990).

fittings from Korea and Taiwan were instituted at the same time, but the Taiwan investigation was postponed by the Commerce Department at the request of two Taiwan respondents. In February, the Commission reached a unanimous affirmative material injury determination regarding imports from Korea. 20/ In doing so, the Commission cumulated the volume and price effects of imports from Korea with the volume and price effects of imports from Taiwan since the imports from both countries competed with one another and with the domestic product and were both subject to investigation.

Imports from Korea are now subject to an antidumping order issued in February and are thus not currently "subject to investigation." Nonetheless, if the statutory requirements for cumulation are otherwise met, the Commission may, in its discretion, cumulate imports from Taiwan with those imports from Korea that entered the United States prior to the issuance of the recent antidumping order.21/ These investigations were instituted simultaneously; the data that we must analyze are virtually identical; and the order regarding Korea is so recent that it has not affected the imports or industry data available to the Commission. Thus, the current condition of the industry reflects the impact of imports from Korea that entered the United States prior to the imposition of the antidumping duty order. In these circumstances we

20/ Commissioner Crawford did not participate.

21/ See, e.g., Chaparral Steel v. United States, 901 F.2d 1097 (Fed. Cir. 1990); Industrial Nitrocellulose from Yugoslavia, Inv. No. 731-TA-445 (Final), USITC Pub. 2324 (October 1990). The Commission has cumulated imports subject to investigation with imports subject to antidumping orders in numerous other investigations. See, e.g., Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final), USITC Pub. 2376 (April 1991) (Mexican imports subject to an August 1990 order were cumulated with Japanese imports); Forged Steel Crankshafts from Brazil, Inv. No. 701-TA-282 (Final), USITC Pub. 2038 (November 1987) at 7; Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Italy and Yugoslavia, Inv. Nos. 731-TA-342 and 346 (Final), USITC Pub. 1999 (August 1987) at 16.

determine that cumulation of imports from Korea with those from Taiwan is appropriate.^{22/} Given the large volume and rapid increase in market penetration of imports from Taiwan alone, and their significant effect on domestic prices, however, we would have reached an affirmative determination of material injury by reason of LTFV imports from Taiwan even without cumulating those imports with imports from Korea.

IV. Material Injury by Reason of LTFV Imports

In determining whether the domestic industry is materially injured "by reason of" the imports under investigation, the statute directs the Commission to consider:

- (I) the volume of imports of the merchandise which is the subject of the investigation,
- (II) the effect of imports of that merchandise on prices in the United States for like products, and
- (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States.^{23/}

In making this determination, the Commission may consider "such other economic

^{22/} Commissioner Brunsdale finds in the affirmative even if imports from Korea are not cumulated with imports from Taiwan. In exercising her discretion, she considers whether the unfairly traded imports which resulted in the imposition of a final order are continuing to have an effect on the domestic industry. See Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final), USITC Pub. 2376 (April 1991) at 30. In this investigation, she finds it extremely unlikely that unfairly traded imports from Korea are continuing to have an effect on the domestic industry. During the interim period, the Korean imports never captured even 1 percent of the U.S. market. In addition, U.S. importers held no inventories of the Korean product throughout the period of investigation. She is persuaded that it is improper for the Commission to cumulate imports that are no longer subject to investigation with imports subject to investigation simply because the investigations were instituted simultaneously.

^{23/} 19 U.S.C. § 1677(7)(B)(i).

factors as are relevant to the determination"24/ Although we may consider information that indicates that injury to the domestic industry is caused by factors other than the LTFV imports, we do not weigh causes.25/ 26/

In evaluating the volume of imports of merchandise, the statute directs that the Commission "shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."27/

In evaluating the price effect of subject imports, the statute states that the Commission:

shall consider whether -

(I) there has been significant price underselling by the imported merchandise as compared with the price of like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.28/

24/ 19 U.S.C. § 1677(7) (B) (ii).

25/ Views on the proper standard of causation of Vice Chairman Watson and of Commissioner Brunsdale are set out in Certain Helical Spring Lockwashers from the People's Republic of China and Taiwan, Inv. Nos. 731-TA-624 and 625 (Preliminary), USITC Pub. 2565 at 21-22, notes 99 and 100, respectively (October 1992).

26/ Chairman Newquist, Commissioner Rohr, and Commissioner Nuzum further note that the Commission need not determine that imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249, 96th Cong., 1st Sess. 57 and 74 (1979). Rather, a finding that imports are a cause of material injury is sufficient. E.g., Metallwerken Nederland, B.V. v. United States, 728 F. Supp. 730, 741 (CIT 1989); Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (CIT 1988).

27/ 19 U.S.C. § 1677(7) (C) (i).

28/ 19 U.S.C. § 1677(7) (C) (i).

The volume and market share of cumulated imports increased irregularly during the period of investigation. Cumulated imports initially decreased from 1.7 million pounds in 1989 to 1.2 million pounds in 1990, but then increased substantially to 2.7 million pounds in 1991. In interim 1992, cumulated imports decreased to 1.8 million pounds; compared with 2.2 million pounds in interim 1991.^{29/} The market share of cumulated imports, by quantity, decreased from 15.5 percent in 1989 to 13.4 percent in 1990, but then doubled, to 26.5 percent in 1991. In interim 1992, subject import market share reached 28.3 percent, compared with 28.8 percent in interim 1991.^{30/} The increased market share of cumulated imports occurred both when consumption, by quantity, increased from 1990 to 1991 and was sustained as consumption decreased in interim 1992.^{31/} The significant increase in market share of the subject imports during the entire period of investigation leads us to conclude that the recession is not solely responsible for the decline in the condition of the domestic industry.

^{29/} Report at I-34, Table 16. We note that the slight decline in cumulated imports in interim 1992 is almost entirely due to the virtual cessation of imports from Korea following the filing of the petition in this investigation. See Report at App. E. Notwithstanding this slight decline, the market share of cumulated imports did not change appreciably and exceeded 28 percent of the domestic market.

^{30/} Report at App. C-2, Table C-1.

^{31/} Vice Chairman Watson and Commissioner Nuzum note that the Taiwan respondents have contended that imports from Taiwan did not affect the domestic industry, but merely filled the void left as the result of the retreat from the market of nonsubject imports. The market share data, however, belie this notion. In value terms, the market share of nonsubject imports has remained essentially stable throughout the period of investigation. While the market share of nonsubject imports did decline in quantity terms in 1990, the market share of subject imports also declined at the same time and the domestic industry's share increased. Only in 1991 did the market share of subject imports increase, and virtually all of that increase was at the expense of the domestic industry. See Report at App. C-2, Table C-1.

Weighted-average prices for the four U.S.-produced pipe fittings for which price data were obtained declined by over 13 percent during the period of investigation.^{32/} Prices for imports of the same products from Korea and Taiwan declined as well.^{33/} The declines in prices occurred at a time when the cost of goods sold, as a percentage of net sales, was increasing.^{34/} Comparisons of domestic products and imports from Korea and Taiwan indicate significant underselling by the subject imports.^{35/} ^{36/} The reported price data for U.S. producers' and importers' largest quarterly sales during the period of investigation resulted in 17 direct comparisons with respect to imports from Korea and 54 direct comparisons with respect to imports from Taiwan. The imported Korean products were priced below the domestic product in every instance except one, while the imports from Taiwan were priced below the domestic product in every instance.^{37/} Furthermore, the margins of underselling exceeded 20 percent in 11 of the 17 price comparisons for Korea and in 36 of the 54 price comparisons for Taiwan. Based upon these facts, we determine that imports have depressed domestic prices to a significant degree.

Given the significant increase in cumulated imports, their large market

^{32/} Report at I-39. For three of the four products surveyed, the price decline exceeded 20 percent.

^{33/} Report at I-41-I-42.

^{34/} See Report at I-22, Table 9 and I-39.

^{35/} Report at I-42-I-43, Tables 22, 23.

^{36/} Commissioner Brunsdale does not rely on underselling for her affirmative determination in this case. She believes that direct price comparisons are inappropriate when there are significant differences in the quality of the products being compared. In this case, one would expect the subject imports to be priced below the domestic like product given the imports' lower quality and inferior sales terms.

^{37/} Report at I-42-I-43.

share, and the substitutability of cumulated imports for domestic pipe fittings, the record indicates that LTFV imports led to decreased sales of the domestic like product. Furthermore, the large volume of subject imports at prices substantially below those of the domestic product had an adverse impact on domestic prices resulting in both lower prices and lower sales volume for the domestic industry.^{38/} As a result, the domestic industry has experienced significant declines in operating profits and employment.

For all the reasons set forth above, we determine that the industry producing stainless steel butt-weld pipe fittings is materially injured by reason of LTFV imports from Taiwan.

V. Critical Circumstances

The Department of Commerce found that critical circumstances exists with respect to imports from two of the producers in Taiwan -- Tru-Flow and TYH.^{39/} When Commerce makes an affirmative determination with respect to critical circumstances, the Commission is required to determine, for each domestic industry for which it makes an affirmative injury determination, "whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time."^{40/} In

^{38/} Commissioner Brunsdale believes that the material injury to the domestic industry was caused by a decreased volume of sales rather than by suppressed prices. She believes it unlikely that Taiwan producers would have been able to sell the subject imports in the U.S. market at fairly traded prices, given the high dumping margins. Taiwan producers had a relatively large market share and, absent the dumping, it is likely that U.S. producers would have gotten a significant portion of those sales.

^{39/} 57 Fed. Reg. 61882 (Dec. 29, 1992) (attached to the Report at Appendix A-9).

^{40/} 19 U.S.C. § 1673d(b)(4)(A)(i).

assessing whether retroactive imposition of the order is required "the Commission shall make an evaluation as to whether the effectiveness of the antidumping duty order would be materially impaired if such imposition did not occur.^{41/} In evaluating the effectiveness of the order, the Commission shall consider, among other relevant factors, the condition of the industry, whether there have been attempts to avoid duties by increasing shipments over a short period of time, whether the massive increase can be explained by foreign economic conditions, and whether the impact of the massive increase in shipments is likely to continue for some period of time.

An affirmative critical circumstances determination results in the imposition of antidumping duties for a 90 day period prior to Commerce's preliminary determination.^{42/} The purpose of the provision is to provide relief from effects of the massive imports and to deter importers from attempting to circumvent the dumping laws by making massive shipments immediately after the filing of an antidumping petition.^{43/} The legislative history of the critical circumstances provision states that the purpose of the provision is to: (1) provide prompt relief for the domestic industry suffering from large volumes of imports or a surge in imports over a short period; and (2) deter exporters from attempting to circumvent the antidumping statute.^{44/} In Extruded Rubber Thread from Malaysia, the Commission stated:

A surge in imports can occur as a result of an attempt to circumvent the antidumping statute immediately after the initiation of an investigation and, where

^{41/} 19 U.S.C. § 1673d(b) (4) (A) (ii).

^{42/} 19 U.S.C. § 1673d(c) (4).

^{43/} See H.R. Rep. No. 317, 96th Cong., 1st Sess. 63 (1979).

^{44/} See H. Rep. No. 317, 96th Cong., 1st Sess. 63 (1979).

Commerce finds critical circumstances, we would be required to consider that surge. The adverse impact of such a surge can continue to affect the domestic industry during and after the 90-day period during which retroactive duties can be imposed. If, however, the surge itself dissipates before the 90-day period begins, retroactive imposition of duties cannot meaningfully "prevent recurrence of material injury" resulting from that surge since the duties cannot reach those imports, and, therefore, cannot affect the impact of those LTFV imports on the domestic industry.^{45/}

In applying the critical circumstances criteria to this investigation, we note that the petition in this investigation was filed on May 20, 1992. Commerce's preliminary determination was effective on December 23, 1992, following an extension of the deadline for Commerce's preliminary determination at the request of the respondents. The record indicates that aggregate imports from Taiwan increased somewhat in July of 1992 but declined thereafter. Examination of monthly statistics for imports from Taiwan show that, during the 90 day period for which retroactive duties could be assessed, imports from Taiwan were within historic levels.^{46/} Based upon the information of record, it does not appear that the effectiveness of the antidumping order would be materially impaired if retroactive duties are not imposed. Therefore, we make a negative critical circumstances determination in this case.

^{45/} Inv. No. 731-TA-527 (Final), USITC Pub. 2559 (Sept. 1992) at 26.

^{46/} Investigations Memorandum INV-Q-081, Table 1 (May 24, 1993). The two respondents who received affirmative critical circumstances determinations from Commerce typically accounted for the vast majority of imports from Taiwan in recent periods. Even if they were responsible for all imports from Taiwan during the 90 day period, those imports were still within historic levels.

INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

On May 20, 1992, petitions were filed with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is materially injured and is threatened with material injury by reason of less than fair value (LTFV) imports of certain stainless steel butt-weld pipe fittings¹ from Korea and Taiwan. Accordingly, the Commission instituted investigations Nos. 731-TA-563 and 564 (Preliminary) under section 733 of the Tariff Act of 1930 (19 U.S.C § 1673b(a)) and, on July 6, 1992, determined that there was a reasonable indication of such material injury.

Subsequently, Commerce made a preliminary determination that imports of certain stainless steel butt-weld pipe fittings from Korea are being, or are likely to be, sold in the United States at LTFV (57 F.R. 48018, October 21, 1992). Accordingly, the Commission instituted investigation No. 731-TA-563 (Final) concerning imports from Korea (57 F.R. 52615, November 4, 1992). On December 17, 1992, the Commission received notice of a preliminary determination by Commerce that imports of certain stainless steel butt-weld pipe fittings from Taiwan are being, or are likely to be, sold in the United States at LTFV (57 F.R. 61047, December 23, 1992). Accordingly, the Commission instituted investigation No. 731-TA-564 (Final) concerning imports from Taiwan (57 F.R. 60823, December 22, 1992). The hearing for both investigations was held in Washington, DC, on January 14, 1993, at which time all interested parties were allowed to present information and data for consideration by the Commission.

On December 22, 1992, the Commission received a notice from Commerce of its affirmative final determination of sales at LTFV of certain stainless steel butt-weld pipe fittings from Korea (57 F.R. 61881, December 29, 1992). The Commission was required to make a final injury determination within 45 days, or by February 16, 1993. That determination was affirmative (Certain Stainless Steel Butt-Weld Pipe Fittings from Korea, USITC Publication 2601). However, because of an extension granted by Commerce, it did not make its final LTFV determination concerning Taiwan until May 7, 1993.

This report contains only information related specifically to Commerce's final LTFV determination concerning certain stainless steel butt-weld pipe fittings from Taiwan and additional information regarding the industry in Taiwan. All other data collected in the investigation are contained in the Commission's report on Korea. The Commission voted on this investigation on May 25, 1993, and transmitted its determination to Commerce on June 3, 1993.

¹ The merchandise covered by these investigations consists of stainless steel butt-weld pipe fittings, whether finished or unfinished, under 14 inches in inside diameter, provided for in subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States (HTS).

THE NATURE AND EXTENT OF SALES AT LTFV

On May 19, 1993, the Commission received notice from Commerce of its affirmative final determination of sales at LTFV of certain stainless steel butt-weld pipe fittings from Taiwan.² Commerce found dumping margins for three Taiwan producers/exporters: Ta Chen Stainless Pipe Co., Ltd. (Ta Chen), Tachia Yung Ho Machine Co., Ltd. (TYH), and Tru-Flow Industrial Co., Ltd. (Tru-Flow). The weighted-average dumping margins for Tru-Flow and TYH were 76.2 percent and that for Ta Chen was 0.68 percent. The weighted-average margin was 51.03 percent.

ABILITY OF FOREIGN PRODUCERS TO GENERATE EXPORTS AND THE AVAILABILITY OF EXPORT MARKETS OTHER THAN THE UNITED STATES

Petitioners listed 10 Taiwan producers of stainless steel butt-weld pipe fittings. During the preliminary investigation, three producers of Taiwan product provided the Commission with information on their business operations through their counsel. These three firms--TYH, Tru-Flow, and Tung Teng appear to be among the major Taiwan producers. The American Institute in Taiwan (AIT) noted that these three companies, plus Ta Chen, account for over 95 percent of Taiwan production of stainless steel butt-weld pipe fittings. TYH and Tru-Flow are represented by counsel in the final investigation; Tung Teng is not. TYH and Tru-Flow provided the Commission with updated information on their operations in Taiwan.³ Table 1 presents all available information on the industry in Taiwan. Interim data presented in the table are based on a January-March period for Tung Teng and on a January-September period for TYH and Tru-Flow.

Production capacity of the Taiwan producers grew by nearly two-thirds between 1989 and 1991, although these firms expected a 6-percent decrease in capacity in calendar 1992. Production fell by *** percent in 1990 and then climbed dramatically, by 64 percent, in 1991. Production increased by *** percent between the interim periods. Exports to the United States increased by 73 percent between 1989 and 1991; these shipments increased by *** percent in interim 1992 compared with interim 1991. Taiwan's home market has consumed a declining share of the total shipments of these companies; its share fell from *** percent in 1989 to *** percent in 1991. At the same time, the U.S. market accounted for a rising share of Taiwan shipments, growing from *** percent in 1989 to *** percent in 1991. In addition to the United States, other key markets for Taiwan product include ***.

² A copy of Commerce's Federal Register notice is presented in app. A.

³ On Jan. 21, 1993, the Commission received a letter from Liang-Houh Shieh requesting the acceptance of a late entry of appearance on behalf of Tru-Flow. A foreign producers' questionnaire was sent to Liang-Houh Shieh requesting information on the production operations of Tru-Flow; its response, which was not previously available, is included in this report.

Table 1

Stainless steel butt-weld pipe fittings: Taiwan's production capacity, production, capacity utilization, shipments, and inventories, 1989-91, January-September 1991, January-September 1992, and projections for 1992-93

(In 1,000 pounds, except where noted)							
Item	1989	1990	1991	Jan.-Sept.--		Projections--	
				1991	1992	1992	1993
Production capacity.....	3,900	4,650	6,400	***	***	6,000	5,700
Production.....	***	2,635	4,331	***	***	4,435	3,469
Capacity utilization (percent)...	***	57	68	***	***	74	61
Shipments:							
Home market.....	***	***	***	***	***	***	***
Export markets:							
United States.....	1,110	1,239	1,915	***	***	1,602	***
All other markets.....	442	638	1,314	***	***	1,580	1,570
Total exports.....	1,552	1,877	3,230	***	***	3,182	***
Total shipments.....	***	***	***	***	***	***	***
End-of-period inventories.....	***	***	***	***	***	***	***

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

APPENDIX A
COMMERCE'S FEDERAL REGISTER NOTICE

FINAL DETERMINATION: We determine that certain stainless steel butt-weld pipe fittings (pipe fittings) from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 725 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 the issuance of our notice of preliminary determination, (57 FR 61047, December 23, 1992), the following events have occurred.

On December 28, 1992, respondent Tachia Yung Ho Machine Co., Ltd. (TYH) requested an extension to respond to the Department of Commerce's (the Department's) December 15, 1993, Section D cost of production (COP) deficiency letter. On December 28, 1992, Ta Chen Stainless Pipe Company, Ltd. (Ta Chen) also requested an extension to respond to the Department's Section D deficiency letter.

We received requests for a public hearing from Ta Chen on December 29, 1992. On December 30, 1993, TYH requested a postponement of the final determination by 135 days.

On January 12, 1993, TYH informed the Department that it was unable to complete the Section D deficiency response within the required deadline and, therefore, would no longer participate in the investigation.

On January 19, 1993, the Department published in the Federal Register (58 FR 4982) a notice of postponement of the final determination until May 7, 1993. On January 18, TYH requested clarification regarding the definition and scope of the merchandise subject to investigation. TYH inquired whether A774 type stainless steel pipe fittings were included within the scope of investigation. On February 1, 1993, petitioner submitted that A774 is included in the scope because it meets the criteria outlined in the Department's scope of investigation.

On February 2 and 9, 1993, Ta Chen submitted certain corrections to its sales database that it discovered in preparing for verification.

Verification of Ta Chen's responses to the Department's questionnaires regarding sales and COP information took place in Taiwan and in the United States from February 18 to 24, 1993.

Ta Chen and petitioner filed case and rebuttal briefs on April 2 and 9, 1993, respectively. However, a public hearing was not held, at petitioner's and respondent's request.

Scope of Investigation

The products subject to this investigation are certain stainless steel butt-weld pipe fittings, whether finished or unfinished, under 14 inches inside diameter.

Certain welded stainless steel butt-weld pipe fittings (pipe fittings) are used to connect pipe sections in piping systems where conditions required welded connections. The subject merchandise is used where one or more of the following conditions is a factor in designing the piping system: (1) Corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, with the following five shapes the most basic: "elbows", "tees", "reducers", "stub ends", and "caps". The edges of finished pipe fittings are beveled. Threaded, grooved, and bolted fittings are excluded from these investigations. The pipe fittings subject to these investigations are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States (HTSUS).

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of these investigations is dispositive.

After it withdrew from this investigation, TYH inquired whether A774 type stainless steel pipe fittings were included within the scope of the investigation, and therefore, subject to any antidumping duty order.

Based on the information on the record, we determine that A774 is covered by the scope of this investigation because it meets the requirements outlined in our scope. Our scope states that fittings must be under 14" in inside diameter and can be either finished or unfinished. Our scope language only specifically excludes threaded, bolted and grooved fittings, and none of these criteria apply to A774 fittings. Therefore, we determine that A774 fittings are included in the scope of this investigation. (See "Concurrence Memorandum", dated May 7, 1993 for further discussion).

Period of Investigation

This period of investigation (POI) is December 1, 1991 through May 31, 1992.

[A-583-816]

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

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

EFFECTIVE DATE: May 14, 1993.

FOR FURTHER INFORMATION CONTACT: John Gloninger, 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) 482-2778.

Best Information Available

In accordance with section 776(c) of the Act, we have determined that the use of best information available (BIA) is appropriate for Tru-Flow Industrial Co., Ltd. (Tru-Flow) and TYH.

Tru-Flow

On June 18, 1992, counsel for Tru-Flow stated that Tru-Flow wished to participate in the investigation as a voluntary respondent if not selected as a mandatory respondent. On June 30, 1992, Tru-Flow filed a submission providing the volume and value of its U.S. sales during the POI. On July 1, 1992, the Department issued antidumping questionnaires to Ta Chen and TYH, but not to Tru-Flow. On July 18, Tru-Flow revised its quantity and value figures during the POI, and on July 21, 1992, filed another submission again revising its volume and value figures. Based on the figures reported in this most recent submission, the Department issued an antidumping questionnaire to Tru-Flow. However, we informed Tru-Flow that an early verification of its reported quantity and value figures would be conducted. The Department stated that if significant errors were found, we would no longer investigate it, but use BIA in our determinations instead. In August 1992, the Department conducted a verification of Tru-Flow's quantity and value data. Tru-Flow was unable to tie its sales to its books. (See Tru-Flow quantity and value verification report dated September 2, 1992). Consequently, on September 25, 1992, based on Tru-Flow's inability to link volume and value data with its accounting books, we discontinued the investigation of Tru-Flow, and recommended using BIA. (See *Case History* section of the Department's notice of preliminary determination, 57 FR 61047, December 23, 1992). As BIA we applied the higher of (1) the margins in the petition, or (2) the highest calculated margin of any respondent within Taiwan that supplied adequate and verified responses. Since we used BIA for all companies in this investigation at our preliminary determination, we applied to Tru-Flow the highest margin in the petition. (See "Continuation of Investigation of Tru-Flow" memorandum to Alan M. Dunn, dated September 25, 1992.) Therefore, for purposes of our final determination, we have applied the same criteria in determining what margin to apply to Tru-Flow as BIA. Since the margin calculated for Ta Chen in our final determination is less than the highest margin contained in the petition, we have applied the highest margin

reported in the petition, the same rate applied to Tru-Flow at our preliminary determination.

TYH

The Department issued Section D of our questionnaire to TYH on October 9, 1992, and received the response on November 13, 1992. The Department issued a deficiency letter to TYH on December 15, 1992, requesting clarification of certain areas in the response, stating that if properly completed, this response would be used in the Department's final determination. After a complete analysis of TYH's Section D original cost response, we concluded that we could not use the response for our preliminary determination because the response contained major deficiencies. (See "Cost Deficiency Memorandum" to Richard W. Moreland, dated December 14, 1992). Therefore, as BIA we applied the average of the margins reported in the petition. In our preliminary determination, we stated that we were not applying the highest dumping margin reported in the petition because, even though TYH's cost response was too deficient for us to use for the preliminary determination, TYH appeared to have been cooperative during the investigation. We further stated that if the information in the revised questionnaire response was accurate and verifiable, we would use it for the final determination.

However, on January 12, 1993, TYH informed the Department that it would not respond to the Department's deficiency questionnaire and would no longer participate in the investigation. Given this, we can no longer maintain that TYH is cooperating in this investigation. Therefore, we are applying as BIA the higher of (1) the margins in the petition, or (2) the highest calculated margin of any respondent with Taiwan that supplied adequate and verified responses. As stated above, since Ta Chen's calculated margin is lower than the margins contained in the petition, we are applying to TYH the highest margin reported in the petition.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. There are sales of identical merchandise in the home market to compare to all U.S. sales. Therefore, we made no adjustments for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

Fair Value Comparisons

As discussed above, we are using BIA with regard to Tru-Flow and TYH and did not make fair value comparisons with regard to these companies. (See *Best Information Available* section of this notice). For the remaining company, Ta Chen, we made fair value comparisons.

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

United States Price

We based USP in part on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation and because exporter's sales price (ESP) methodology, in those instances, was not otherwise indicated.

We calculated purchase price based on FOB U.S. port and delivered prices to unrelated customers. We made deductions, where appropriate, for foreign brokerage, foreign inland freight, ocean freight, marine insurance, Taiwan harbor export duty, U.S. duty, U.S. brokerage, and U.S. inland freight.

In addition, where certain sales to the first unrelated purchaser took place after importation into the United States, we also based USP on ESP, in accordance with section 772(c) of the Act.

We calculated ESP based on FOB U.S. warehouse and delivered prices. We made deductions, where appropriate, for foreign brokerage, foreign inland freight, ocean freight, marine insurance, Taiwan harbor export duty, U.S. duty, U.S. brokerage, and U.S. inland freight. We also deducted discounts, where appropriate. In accordance with section 772(e) (1) and (2) of the Act, we deducted, where appropriate, credit and banking expenses, indirect selling expenses, including inventory carrying costs, warranty expenses, and commissions.

Since Ta Chen incurred warranty expenses, but did not report them in its computer response, as BIA we calculated these expenses by dividing the total value of credit memos issued by Ta Chen International (TCI), Ta Chen's related subsidiary in the United States, for defective fittings by the total value of ESP sales made during the POI, and multiplying this factor by the gross unit price. We did not consider purchase price sales in our calculation because Ta Chen incurred no warranty

expenses with respect to such sales during the POI, and because TCI issued all of the credit memos.

On March 19, 1993, the United States Court of Appeals for the Federal Circuit, in affirming the decision of the Court of International Trade in *Zenith Electronics Corporation v. United States*, Slip Op. 92-1043, -1045, -1046, ruled that section 772(d)(1)(C) of the Tariff Act provides for an addition to U.S. price to account for taxes which the exporting country would have assessed on the merchandise had it been sold in the home market, and that section 773(a)(4)(B) of the Tariff Act does not allow circumstance-of-sale adjustments to FMV for differences in taxes. Accordingly, we have changed our practice and will no longer make a circumstance-of-sale adjustment. Also, we will no longer calculate a hypothetical tax on the U.S. product, but will, for the time being, add to U.S. price the absolute amount of tax on the comparison merchandise sold in the country of exportation. By adding the amount of home market tax to U.S. price, absolute dumping margins are not inflated or deflated by differences between taxes included in FMV and those added to U.S. price.

In addition, we will propose a change in 19 CFR 353.2(f)(2) to provide that we will calculate weighted-average dumping margins by dividing the aggregated dumping margins, calculated as described above, by the aggregated U.S. prices net of taxes. This change would result in weighted-average dumping margin rates which are neither inflated nor deflated on account of our methodology of accounting for taxes paid in the home market but rebated or not collected by reason of exportation. We are in the process of drafting this proposed change, and we will begin the rulemaking process as soon as possible.

Foreign Market Value

In order to determine whether there were sufficient sales of pipe fittings in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of pipe fittings to the volume of third country sales of the same product, in accordance with section 773(a)(1)(B) of the Act. Ta Chen had a viable home market with respect to sales of pipe fittings during the POI.

In accordance with 19 CFR 353.58, we compared U.S. sales to home market sales made at the same level of trade, where possible.

Cost of Production

Based on petitioner's allegations, we investigated whether Ta Chen had home

market sales that were made at less than its COP.

We calculated the COP based on the sum of Ta Chen's cost of materials, fabrication, general expenses, and packing. We relied on the submitted COP and CV data, except in the following instances where the costs were not appropriately quantified or valued:

(1) *Packing Costs*: For COP and CV, Ta Chen's reported conversion costs include labor costs associated with the packing of fittings in Taiwan. Therefore, we subtracted these packing costs from COM when we made adjustments to reported general and administrative expenses and interest. (See *Cost Comment 1*).

(2) Ta Chen's reported COM figures in its COP and CV response do not include the effect of revenues from the sale of scrap from the fittings mill. We corrected for this by calculating an offset to the reported COM. The scrap sale offset was calculated using the ratio of the total value of sales of scrap from the fittings mill to the total cost of manufacture from the fittings mill. (See *Cost Comment 2*).

(3) *Interest Expenses*: For considered value, we calculated an offset to reported interest expenses to avoid double counting finance charges. We calculated the interest offset ratio as the percentage of finished goods inventory and accounts receivable to total assets, using the balances reported in the audited financial statements. We then used this ratio to reduce reported CV interest expenses. (See *Cost Comment 3*).

(4) Ta Chen's reported COP and CV data does not include an adjustment for the 1992 translation losses. We included these losses as part of the general expenses. The translation loss was calculated using the difference between the total value of accumulated translation losses in 1992 and 1991, as a percentage of the total cost of sales.

If over 90 percent of respondent's sales of a given model 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. If between ten and 90 percent of respondent's sales of a given model were at prices below the COP, and such sales were over an extended period of time, 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, and such sales were over an extended period of time, we disregarded all sales for that model and calculated FMV based on constructed value (CV). No evidence

was presented to indicate that below COP prices would permit recovery of all costs within a reasonable period of time in the normal course of trade.

In order to determine that below-cost sales were made over an extended period of time, we performed the following analysis on a product specific basis: (1) If a respondent sold a product in only one month of the POI and there were sales in that month below the COP, or (2) if respondent sold a product during two months or more during the POI and there were sales below the COP during two or more of those months, then below-cost sales were considered to have been made over an extended period of time. Based on this analysis, therefore, we based FMV for Ta Chen on both home market prices and CV.

Where home market comparison models were found to be below COP, we used CV as FMV. To calculate CV, in addition to the cost of materials and fabrication, we used the actual general expenses in accordance with section 773(e)(1)(B)(i) of the Act, where they exceeded the statutory minimum of ten percent. For profit in CV, 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 amount was less than the statutory minimum of eight percent.

From FMV, we deducted inland freight and discounts. In addition, we deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(1) of the Act.

For both home market price and CV comparisons to purchase price sales, we made circumstance-of-sale adjustments for credit expenses and bank handling charges, in accordance with 19 CFR 353.56. We made adjustments, where appropriate, for commissions paid to unrelated parties in the United States. We offset these commissions by the lesser of (1) the amount of the indirect selling expenses incurred in the home market by Ta Chen, or (2) the amount of the U.S. commission. We recalculated these indirect selling expenses because the methodology was based solely on an estimate of how much time Ta Chen's sales representatives spent on sale of pipe fittings. Therefore, we used the methodology originally reported in Ta Chen's August 31, 1992 response in which actual selling expenses for both fittings and pipe were allocated over total domestic shipments of fittings and pipe.

For both home market price and CV comparisons to ESP sales, we made deductions in accordance with 19 CFR

353.56 as follows: where no commissions were paid on the U.S. sales, we deducted from FMV the lesser of (1) the weighted-average home market indirect selling expenses, including inventory carrying costs, or (2) indirect selling expenses incurred on U.S. sales. Where commissions were paid on U.S. sales, we deducted from FMV the lesser of (1) the weighted-average home market indirect selling expenses, including inventory carrying costs, or (2) the sum of U.S. commissions and U.S. indirect selling expenses for U.S. sales.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a) based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Critical Circumstances

In our preliminary determination, we found that there was a reasonable basis to believe or suspect that critical circumstances existed with respect to imports from Ta Chen, TYH, and Tru-Flow. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that:

(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 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 class or kind of merchandise which is the subject of the investigation over a relatively short period.

It has been the Department's practice to consider estimated margins of 25 percent or greater on sales to unrelated parties and estimated margins of 15 percent or greater on sales to related parties as sufficient proof to impute knowledge of dumping. Since for Ta Chen the weighted-average dumping margins fall below these percentages and there is no history of dumping in the United States or elsewhere of the subject merchandise, critical circumstances do not exist. Accordingly, it is not necessary to determine if massive imports exist.

The estimated margins applied to TYH and Tru-Flow are all greater than 25 percent. Therefore, there is sufficient proof to impute knowledge of dumping. With respect to Tru-Flow and TYH, however, we could not determine if massive imports exist using company-specific shipment data, since the investigation of Tru-Flow was

discontinued and TYH's shipment data was never verified. Therefore, we have relied upon BIA for determining whether there have been massive imports of pipe fittings from TYH and Tru-Flow, and are making the adverse assumption that imports were massive over a relatively short period of time. As such, we determine that critical circumstances do exist for TYH and Tru-Flow.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondents by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment 1

Petitioner asserts that, for the reasons set forth in the Department's preliminary determination, the most adverse BIA continues to be the correct criteria for determining appropriate dumping margins for Tru-Flow.

Department Position

We agree with petitioner. As described in the preliminary determination, Tru-Flow failed the verification of its volume and value data. Because of that, we determined not to continue the investigation of Tru-Flow and instead use BIA. The same criteria for BIA at our preliminary determination apply for our final determination. As such, we have applied the highest margin in the petition to Tru-Flow as BIA. (See *Best Information Available* section of this notice for further discussion).

Comment 2

Petitioner argues that the Department should use the most adverse BIA for determining the appropriate dumping margin for TYH. Petitioner asserts that TYH has been uncooperative in the investigation by refusing to respond to the Department's deficiency letter regarding TYH's Section D response and resigning its participation on January 12, 1993. In our preliminary determination, we applied 48.4 percent to TYH, the average of the margins contained in the petition because, although TYH was cooperative, its cost response was deficient and we could not use it.

Department's Position

We agree with petitioner that because TYH withdrew from the Department's investigation and informed us that it

would not respond to the Department's Section D deficiency letter, we cannot apply the same criteria for BIA at the final determination as we did at our preliminary determination. Furthermore, since we did not verify any of TYH's sales or COP information, we must use BIA for our final determination. Since TYH has not cooperated with the Department since our preliminary determination, we have applied the highest margin contained in the petition as BIA. (See *Best Information Available* section of this notice for further discussion).

Comment 3

Ta Chen states that the Department noted at verification that three of its home market customers were incorrectly identified as end-users, when in fact they were distributors. Since these three customers are pipe fitting manufacturers who purchase fittings from Ta Chen that they do not produce, the Department should change the customer category from end-user to distributor.

Departments Position

We agree with Ta Chen and have made this correction to the sales database.

Cost Comments

Comment 1

Ta Chen claims that it did not remove packing costs from the reported material and conversion costs. Therefore, for COP, Ta Chen argues that packing costs should not be added to the reported material and conversion costs. Furthermore, for CV, Ta Chen maintains the reported packing costs should be removed from the material and conversion costs when calculating CV, and in calculating profit and general expenses. Ta Chen claims that where the Department finds double counting, even at verification, the Department corrects it, citing New Steel Rail, Except Light Rail, From The United Kingdom (58 FR 9145, 9147, February 19, 1993 (Comment 5)).

Department's Position

We agree only in part with Ta Chen. At verification we found that packing costs were in fact included in Ta Chen's reported conversion costs for pipe fittings. However, we did not find that material packing costs were included in the reported materials costs.

In the Department's March 18, 1993, sales and cost verification report (verification report), it states on page two that the total actual cost of coil transferred to Plant I production (the pipe mill) was added together with the

actual cost of anticorrosive materials entered into production to arrive at the total actual cost of direct materials. This was then compared with total standard costs to arrive at direct materials variance, which is then allocated to the transfers of finished goods to Plant II (the fittings mill). We did not find at verification, nor did Ta Chen report in its responses to the Department's Section D cost questionnaires, that these direct materials include costs associated with packing materials.

Furthermore, on page three of the verification report, we state that the standard material costs for fittings were based upon standard coil purchase price, usage rate, and conversion costs from the Plant I, and that these costs traced directly into Ta Chen's computer response as CV and COP direct material costs. There is no reference to the inclusion of costs associated with packing materials. Therefore, we do not agree that the reported material costs include any packing material costs and have added packing material costs to Ta Chen's COM for COP and CV purposes.

We did verify, however, that a portion of standard conversion costs do include labor costs for packing. (See page three of the verification report and the related verification exhibits.) Also, as stated on page four of the verification report, we found that the total standard direct labor costs reported were found to consist of direct labor costs incurred in the production steps of cutting, forming, processing, heat treating, pickling, and packing. Therefore, we agree with respondent that its conversion costs do include certain costs associated with packing labor, and have removed them when calculating interest and general expenses for COP and CV, and profit for CV. (See "Calculation Adjustments for the Final Determination" memorandum, dated May 3, 1993).

Comment 2

Ta Chen claims that its reported cost of manufacture should be reduced by exchange rate gains on raw material purchases and the value of scrap sales.

Department's Position

We do not agree with Ta Chen that the effect of these exchange rate gains should be included in material costs. Ta Chen did not identify the exchange rate gains to the materials used for the products under investigation.

We made an adjustment, however, for the value of scrap sales from the fittings mill by calculating an offset to the reported total cost of manufacture since the offset was not included in materials. (See "Calculation Adjustments for the

Final Determination" memorandum, dated May 3, 1993).

Comment 3

Ta Chen claims that interest expenses for CV should be adjusted downward for interest expenses associated with accounts receivable and finished inventory, and that this adjustment reflects standard Department practice.

Department's Position

We agree with Ta Chen and have calculated an offset to reported material expenses to avoid double counting finance charges. (See "Calculation Adjustments for the Final Determination" memo, May 3, 1993).

Comment 4

Ta Chen claims that its COP and CV material costs should be adjusted downward to eliminate the cost of wooden boxes. Ta Chen produces the pipe used to manufacture fittings, and the pipe mill incurs costs for the wooden boxes, which are used only for the export of pipe. Consequently, Ta Chen argues that these costs should not be attributed to pipe fittings. Ta Chen argues, therefore, that the material costs of butt-weld fittings should be reduced by the amount attributable to these wooden box costs.

Petitioner argues that the Department's March 18, 1993, cost and sales verification report (verification report) makes no mention of the fact that materials costs include costs attributable to wooden boxes. Therefore, the cost of these wooden boxes, and the matter of whether they were or were not properly adjusted for, was not explicitly considered at verification. In fact, claims petitioner, the verification report shows that Ta Chen's product-specific material costs trace directly into Ta Chen's response for CV and COP direct material costs. As such, petitioner objects to any after-the-fact adjustments of Ta Chen's costs that are not based on verified information.

Department's Position

We do not agree with Ta Chen that its reported material costs include wooden box costs for export of pipe. There is no specific evidence on the record indicating that these costs were included in the materials costs of pipe that were transferred from Plant I to Plant II. While we did adjust conversion costs to remove labor costs associated with packing (See *Cost Comment 1*), we made this adjustment based on our findings at verification. The Department's verification report clearly indicates that conversion costs for fittings included costs associated with

packing of fittings. However, Ta Chen argues that the Department should make an additional adjustment to its material costs without any support in the verification report or its responses to show that its material costs include these wooden box costs.

Ta Chen states that these costs were properly deducted from its material cost for fittings not produced during the POI, as illustrated in its worksheet in Exhibit 11 of its deficiency cost response, but not from the material cost for fittings that were produced during the POI, as illustrated in its worksheet in Exhibit 4 of its original cost response. However, the worksheet in Exhibit 11 reports Plant I conversion costs for pipe, not for pipe fittings, and the figures reported under the cost of wooden boxes were taken from the schedule of factory overhead for Plant I. The worksheet in Exhibit 4, however, reports Plant II conversion costs for pipe fittings. Moreover, Ta Chen claims that the wooden box costs reported in Exhibit 11 should be used to adjust the conversion costs in Exhibit 4. Since these wooden box costs reported in Exhibit 11 are from the pipe factory for fittings not produced during the POI, we cannot use these figures to properly adjust the conversion costs reported for fittings that were produced during the POI. Therefore, we have not made any adjustments for these costs.

Comment 5

Petitioner questions Ta Chen's cost methodologies and the accuracy of Ta Chen's costs of production. Specifically, petitioner cites a discrepancy between the standard observed at verification and the reported standard of the machine time necessary to form 1/2" 40S and 2" 10S fittings, to suggest that Ta Chen could have manipulated its costs standards to lower its costs of production. Petitioner argues that Ta Chen's explanation that different and new machines were in use during verification than those used to create the standards reported to the Department is not adequate. Therefore, petitioner requests that as BIA, the Department make an adjustment upward to Ta Chen's costs equal to the amount of the discrepancy observed during verification.

Respondent asserts that it did not engage in cost manipulation and provides the following reasons, as noted in the verification report, for the difference between the observed standard and the reported standard: (1) It takes more time to change the mold on a machine that makes 1/2" 40S than it takes to change the mold on a machine to make 2" 10S; (2) the

standards are based on the machines existing at the time the standards were created; at the time of the Department's verification, Ta Chen had some new machines; and, finally, (3) on the day of verification, the new machine was producing the 1/2" 40S, and the old machine was producing the 2" 10S. At the time the standards were created, Ta Chen only had the old machine, which produced both these two types of pipe fittings.

Department's Position

While we agree with petitioner that a discrepancy was found at verification between the reported standard and what the Department observed during a plant tour, we do not agree with petitioner that respondent has not adequately demonstrated valid reasons that accurately reflect its actual production costs. On page five of the Department's verification report, we noted several reasons as cited by respondent, why this discrepancy between the standards during the POI and what was observed at verification could exist. Also, the Department's test was performed only once during a plant tour, while Ta Chen's reported standards were based on historical production experience. In addition, there is no evidence on the record to indicate that respondent manipulated its standards to lower its COP. In fact, page five of the Department's cost verification report states that "[i]n summary, certain of the variables upon which the standard conversion costs reported on Exhibit CV-14 were based, were reviewed and tested during verification, and as a result of that review, no evidence was found to indicate that the standard conversion costs were incorrect." Therefore, we have not made any adjustments to Ta Chen's COP based on this one test performed at verification.

Comment 6

Petitioner argues that, based on the verification report, there is a discrepancy between the amount of pipe transferred from inventory for production of fittings during the POI and the amount of fittings actually produced. Petitioner suggests that this discrepancy cannot be accounted for by work-in-progress or fluctuations between months, and is problematic, particularly considering the fact that any level of scrap would generally reduce the level of fittings produced relative to the amount of pipe ordered for production. Petitioner argues that since Ta Chen has stated that it uses all of its raw materials from its pipe factory, an upward adjustment to Ta Chen's

costs of production is required to properly account for the discrepancy.

Ta Chen points out that petitioner itself concedes that work-in-process means that these two figures should differ. In addition, Ta Chen argues that its pipe fitting mill has its own pipe inventory, and thus the difference between these two figures would be due to the use of pipe already in the inventory of the fittings mill at the beginning of the POI. Ta Chen claims that the verifiers decided not to further pursue the difference between the two figures since the difference did not seem sufficiently significant to be worth pursuing.

Also, at verification, the Department selected one fitting type and tied the quantity of pipe transferred from the pipe mill to the fittings mill, and the quantity of pipe received by the fittings mill from the pipe mill for selected months, with no discrepancies found. Furthermore, Ta Chen claims that the cost verification report indicates that the value of pipe transferred from the pipe mill to the fittings mill was the same as the value of pipe received by the fittings mill from the pipe mill.

Department's Position

We do not agree with petitioner that an upward adjustment to Ta Chen's reported COP is necessary. As we stated on page five of the Department's sales verification report, this type of analysis was intended only "as a general check." We decided not to pursue this discrepancy any further because the explanations provided at verification were reasonable. Instead, we chose to conduct this same type of analysis on a more defined level, examining transfers of one type of pipe during two particular months during the POI.

As the verification report and exhibits indicate, we initially examined the total aggregate transfer of pipe from Plant I to inventory, and then the aggregate transfer of pipe from inventory to Plant II production during a six-month period. Since we noted a difference between the amount of pipe transferred to Plant II and the amount of fittings produced at the aggregate level, we decided to conduct this type of analysis at a product-specific level during certain months. As the verification report indicates, we conducted this analysis without any discrepancies.

Continuation of Suspension of Liquidation

For Ta Chen, we are directing the Customs Service to continue to suspend liquidation of all entries of certain stainless steel butt-weld pipe fittings that are entered, or withdrawn from

warehouse, for consumption on or after December 23, 1992, the date of publication of our preliminary determination in the Federal Register. For TYH and Tru-Flow, however, we are directing the Customs Service to continue to suspend liquidation of all entries of pipe fittings from Taiwan, that are entered, or withdrawn from warehouse, for consumption 90 days prior to the date of publication of our preliminary determination in the Federal Register, in accordance with section 735(c)(4)(A) of the Act. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated final dumping margins, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer/exporter	Weighted-average margin percentage
Tachia Yung Ho Machine Industry Co., Ltd.	76.20
Ta Chen Stainless Pipe Co., Ltd.	0.68
Tru-Flow Industrial Co., Ltd.	76.20
All Others	51.03

ITC Notification

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

Notification to Interested Parties

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 7, 1993.

Joseph A. Spetrini,
Acting Assistant Secretary for Import Administration.

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