

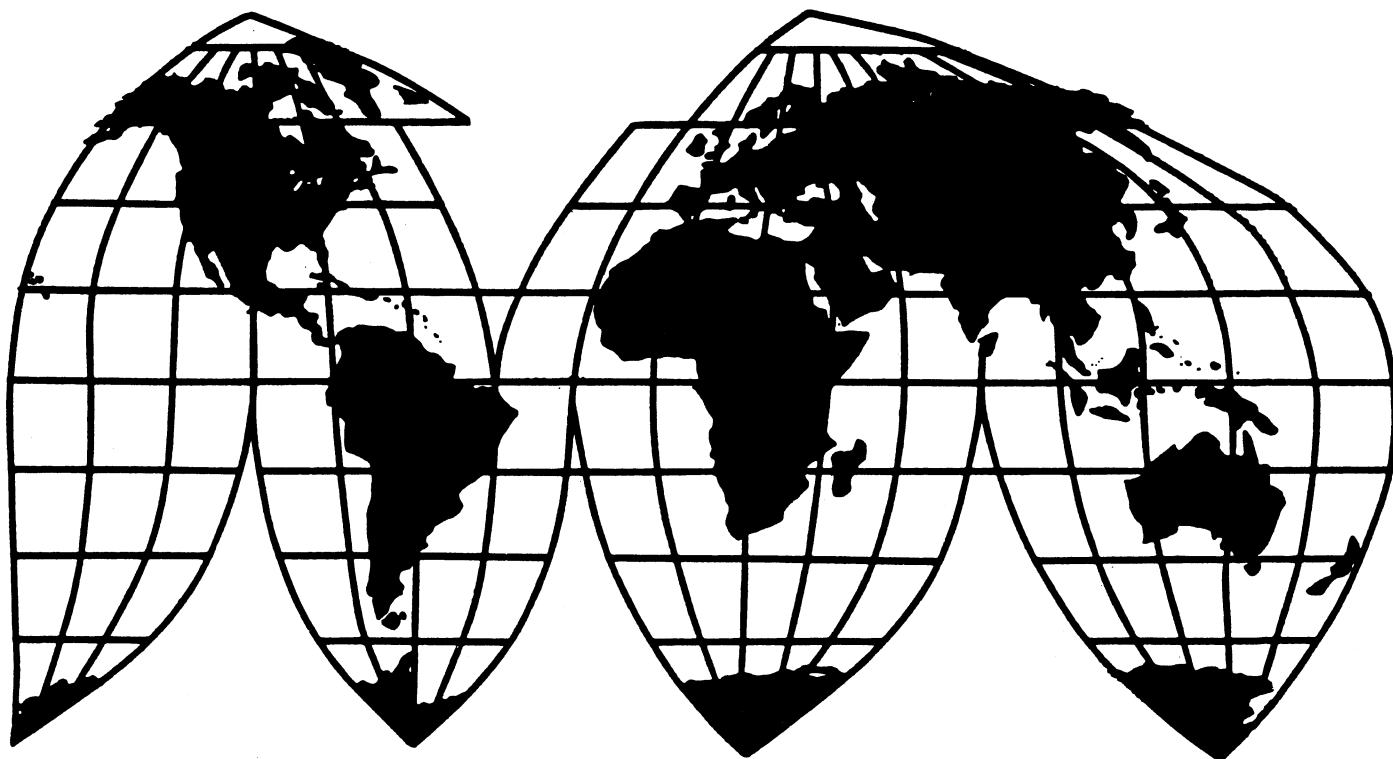
Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, The Republic of Korea, Thailand, The United Kingdom, and Venezuela

Investigations Nos. 701-TA-360 and 361 (Final)
and 731-TA-688 through 695 (Final)

Publication 2870

April 1995

U.S. International Trade Commission



U.S. International Trade Commission

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Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, The Republic of Korea, Thailand, The United Kingdom, and Venezuela



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

PART I

DETERMINATIONS AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

**Investigations Nos. 701-TA-360 and 361 (Final)
and 731-TA-688 through 695 (Final)**

**CERTAIN CARBON STEEL BUTT-WELD PIPE FITTINGS FROM FRANCE, INDIA,
ISRAEL, MALAYSIA, THE REPUBLIC OF KOREA, THAILAND,
THE UNITED KINGDOM, AND VENEZUELA**

Determinations

On the basis of the record¹ developed in the subject investigations, the Commission determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from India or Israel 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 subsidized by the Governments of India and Israel. The Commission also determines pursuant to section 735(b) of the Act that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from France,² India, Israel, Malaysia, the Republic of Korea, Thailand,³ the United Kingdom, or Venezuela of certain carbon steel butt-weld pipe fittings that have been found by the Department of Commerce to be sold in the United States at LTFV.

Background

The Commission instituted countervailing duty investigations Nos. 701-TA-360 and 361 (Final) effective June 1, 1994, following preliminary determinations by the Department of Commerce that imports of certain carbon steel butt-weld pipe fittings from India and Israel were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)). The antidumping duty investigations (invs. Nos. 731-TA-688 through 695 (Final)) were instituted effective October 3, 1994, following preliminary determinations by the Department of Commerce that imports of certain carbon steel butt-weld pipe fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela 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 notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and

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 Don E. Newquist did not participate in this investigation.

³ Only the certain carbon steel butt-weld pipe fittings exported by Awaji Sangyo (Thailand) Co., Ltd. from Thailand were found to be sold in the United States at less than fair value (LTFV). All other producers and exporters of such product in Thailand are subject to a 1992 antidumping order currently in effect.

by publishing the notices in the Federal Register of July 20, 1994 (59 F.R. 37054) and October 19, 1994 (59 F.R. 52806).⁴ The hearing was held in Washington, DC, on February 28, 1995, and persons who requested the opportunity were permitted to appear in person or by counsel.

⁴ Notice of the Commission's revised schedule for the subject countervailing and antidumping duty investigations was published on November 30, 1994 (50 F.R. 61342).

Views of the Commission

Based on the record in these final investigations, we determine that the industry in the United States producing certain carbon steel butt-weld pipe fittings is neither materially injured, nor threatened with material injury, by reason of subsidized imports from India and Israel; and is neither materially injured, nor threatened with material injury, by reason of imports from France,¹ India, Israel, Malaysia, the Republic of Korea ("Korea"), Thailand,² the United Kingdom or Venezuela, that are sold in the United States at less than fair value ("LTFV").^{3 4 5}

I. LIKE PRODUCT AND DOMESTIC INDUSTRY

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of the subject imports, the Commission first defines the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930, as amended (the "Act"), defines the relevant domestic industry as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."⁶ In turn, the statute defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."⁷ The Commission's decision regarding the appropriate like product or products 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.⁸ No single factor is dispositive, and the Commission may consider factors it deems relevant based upon the facts of a particular investigation. The Commission looks for "clear dividing lines among possible like products" and disregards minor variations.⁹

¹ Commissioner Newquist did not participate in Inv. No. 731-TA-688 as to France.

² For Thailand, only the products of Awaji Sangyo (Thailand) Co., Ltd. ("AST") are subject to investigation. Certain carbon steel butt-weld pipe fittings produced by other firms in Thailand are subject to an existing antidumping duty order. 57 Fed. Reg. 29702, 29703 (July 6, 1992).

³ The petition seeking initiation of these investigations was filed prior to the effective date of the Uruguay Round Agreements Act. These investigations thus remain subject to the substantive and procedural rules of the pre-existing law. See Pub. L. 103-465, 108 Stat. 4809 (1994) at § 291.

⁴ Whether the establishment of an industry in the United States is materially retarded is not an issue in these investigations.

⁵ Vice Chairman Nuzum joins in these views with respect to like product, domestic industry, related parties, condition of the domestic industry, and threat of material injury. Her cumulation and present injury analyses are set forth in separate views.

⁶ 19 U.S.C. § 1677(4)(A).

⁷ 19 U.S.C. § 1677(10).

⁸ See Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

⁹ Torrington, 747 F. Supp. at 748-49.

B. Like Product Issues

The imported articles subject to these investigations are finished and unfinished carbon steel butt-weld pipe fittings having an inside diameter of less than fourteen inches (i.e., less than 355 millimeters) classified under Harmonized Tariff Schedule ("HTS") subheading 7307.93.3000. As the Department of Commerce ("Commerce") described the subject imports in its notices of final determination, certain carbon steel butt-weld pipe fittings are:

formed or forged steel products used to join pipe sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe.¹⁰

In prior investigations of carbon steel butt-weld pipe fittings, and in the preliminary subject investigations, the Commission determined that there is one domestic like product consisting of both finished and unfinished carbon steel butt-weld pipe fittings of less than 14 inches in inside diameter.¹¹ The like product determinations in prior investigations were based primarily on the lack of any independent market for unfinished pipe fittings and the identical production equipment used in producing finished and unfinished pipe fittings.¹² In addition, the Commission found that carbon steel butt-weld pipe fittings having an inside diameter of less than 14 inches were produced on different machinery and equipment than larger diameter fittings.¹³

¹⁰ 60 Fed. Reg. 10538, 10539 (France), 10545 and 10564, 10565 (India), 10542 and 10569 (Israel), 10550 (Malaysia), 10551 (South Korea), 10552 (Thailand), 10558 (the United Kingdom), 10562 (Venezuela) (February 27, 1995).

¹¹ See Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom and Venezuela, Invs. Nos. 701-TA-360 and 361 (Preliminary) and 731-TA-688-695 (Preliminary), USITC Pub. 2767 (April 1994) at I-7; Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand, Inv. Nos. 731-TA-520-521 (Final), USITC Pub. 2528 (June 1992) at 4-5; Certain Carbon Steel Butt-Weld Pipe Fittings from Japan, Inv. No. 731-TA-309 (Final), USITC Pub. 1943 (Jan. 1987) 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) at 6.

¹² See China/Thailand (Final), USITC Pub. 2528 at 5. Likewise, in these final investigations, "[a]ll known U.S.-produced unfinished fittings are used to produce finished fittings. There is no independent market for unfinished fittings." Confidential Report ("CR") at I-10 n.18; Public Report ("PR") at II-8.

¹³ See China/Thailand (Final), USITC Pub. 2528 at 5. In these final investigations, Petitioner states that fittings equal to and larger than 14 inches in inside diameter "compete in a separate marketplace from under 14-inch diameter fittings, with a number of different customers and a different competitive environment." Petitioner's Post-Hearing Brief at A-31. Weldbend, a domestic producer, indicated that fittings of 14 inches and above [* * *]. CR, Appendix G, at G-7; PR, Appendix G, at G-6. There is some overlap of production equipment for some domestic producers. CR at I-40; PR at II-23.

No party has argued for a different like product determination in the preliminary, or in these final, investigations. The evidence in the record supports the same conclusion in these final investigations. Therefore, we determine that the like product is all domestically produced finished and unfinished carbon steel butt-weld pipe fittings having an inside diameter of less than 14 inches.

C. Domestic Industry

Based upon the definition of the like product, the domestic industry consists of all domestic producers of finished and unfinished carbon steel butt-weld pipe fittings of less than 14 inches in inside diameter, including integrated producers and converters of unfinished pipe fittings.^{14 15 16}

D. Related Parties

The related parties provision, Section 771(4)(B) of the Act,¹⁷ allows the Commission to exclude certain domestic producers from the domestic industry for the purposes of an injury determination. The Commission must first determine whether a domestic producer

¹⁴ Integrated producers generally begin with seamless carbon steel pipe as their raw material and perform both forming and finishing operations. Conversion producers begin with unfinished fittings purchased from other sources and perform various operations to finish the fittings. CR at I-10 n.17; PR at II-8 n.17. All domestic producers make finished fittings, and all use internally-produced unfinished stock for this purpose, some exclusively. CR at I-24; PR at II-16. See Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom and Venezuela, Invs. Nos. 701-TA-360 and 361 and 731-TA-688-695 (Preliminary), USITC Pub. 2767 (April 1994) at I-7-8; China/Thailand (Final), USITC Pub. 2528 at 5; see also Sandvik AB v. United States, 721 F. Supp. 1322, 1330-31 (Ct. Int'l Trade 1989) (redrawers and fully-integrated producers both included in the domestic industry), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990).

¹⁵ In these final investigations, Petitioner argues that the Commission can and should exclude Weldbend Corporation, a domestic producer of certain carbon steel butt-weld pipe fittings, from the domestic industry by defining the domestic industry as "the members of the petitioning group and other domestic producers . . . that support the petition and have answered the Commission's questionnaires and have otherwise cooperated in this investigation." Petitioner's Posthearing Brief at 3.

We disagree, and in these final investigations we have included Weldbend and all other domestic producers in the definition of the domestic industry. The Court of International Trade has rejected the notion that the U.S. industry can be defined separately from the like product. United States Steel Group v. United States, 873 F. Supp. 673, slip op. 94-201 (Ct. Int'l Trade Dec. 30, 1994) at 16-18 ("Once the like product has been determined, the definition of the industry follows.") Further, Petitioner's argument is inconsistent with the recent decision of the Federal Circuit in Suramerica de Aleaciones Laminadas, C.A. v. United States, 44 F.3d 978, slip op. 93-1579 and 94-1021 (Fed. Cir. Dec. 30, 1994)(requiring the Commission to consider the opposition of members of the domestic industry as a relevant economic factor in its threat determination).

¹⁶ The five petitioning companies include Hackney, Inc., Ladish Co., Inc., Mills Iron Works, Inc., Steel Forgings, Inc. and Tube Forgings of America, Inc. (together, the "U.S. Fittings Group")("Petitioner").

¹⁷ 19 U.S.C. § 1677(4)(b).

meets the definition of a related party.¹⁸ If so, the Commission may exclude such producers in "appropriate circumstances."¹⁹

In the preliminary investigations, we determined that three domestic producers, Hackney, Tube Forgings and Tube-Line, were related parties, but that appropriate circumstances did not exist to exclude them from the domestic industry.²⁰ We reach the same conclusions as to all three companies in these final investigations.²¹ Hackney, Tube Forgings and Tube-Line each imported subject product during the period reviewed.²² In addition, Tube Forgings was, during the period reviewed, affiliated with a distributor of domestic and foreign subject fittings.²³ Further, Tube-Line is partially owned by Benkan America, Inc., which imported subject merchandise during the period reviewed.²⁴ Thus, each firm is a related party in these final investigations.

Appropriate circumstances do not exist, however, to exclude any of these firms from the domestic industry. In 1993, Hackney, Tube Forgings and Tube-Line each accounted for a significant portion of domestic production by volume.²⁵ The small proportion of their production of finished fittings that is derived from subject imports of unfinished fittings indicates that their primary interests lie in domestic production, not importation, and makes it very unlikely that these companies benefitted to a significant degree from LTFV and/or subsidized imports of subject fittings.²⁶ We also conclude that exclusion of these firms, which accounted for about 58.6 percent of domestic production in 1993, would skew the data

¹⁸ A producer is a "related party" if it is either related to exporters or importers of the product under investigation, or is itself an importer of that product. 19 U.S.C. § 1677(4)(B).

¹⁹ 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include:

- (1) the percentage of domestic production attributable to the importing producers;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import 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.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Garlic from the People's Republic of China, Inv. No. 731-TA-683 (Preliminary), USITC Pub. 2755 (March 1994).

²⁰ USITC Pub. 2767 at I-8-10.

²¹ No party argued in the preliminary, or in these final, investigations that Hackney, Tube Forgings or Tube-Line be excluded as related parties.

²² CR at I-27 n.45; PR at II-17 n.45. In the preliminary investigations, Tube-Line reported its imports as purchases of imports, rather than direct imports. Tube-Line has clarified this information in these final investigations.

²³ [* * *] CR at I-27; PR at II-17-18.

²⁴ CR at I-28-29; PR at II-18; Letter from [* * *]. Moreover, Benkan America, Inc. is [* * *], the primary U.K. producer and sole U.K. exporter of subject butt-weld pipe fittings. CR at I-75; PR at II-40.

²⁵ CR at I-21, Table 2; PR at II-15, Table 2.

²⁶ See, e.g., CR at I-25-26; PR at II-17 (regarding 1993 production of finished fittings).

for the industry. Therefore, we have not excluded any of these firms in these final investigations.²⁷

II. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether the domestic industry is materially injured or threatened with material injury by reason of LTFV and subsidized imports, we consider all relevant economic factors that bear on the state of the industry in the United States.²⁸ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."²⁹

We have examined several conditions of competition distinctive to the industry that produces certain carbon steel butt-weld pipe fittings. The carbon steel butt-weld pipe fittings industry is stable and mature.³⁰ The industry has eleven producers. Only one producer entered the industry, and none exited the industry, during the period reviewed.³¹ Two significant domestic producers, Weldbend and Tube-Line,³² became predominantly integrated producers during the period reviewed, having shifted from conversion operations to internal production of the majority of unfinished fittings they use in finishing operations.³³ Weldbend's manufacturing facilities are said to be the most modern in the industry, making

²⁷ In the preliminary investigations, we also examined whether Weldbend was a related party. The record contained no evidence that Weldbend maintained a corporate affiliation with an importer or exporter of subject merchandise, directly imported subject merchandise, or purchased significant amounts of subject merchandise; therefore, we did not find that Weldbend was a related party. USITC Pub. 2767 at I-9-10. As no contrary information exists in these final investigations, we reaffirm the conclusion we reached in the preliminary investigations. The data collected from importers belies Petitioner's argument that information "withheld" by Weldbend, as discussed below in Section II, might demonstrate that Weldbend is a "related party" in these investigations. Petitioner's Post-Hearing Brief at A-51. Abundant record evidence, including first-hand observations of Commission staff, confirms that Weldbend operates an integrated manufacturing facility, producing a substantial majority of the unfinished fittings it finishes. This stands in contrast to its position principally as a converter dependent on low-cost, unfinished imported fittings during previous investigations. Compare CR at I-15 n.26, I-24-26; PR at II-11 n.26, II-16-17 with USITC Pub. 2528 at 15-16. Weldbend's purchases of imported subject fittings accounted for [* * *] of its production of finished fittings in 1993. See CR at I-24-26; PR at II-16-17.

²⁸ 19 U.S.C. § 1677(7)(C)(iii).

²⁹ Id.

³⁰ See Petition at 70.

³¹ CR at I-20; PR at II-14.

³² Weldbend is the domestic industry's largest producer, accounting for about one-third of domestic production in 1993. Tube-Line is the industry's [* * *] largest producer, accounting for about [* * *] percent of domestic production in 1993. CR at I-21, Table 2; PR at II-15, Table 2.

³³ CR at I-24-26, Appendix E at E-4 n.3; PR at II-16-17, Appendix E at E-4 n.3.

full use of automated processes.³⁴ Tube-Line's productivity [* * *], apparently as its new operations [* * *], however, it reported [* * *]^{35 36}

Certain carbon steel butt-weld pipe fittings are used primarily in the petrochemical, oil refining, energy generation, construction and shipbuilding industries. Most fittings are used in the initial construction of piping systems in these industries, although there is a smaller market for fittings in the routine maintenance of these facilities. Demand for fittings, therefore, is heavily influenced by construction of new facilities in these industries, particularly within the U.S. petrochemical industry, the single largest consumer. During the period for which data were collected, U.S. consumption of fittings declined, apparently in response to slow activity in the construction of new refineries, and the high cost of complying with environmental regulations, which led to the relocation of refineries and chemical plants overseas.³⁷

Greatly diminished volumes of imports from China and Thailand, two countries that were formerly important sources of supply, is another condition of competition distinctive to this industry.³⁸ Carbon steel butt-weld pipe fittings from these countries are currently subject to antidumping orders. Suspension of liquidation of imports of carbon steel butt-weld pipe fittings from China and Thailand (excluding AST products) occurred in December 1991,³⁹ and final antidumping orders were issued on these products in July 1992.⁴⁰ During the period of these investigations, imports from China and Thailand subject to these outstanding orders were virtually eliminated.⁴¹

³⁴ CR, Appendix E at E-4 n.3; PR, Appendix E at E-4 n.3; see Transcript of the Public Hearing (February 28, 1995) ("Tr.") at 177-178 (Testimony of Giacomo Sozzi, Assistant to the President and Director of Special Operations, Coveco, S.A. (Venezuela))("I can attest to the fact that {Weldbend's} facilities are extremely impressive and everybody in the industry knows that they're doing extremely well and that their new facilities will continue to allow them to improve their situation . . . [T]hey benefit from the greater advantage of the most recent technology.")

³⁵ CR, Appendix E at E-4; PR, Appendix E at E-4; see Letter from [* * *].

³⁶ Further, while the Commission examines the condition of the domestic industry as a whole, United Engineering & Forging v. United States, 779 F. Supp. 1375, 1391 (Ct. Int'l Trade 1991), Chairman Watson notes that particular circumstances within the industry that do not appear to be related to subject imports are affecting industry performance. He finds that the record suggests that [* * *] domestic producers may be [* * *] producers, raising possibilities of economies of scale for producers in this particular industry. See also Staff Notes dated March 1, 1995 (noting that [* * *] domestic producers, with the exception of [* * *] performed better than the rest, indicating the relative importance of economies of scale and automation in the industry).

³⁷ CR at I-18; PR at II-13; Memorandum EC-S-028 (March 20, 1995) at 16.

³⁸ CR at I-16, Table 1; PR at II-12, Table 1. We note, however, that consumption in Table 1 is understated as data for Weldbend, which accounts for approximately one-third of domestic production, are not included.

³⁹ 56 Fed. Reg. 66831 (China) and 66835 (Thailand) (December 26, 1991).

⁴⁰ 57 Fed. Reg. 29702, 29703 (July 6, 1992). See China/Thailand (Final), USITC Pub. 2528 (June 1992).

⁴¹ CR at I-16, Table 1; PR at II-12, Table 1. Imports from China accounted for 29.5 percent of market share in 1991, 0.2 percent in 1992, 0.2 percent in 1993, and 0.1 in interim 1994, based on a U.S. market that excludes Weldbend data. Imports from Thailand (other than AST products) accounted for 5.4 percent of market share in 1991, 0 percent in 1992, 0 percent in 1993, and 0.6 in interim 1994, based on a U.S. market that excludes Weldbend data. Id. Including available Weldbend data, imports for China accounted for 26.4 percent of market share in 1991 and 0.1 percent in 1993; imports from Thailand (other than AST products) accounted for 4.8 percent of market share in 1991 and 0 percent in 1993. CR at I-93; PR at II-50.

Another relevant condition of competition is that lists of "approved" carbon steel butt-weld pipe fitting manufacturers are maintained by some industrial end-users.⁴² While virtually all carbon steel butt-weld pipe fittings sold in the United States meet American Society of Testing and Materials ("ASTM") and the American National Standards Institute ("ANSI") standards, certain members of the petrochemical industry, i.e., "approving" end-users, require that any producer wishing to sell to them must submit to periodic audits of quality control procedures to insure that product will consistently meet the standard specifications.⁴³ One end-user, Exxon, publishes a list of approved manufacturers that appears to have particular significance throughout the market. That is, purchasers other than Exxon look to this list in making purchasing decisions and do not purchase product not made by Exxon-approved manufacturers.⁴⁴

Finally, it is important to recognize that Weldbend Corporation, the domestic industry's largest producer, accounting for about one-third of domestic production, did not provide comprehensive, quantified responses to the Commission's questionnaires. Weldbend provided questionnaire responses in the prior carbon steel butt-weld investigations that covered some of the period reviewed in these final investigations. In addition to submitting some limited information in the preliminary investigations, Weldbend provided additional unquantified, descriptive information in these final investigations.⁴⁵

Weldbend [* * *] its production and capacity over the period reviewed.⁴⁶ Weldbend reports that it is [* * *] both on its overall operations and its butt-weld pipe fittings operations, and that it did better each year of the period reviewed.⁴⁷ Unlike during the China/Thailand investigations, Weldbend is not importing or purchasing large quantities of unfinished subject imports.⁴⁸ Weldbend recognized that an affirmative Commission determination would lead to imposition of dumping duties, and less competition from foreign producers.⁴⁹ In addition, Weldbend indicated that [* * *].⁵⁰ Based on these circumstances, it appears that Weldbend would benefit from antidumping and countervailing duty orders on subject imports.

Nonetheless, Weldbend did not join the five petitioning companies in support of the petition,⁵¹ and indicated that it was neither injured, nor threatened with injury, by subject imports.⁵² In response, Petitioner has argued that the Commission should either ignore

⁴² Petitioner estimates that perhaps [* * *] percent of domestic demand derives from AML end-users. Petitioner's Posthearing Brief at A-5.

⁴³ CR at I-36; PR at II-21.

⁴⁴ CR at I-64 and n.83; PR at II-36 and n.83; see Petitioner's Posthearing Brief at A-24 ("[S]ome end-users may use or refer to a particular AML, such as Exxon's"); Tr. at 33.

⁴⁵ See CR, Appendix G; PR, Appendix G.

⁴⁶ See CR, Appendix G; PR, Appendix G.

⁴⁷ See CR, Appendix G; PR, Appendix G.

⁴⁸ Weldbend produces a great majority of the roughs it finishes. CR at I-25; PR at II-17.

⁴⁹ See Staff Notes (Telephone Conversation with James Coulas, Sr. on February 17, 1995).

⁵⁰ See id.

⁵¹ See CR, Appendix G, at G-11; PR, Appendix G, at G-7 (Letter from Weldbend dated January 5, 1995: "In closing, let me say again, we do not ask for any assistance from the Commission, and we do not wish to participate in any of the investigations of imported fittings. We just want to be left alone to carry on our own business."); see also French Respondents' Postconference Brief at Tab 18, Weldbend News Release at 2.

⁵² CR, Appendix G at G-8; PR, Appendix G at G-6; Weldbend's Producer Questionnaire Response from preliminary investigations.

Weldbend's "self-serving statements" and rely instead on the information provided by the remainder of the domestic industry or, in the alternative, draw inferences "adverse to Weldbend's interests in this proceeding."⁵³

In the preliminary, and in these final, investigations, Weldbend stated that it does not possess the requested information on its production of carbon steel butt-weld pipe fittings. We have carefully considered the effect of this failure to provide data.⁵⁴ As Weldbend is a domestic producer who, based on the record, would likely benefit from a finding of material injury or threat of material injury, and from the resulting assessment of duties on subject imports, its statements that it is not injured or threatened with material injury contradict the notion that its failure to provide data is self-serving or manipulative. There is no evidence of record to suggest that Weldbend would directly benefit from a negative determination, or that it would benefit more from a negative determination than an affirmative one. Indeed, Weldbend has provided information that could be viewed as "statements against interest." Thus, this is not a situation where "adverse inferences" would be appropriate.⁵⁵ Therefore, in analyzing the condition of the domestic industry, and in determining that the domestic industry is not materially injured or threatened with material injury, we have decided to consider the available information and data regarding Weldbend's performance, along with other record evidence, as "the best information available."⁵⁶

Consumption of carbon steel butt-weld pipe fittings declined considerably, by volume and value, between 1991 and 1992, held constant at the lower level between 1992 and 1993, and increased in interim 1994 relative to interim 1993.⁵⁷ ⁵⁸ When available data from

⁵³ Tr. at 78-83; see Petitioner's Posthearing Brief at 2-3. We note, however, that no party, including Petitioner, identifies precisely what it believes Weldbend's interests are and what specific inferences would be adverse to those interests. We note, however, that were we to draw adverse inferences against Weldbend, a domestic producer, those inferences would necessarily be adverse to the domestic industry.

⁵⁴ Commission staff investigated this reported lack of responsive data by touring Weldbend's operations and through frequent conversations with Weldbend's president and counsel. See CR, Appendix G, passim; PR, Appendix G, passim.

⁵⁵ The adverse inference rule provides that "when a party has relevant evidence within his control which he fails to produce, that failure gives rise to an inference that the evidence is unfavorable to him." Alberta Pork Producers' Marketing Bd. v. United States, 669 F. Supp. 445, 459 (Ct. Int'l Trade 1987) (quoting International Union (UAW), v. N.L.R.B., 459 F.2d 1329, 1336 (D.C. Cir. 1972) and citing 2 J. Wigmore, Evidence § 285 (3d Ed. 1940)). The adverse inferences rule has its basis in the "best information available" provision of the statute which requires that in making its determination, the Commission ". . . shall, whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, use the best information otherwise available." 19 U.S.C. § 1677e(c); see also Atlantic Sugar, Ltd. v. United States, 744 F.2d 1556, 1559-60 (Fed. Cir. 1984); 19 C.F.R. § 207.8. The discretion whether to draw adverse inferences lies with the Commission. E.g., Alberta Pork, 669 F. Supp. at 459. Since Weldbend does not have the requested information within its control, and is therefore unable to produce the information, we decline to draw adverse inferences, but instead rely on the "best information available."

⁵⁶ Besides Weldbend, data for two producers, [* * *], are not included in the summary of data for the domestic industry. See CR at I-21, Table 2; PR at II-15, Table 2.

⁵⁷ In 1991, U.S. consumption was 91.8 million pounds; in 1992, 73.6 million pounds; and in 1993, 73.6 million pounds. In interim 1994, U.S. consumption was 63.3 million pounds, as compared to 55.7 million pounds for interim 1993. Thus, from 1991 to 1992, apparent consumption declined 19.9 percent by volume, and from 1992 to 1993, consumption increased less than 0.05 percent,

(continued...)

Weldbend are included, for 1991 and 1993, consumption declines appear less marked between 1991 and 1993.⁵⁷

Domestic production increased between 1991 and 1993, and in interim 1994 as compared to interim 1993.⁶⁰ However, when available information about Weldbend is considered, domestic production increased even further over the period reviewed.⁶¹

Capacity to produce finished carbon steel butt-weld pipe fittings, excluding Weldbend data, remained relatively stable from 1991 to 1993, as well as in interim 1994, compared to interim 1993.⁶² Capacity data including Weldbend are not available. However, if available information about Weldbend is considered, overall capacity increased over the period reviewed.⁶³

The domestic industry's rate of capacity utilization increased slightly over the period reviewed, as well as in interim 1994 as compared to interim 1993.⁶⁴ Capacity utilization data including Weldbend are not available. However, the record suggests that if available information about Weldbend is considered, capacity utilization for the industry remained stable or increased over the period reviewed.⁶⁵

⁵⁷ (...continued)

excluding Weldbend data. Apparent consumption increased 13.7 percent by volume in interim 1994, as compared to interim 1993. In 1991, U.S. consumption by value was approximately \$78.8 million; in 1992, \$65.7 million; and in 1993, \$64 million. In interim 1994, U.S. consumption by value was approximately \$53.9 million, as compared to \$48.8 million for interim 1993. By value, U.S. consumption declined 16.6 percent from 1991 to 1992, and 2.7 percent from 1992 to 1993. CR at I-16, Table 1; PR at II-12, Table 1.

⁵⁸ We note that in these final investigations, the interim period is nine months, January through September 1994. The petition was filed on February 28, 1994.

⁵⁹ CR at I-16, Table 1; PR at II-12, Table 1. Apparent consumption was 102.7 million pounds in 1991, and 92.9 million pounds in 1993, including available Weldbend data. CR at I-17; PR at II-13.

⁶⁰ Domestic production, excluding Weldbend, increased 12.8 percent from 1991 to 1992, but declined 2.3 percent from 1992 to 1993. In interim 1994, production increased 13.5 percent, as compared to interim 1993. Production rose from about 45 million pounds in 1991 to 50.7 million pounds in 1992, but decreased to 49.6 million pounds in 1993. In interim 1994, production increased to 43.7 million pounds from 38.5 million pounds in interim 1993. CR at I-38, Table 4; PR at II-22, Table 4.

⁶¹ See CR at I-17 and n.28; PR at II-11 and n.28. Domestic production including Weldbend increased 14.9 percent between 1991 and 1993, from 63.5 million pounds in 1991 to 73.0 million pounds in 1993.

⁶² In quantity terms, capacity decreased slightly from 87.9 million pounds in 1991, to 87.6 million pounds in 1992, and held steady at about 87.5 million pounds in 1993. In interim 1994, capacity held constant at 65.8 million pounds, as compared to interim 1993. CR at I-38, Table 4, PR at II-22, Table 4.

⁶³ See, e.g., CR at I-39, Appendix G, at G-5; PR at II-23, Appendix G, at G-5.

⁶⁴ Capacity utilization increased from 51.1 percent in 1991 to 57.9 percent in 1992, then dipped to 56.6 percent in 1993. The capacity utilization rate thus increased by 5.5 percentage points from 1991 to 1993. Capacity utilization increased 7.9 percentage points in interim 1994, as compared to interim 1993, to 66.4 percent in interim 1994, from 58.5 percent for interim 1993. CR at I-38, Table 4; PR at II-22, Table 4.

⁶⁵ See, e.g., CR at I-38, Table 4, Appendix G; PR at II-22, Table 4, Appendix G (regarding Weldbend's [* * *]).

The domestic industry's U.S. shipments increased both by value, and to a greater extent, by quantity, over the period reviewed.⁶⁶ When measured by quantity, U.S. shipments accounted for a much greater share of consumption than total subject imports in 1991, 1992, and 1993, and in interim 1994 as compared to interim 1993.⁶⁷ When measured by value, U.S. shipments garnered an even larger share of consumption in every year reviewed.⁶⁸ When Weldbend's data are added for 1991 and 1993, U.S. shipments by quantity account for an even larger percentage of consumption.⁶⁹ Data for U.S. shipments by value including Weldbend data are not available.

Domestic end-of-period inventories rose considerably between 1991 and 1992, but leveled off in 1993.⁷⁰ Employment indicators, including the number of production workers, hours worked, total compensation and hourly total compensation all increased from 1991 through 1993.⁷¹

The domestic industry's financial performance fluctuated during the period reviewed. Net sales figures showed uniformly positive trends for the industry, excluding Weldbend data, which was not available. Net sales by volume and value increased every year over the

⁶⁶ U.S. shipments were 43.5 million pounds in 1991, 49.3 million pounds in 1992, and 49.5 million pounds in 1993. In interim 1994, U.S. shipments were 42.1 million pounds, as compared to 38.2 million pounds for interim 1993. Thus, U.S. shipments by volume increased by 13.4 percent from 1991 to 1992, and by 0.3 percent from 1992 to 1993. U.S. shipments by volume increased 10.2 percent in interim 1994, as compared to interim 1993. CR at I-16, Table 1; PR at II-12, Table 1.

U.S. shipments by value were \$45.3 million in 1991; \$47.5 million in 1992; and \$46.7 million in 1993. In interim 1994, U.S. shipments by value were \$37.7 million, as compared to \$36.1 million for interim 1993. Thus, U.S. shipments by value increased by 4.8 percent from 1991 to 1992, but declined slightly by 1.5 percent from 1992 to 1993. In interim 1994, U.S. shipments by value increased 4.4 percent, as compared to interim 1993. CR at I-16, Table 1; PR at II-12, Table 1.

⁶⁷ U.S. shipments by volume accounted for 47.4 percent of apparent consumption in 1991, then increased to 67.1 percent in 1992, and held stable at 67.2 percent in 1993. In interim 1994, U.S. shipments by volume account for 66.5 percent of apparent consumption, as compared to 68.6 percent for interim 1993. CR at I-91, Table 21; PR at II-48, Table 21.

⁶⁸ U.S. shipments by value accounted for 57.5 percent of apparent consumption in 1991, then increased to 72.3 percent in 1992, and held stable at 73.1 percent in 1993. In interim 1994, U.S. shipments by value accounted for 69.9 percent of apparent consumption, as compared to 74 percent for interim 1993. CR at I-91, Table 21; PR at II-48, Table 21.

⁶⁹ When Weldbend's data are added for 1991 and 1993, U.S. shipments by quantity account for 53.0 percent of apparent consumption in 1991 and 74.0 percent in 1993, an increase of 21 percentage points. CR at I-93; PR at II-50.

⁷⁰ Domestic end-of-period inventories rose from 5.3 million pounds in 1991 to 6.6 million pounds in 1992, holding steady at 6.6 million pounds in 1993. In interim 1994, inventories rose to 8.1 million pounds, as compared to 6.9 million pounds for interim 1993. Inventories thus increased by 24.4 percent from 1991 to 1992, but declined slightly by 0.3 percent from 1992 to 1993. Inventories increased 17.4 percent in interim 1994, as compared to interim 1993. CR at I-44, Table 6; PR at II-25-26, Table 6.

⁷¹ CR at I-46, Table 7; PR at II-26, Table 7. Total compensation increased by 13.0 percent from 1991 to 1992, but declined 3.0 percent from 1992 to 1993. Id.

period reviewed, and in interim 1994 as compared to 1993.⁷² There is no reason to suspect that these trends would have been different had Weldbend's data been included.⁷³

Cost of goods sold for the industry as a whole increased over the period reviewed.⁷⁴ Capital expenditures increased markedly between 1991 and 1992, and again, to a lesser degree, between 1992 and 1993. Interim 1994 showed a decrease as compared to capital expenditures for interim 1993.⁷⁵

Operating income on operations producing certain carbon steel butt-weld pipe fittings declined significantly between 1991 and 1992, recovering somewhat between 1992 and 1993, but still did not approach 1991 levels. The improvement continued in interim 1994, as compared to interim 1993.⁷⁶ The increase in cost of goods sold and capital expenditures, and the decline in overall domestic operating income is due, in large part, [* * *].^{77 78}

⁷² Net sales by value increased over the period were \$46.4 million in 1991; \$48.8 million in 1992; \$49.1 million in 1993, and \$39.3 million in interim 1994. Net sales by value thus increased 5.1 percent from 1991 to 1992, and by 0.8 percent from 1992 to 1993. In interim 1994, net sales by value increased 4.1 percent as compared to interim 1993. Net sales by volume were about 45 million pounds in 1991; 51 million pounds in 1992; 52.4 million pounds in 1993. Net sales by volume were 44 million pounds in interim 1994, as compared to 40.2 million pounds for interim 1993. Net sales by volume thus increased 13.4 percent from 1991 to 1992, and by a smaller amount, 2.7 percent, from 1992 to 1993. In interim 1994, net sales by volume increased 9.4 percent as compared to interim 1993. CR at I-51, Table 9; PR at II-30, Table 9.

⁷³ See CR, Appendix G; PR, Appendix G (regarding Weldbend's reported financial performance).

⁷⁴ Cost of goods sold increased from \$39.1 million in 1991, to \$43.4 million in 1992, and held steady at \$43.3 million in 1993. In interim 1994, the cost of goods sold was about \$34.0 million, as compared to \$33.1 million for interim 1993. Thus, cost of goods sold increased by 10.7 percent from 1991 to 1992, and declined slightly by .1 percent between 1992 and 1993. Cost of goods sold increased about 2.9 percent in interim 1993 as compared to interim 1993. The ratio of cost of goods sold to sales increased by 4.5 percentage points from 1991 to 1992, declined very slightly, by 0.8 percentage points, from 1992 to 1993, and then again in interim 1994 by 1.0 percentage points as compared to interim 1993. CR at I-51, Table 9; PR at II-30, Table 9.

⁷⁵ Excluding data for Weldbend, which were not available, capital expenditures were \$778,000 in 1991 [* * *], \$890,000 in 1992 and \$977 million in 1993. Capital expenditures were \$697,000 in interim 1994, as compared to \$735,000 for interim 1993. CR at I-58, Table 12; PR at II-34, Table 12.

⁷⁶ The domestic industry's operating income, excluding Weldbend data, was \$2.2 million in 1991; a loss of \$543,000 in 1992; and a loss of \$135,000 in 1993. Operating income was \$221,000 in interim 1994, as compared to a loss of \$55,000 for interim 1993. Thus, operating income decreased significantly by 125 percent from 1991 to 1992, but increased thereafter, by about 75 percent in 1993, and by 502 percent in interim 1994 as compared to interim 1993. The ratio of operating income to net sales decreased by 5.8 percentage points from 1991 to 1992, but increased very slightly, by 0.8 percentage points, from 1992 to 1993, and by 0.7 percentage points in interim 1994, as compared to interim 1993. CR at I-51, Table 9; PR at II-30, Table 9.

⁷⁷ See Letter from [* * *].

⁷⁸ Commissioners Rohr and Newquist determine that the domestic industry is not currently experiencing material injury. They do not join the remainder of this opinion. See, below, the Separate Views of Commissioner David B. Rohr and the Separate Views of Commissioner Don E. Newquist.

III. CUMULATION⁷⁹

In determining whether there is material injury by reason of LTFV and subsidized imports, the Commission is required to assess cumulatively the volume and price effects of imports from two or more countries of articles subject to investigation if such imports compete with one another and with the domestic like product in the United States market.⁸⁰ Cumulation is not required, however, when imports from a subject country are negligible and have no discernible adverse impact on the domestic industry.⁸¹

We first examine whether there is reasonable overlap of competition between the domestic and imported products and among the subject imported products. We then address the application of the negligible imports exceptions to these investigations, including the U.S.-Israel Free Trade Area Agreement provision under section 771(7)(C)(v) of the Act.⁸²

A. Competition Among the Imports and Between the Imports and the Like Product

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

- (1) the degree of fungibility between imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution of imports from different countries and the domestic like product; and
- (4) whether the imports are simultaneously present in the market.⁸³

While no single factor is determinative, and the list of factors is not exclusive, these factors provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product.⁸⁴ Only a "reasonable overlap" of competition is required.⁸⁵

In these investigations, only the first of these four factors has been disputed by the parties. As to the remaining three factors, the record indicates that subject imports and the domestic product are generally sold nationwide, are distributed and marketed in a similar

⁷⁹ Vice Chairman Nuzum determines that there is a reasonable overlap of competition between the domestic product and the subject imports, and among all subject imports. For the purposes of her present injury determinations, she cumulated all subject imports. See her Separate Views, below.

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

⁸¹ 19 U.S.C. § 1677(7)(C)(v).

⁸² Id.

⁸³ 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) at 8 n.29, aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

⁸⁴ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁸⁵ See, e.g., United States Steel Group v. United States, Slip op. 94-201 (Ct. Int'l Trade Dec. 30, 1994).

fashion (primarily by sale to distributors for resale to end-users) and were sold throughout the period reviewed.⁸⁶

We have analyzed the substitutability of subject imports and the domestic like product, and among the subject imports, to determine the level of competition as required by the statute. The record indicates that the domestic product is "comparable" to subject imports.⁸⁷ Virtually all certain carbon steel butt-weld pipe fittings sold in the United States, whether domestically-produced or imported, conform to standards set by the ASTM and ANSI and can be used interchangeably in many applications.⁸⁸ In addition, domestic producers sell to purchasers for whom approval is important (*i.e.*, to distributors who supply product to end-users who maintain approved manufacturer lists), as well as to those who do not require approval.⁸⁹ Thus, the domestic industry competes with both "approved" and "unapproved" foreign producers. Although competition is limited by certain non-price factors, including end-user approval, order lead times, minimum order sizes and other terms of sale, we find there is a reasonable overlap of competition between subject imports and the domestic like product.

However, because we find that subject imports from certain countries do not compete with each other, we do not cumulate imports from all subject countries. The most important factor we find limiting competition among imports is that some of the subject imports are produced by "approved" manufacturers, while others are not.⁹⁰ The record indicates that French finished fittings are sold almost exclusively to purchasers for whom approval is important, that is, to distributors who sell to approving end-users.⁹¹ British and Thai fittings are sold to both approving and non-approving end-users.⁹² Imports from India, Israel, Malaysia, Korea, and Venezuela are not known to be sold to approving purchasers.⁹³

⁸⁶ See CR at I-22-23, I-34-35; PR at II-16, II-19-21; Memorandum EC-S-028 (March 20, 1995) at 7; official statistics of the U.S. Department of Commerce, by month, for 1991, 1992, 1993 and 1994; Memorandum INV-S-035 (March 17, 1995).

⁸⁷ See CR at I-103; PR at II-54.

⁸⁸ See CR at I-10-11 and n.19, I-96; PR at II-8-10 and n.19, II-51-52.

⁸⁹ See CR at I-96 and n.129; PR at II-51-52 and n.129 (Weldbend reportedly sells mainly to the mechanical market and is not on the Exxon AML); I-97-98; PR at II-51-52; Petitioner's Prehearing Brief at 10; Tr. at 34-36 (Testimony of Thomas Radley, General Manager, Ladish) ("The pipe fitting, itself, is exactly the same whether it is sold to Exxon or to Joe Smith's Mechanical Contracting Company . . . We sell [pipe fittings] to distributors who, in turn, sell it to end users for use in every butt-weld fittings application [T]he mechanical contractor could care less that Ladish is on Exxon's AML")

⁹⁰ In addition, the record indicates some differences or perceived differences in quality among subject imports. CR at I-103; PR at II-55.

⁹¹ CR at I-36; PR at II-21; French Respondents' Prehearing Brief at 1. Sales of unfinished, non-approved fittings accounted for about [* * *] percent of all subject French imports during the period reviewed. CR at I-89; PR at II-47.

⁹² CR at I-36-37; PR at II-21-22. The record indicates that a significant portion of British finished fittings are sold to the "approved market." CR, Appendix F at F-9; PR, Appendix F at F-3. During part of the period reviewed AST (Thailand) was on the Exxon-approved list, and sold fittings to purchasers to whom approval was important. CR at I-64; PR at II-36. AST was removed from the Exxon list in late 1992 until March 1994, but remained on other approved manufacturer lists ("AMLs") during the period reviewed. AST's Posthearing Brief, Answers to Staff Questions, at 3.

⁹³ CR at I-96-97; PR at II-51-52.

While all imports generally conform to standard specifications, and therefore may be physically interchangeable for some applications, fittings from approved sources are used in petrochemical and refinery applications, whereas fittings from non-approved sources are more likely to be used in "low-pressure" and mechanical applications.⁹⁴ While fittings from approved sources can also be used in mechanical applications, fittings from non-approved sources are not likely to be purchased by end-users who rely on approved manufacturer lists ("AMLs").⁹⁵ Thus, the existence of AMLs, particularly the Exxon list, substantially limits the substitutability of certain imports.

In addition, there is some evidence of a price premium for product from approved sources.⁹⁶ Finally, distributors of imported product for whom approval is important tend to segregate inventories, while distributors who sell to non-approving purchasers and end-users are likely to commingle imports from various countries.⁹⁷

We find that there is not a reasonable overlap of competition between imports from France and imports from India, Israel, Malaysia, Korea, and Venezuela. There is a reasonable overlap of competition, however, among French, British and Thai subject imports as all compete to some extent for sales to purchasers for whom approval is important. In addition, we find a reasonable overlap of competition among British, Thai, Indian, Israeli, Malaysian, Korean, and Venezuelan imports as all compete for sales to non-approving purchasers.

B. Negligible Imports Issues

The Act provides that the Commission is not required to cumulate in any case in which it determines that imports of the merchandise subject to investigation "are negligible and have no discernable adverse impact on the domestic industry."⁹⁸ In determining whether imports are negligible, the Act directs the Commission to consider all relevant economic factors, including whether:

- (I) the volume and market share of the imports are negligible,
- (II) sales transactions involving the imports are isolated and sporadic, and
- (III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.⁹⁹

⁹⁴ CR at I-97-98; PR at II-51-52.

⁹⁵ CR at I-98; PR at II-51-52. See French Respondents' Prehearing Brief at 6; AST's Prehearing Brief at 7-8 ("Indeed, there is evidence which indicates that these [approving] end-users vigorously enforce their requirements for AML listing.")(citing to Exxon's audit of AML suppliers for compliance with ANSI specifications). There is no evidence in the record that approving end-users have actually purchased finished fittings from non-approved sources. In fact, the record indicates that purchasers (whether distributors or end-users) for whom approval is important would not substitute non-approved manufacturers' fittings for approved manufacturers' fittings. See CR at I-64; PR at II-36 (purchasers switched from one source that was no longer on the Exxon list, to an Exxon-approved source).

⁹⁶ CR at I-97 n.133; PR at II-52 n.133.

⁹⁷ CR at I-37, I-60 and n.79; PR at II-21, II-35 and n.79.

⁹⁸ 19 U.S.C. § 1677(7)(C)(v).

⁹⁹ 19 U.S.C. § 1677(7)(C)(v). The negligible imports exception is to be applied narrowly and is not to be used to subvert the purpose and general applicability of the mandatory cumulation provision of the statute. See H.R. Rep. No. 40, Part I, 100th Cong., 1st Sess. 131 (1987); H.R. Rep. No. 576, 100th Cong., 2d Sess. 621 (1988).

Petitioner has argued that imports from all eight countries should be cumulated in these investigations, and that the negligibility exceptions do not apply, as fittings are "essentially commodity products" and that the market is price-sensitive.¹⁰⁰ We note, however, as discussed in Section IV, below, that certain non-price factors, such as end-user approval, product availability, delivery lead times, and after-sale service, differentiate subject imports and the domestic like product, and reduce the degree of direct price competition. Therefore, we find that the carbon steel butt-weld pipe fittings market in the United States is not particularly price sensitive.¹⁰¹ Even if we were to accept Petitioner's arguments, however, we have determined that the volumes and market shares of imports from certain countries, while not isolated or sporadic, are so small as to have no discernable adverse impact on the domestic industry.

Korea's market share was near zero in 1991, 0.6 percent in 1992, and 0.8 percent in 1993, excluding Weldbend data. In interim 1994, Korea's share was near zero.¹⁰² When Weldbend data are included, Korea's market share was less than 0.05 percent in 1991 and 0.6 percent in 1993.¹⁰³

India's market share was at or below 1 percent in 1991 and 1993, while its market share was 1.7 percent in 1992, excluding Weldbend data. In interim 1994, India's share was 0.7 percent.¹⁰⁴ When Weldbend data are included, India's market share was 0.8 percent in 1991 and 0.7 percent in 1993.¹⁰⁵

Venezuela's market share was 1.2 percent in 1991, 1.6 percent in 1992 and .9 percent in 1993.¹⁰⁶ In interim 1994, Venezuela's share was 0 percent.¹⁰⁷ When Weldbend

¹⁰⁰ Prehearing Brief at 16, 24.

¹⁰¹ Commissioner Crawford determines the price sensitivity of the market by examining four aspects of the domestic industry: (1) the overall sensitivity of demand to changes in the price of the product; (2) the responsiveness of domestic supply to changes in market price; (3) the availability of nonsubject imports; and (4) the aggregate substitutability of the subject imports for the domestic like product. Because of the limited existence and availability of substitute products and the low component cost of carbon steel butt-weld pipe fittings, the quantity of fittings demanded will not change significantly with changes in the price level of carbon steel butt-weld pipe fittings. This factor can point to price sensitivity if, for example, the domestic industry is operating at full capacity and the like products are highly substitutable. The domestic carbon steel butt-weld pipe fittings industry, however, has operated over the period of investigation at low levels of capacity utilization and has substantial unused capacity. Large unused capacity causes the domestic industry to react to changes in market conditions by changing production levels, rather than changing prices. Also, as will be discussed below, several non-price factors considered in purchase decisions reduce the level of substitutability among subject imports and the domestic like product. Therefore, small quantities of imports cannot have the effect of depressing prices or suppressing a desired price increase by the domestic industry.

¹⁰² CR at I-91, Table 21; PR at II-48, Table 21. The interim period includes January-September 1994.

¹⁰³ CR at I-93; PR at II-50.

¹⁰⁴ CR at I-91, Table 21; PR at II-48, Table 21.

¹⁰⁵ CR at I-93; PR at II-50. Note that figures for India required some adjustment. See Notes to Table 21, CR I-91; PR at II-48-49.

¹⁰⁶ CR at I-91, Table 21; PR at II-48, Table 21.

¹⁰⁷ CR at I-91, Table 21; PR at II-48, Table 21.

data are included, Venezuela's shares decline to 1.1 percent in 1991 and 0.7 percent in 1993.^{108 109}

Accordingly, in these final investigations, we determine that subject imports from India, Korea and Venezuela are negligible.

C. U.S.-Israel Free Trade Agreement Exception

As amended by the 1988 Omnibus Trade and Competitiveness Act, the Act contains a special provision for determining whether imports from Israel should be subject to the statute's cumulation requirements. Specifically, section 771(7)(C)(v) of the Act provides that, for the purposes of the negligible imports clause for material injury determinations:

the Commission may treat as negligible and having no discernable adverse impact on the domestic industry imports that are the product of any country that is a party to a free trade area agreement with the United States which entered into force and effect before January 1, 1987, if the Commission determines that the domestic industry is not being materially injured by reason of such imports.¹¹⁰

Israel is the only country to which this clause is applicable.

There are two aspects of the Israel exception that are plain from the statutory language: (1) in deciding whether to cumulate imports from Israel, the Commission must make an independent injury determination with respect to those imports; and (2) if the Commission makes a negative injury determination with respect to these imports, the decision whether to cumulate is discretionary with the Commission.

We find the volume of subject imports from Israel is not significant, even though imports from Israel increased from 295,000 pounds in 1991 to nearly 1.2 million pounds in 1993.¹¹¹ Israel's market share was 0.3 percent in 1991, 1.1 percent in 1992 and 1.6 percent in 1993, excluding Weldbend data. In interim 1994, Israel's share was 1.4 percent.¹¹² However, Israel's share was 0.3 percent in 1991 and 1.3 percent in 1993, when Weldbend data are included.¹¹³ At the same time, domestic market share by volume was 47.4 percent in 1991; 67.1 percent in 1992; 67.2 percent in 1993; and 66.5 percent in interim 1994, as compared to 68.6 percent in interim 1993, excluding Weldbend data.¹¹⁴ Domestic market share was 53.0 percent in 1991, and 74.0 percent in 1993, however, when available

¹⁰⁸ CR at I-93; PR at II-50. We do not agree with Venezuelan respondents' contention, however, that its sales were "isolated." While a majority of Venezuelan imports may enter the United States in the Gulf Region, many distributors and end-users are located in that region, and sales are nationwide. See CR at I-18, I-22 and n.35, I-23 n.39; I-27, I-34; PR at II-13, II-16 and nn.35 and 39, II-17, II-19.

¹⁰⁹ Chairman Watson, in applying the statutory test to determine negligibility, based his finding upon the market share data that included Weldbend.

¹¹⁰ 19 U.S.C. § 1677(7)(C)(v).

¹¹¹ CR at I-83, Table 20; PR at II-43, Table 20.

¹¹² CR at I-91, Table 21; PR at II-48, Table 21.

¹¹³ CR at I-93; PR at II-50.

¹¹⁴ CR at I-91, Table 21; PR at II-48, Table 21.

Weldbend data are included.¹¹⁵ Even if the domestic industry increased its sales by the entire amount of the imports from Israel, domestic sales would not have increased significantly.

Pricing data with respect to imports from Israel do not indicate any significant underselling,¹¹⁶ nor any significant price suppressing or depressing effects.¹¹⁷ Prices fluctuated, and no clear trends are discernable.¹¹⁸ Absent significant volumes or price effects, we decline to find that the domestic industry is materially injured by reason of subject imports from Israel. Accordingly, we have determined to treat imports from Israel as negligible, and do not cumulate these imports with imports from any other subject country.

IV. NO MATERIAL INJURY BY REASON OF LTFV AND SUBSIDIZED IMPORTS¹¹⁹

In final antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of imports subject to investigation that Commerce has determined to be subsidized or sold at LTFV.¹²⁰ In making this determination, the Commission must consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product, but only in the context of U.S. production operations.¹²¹ Although the Commission may consider alternative causes of injury to the domestic industry other than the LTFV or subsidized imports, it is not to weigh causes.^{122 123 124}

¹¹⁵ CR at I-93; PR at II-50.

¹¹⁶ Commissioner Crawford rarely gives much weight to evidence of underselling since it usually reflects some combination of differences in quality, other nonprice factors, or fluctuations in the market during the period in which price comparisons were sought.

¹¹⁷ See the discussion in Section IV, below, regarding the lack of significant price effects from cumulated subject imports and negligible imports. Instances of underselling and overselling were evenly balanced, with significant margins of overselling, as well as significant margins of underselling. See CR at I-131; PR at II-60.

¹¹⁸ CR at I-125-126; PR at II-58-60. Pricing data for Israel imports were reported mostly for the latter part of the period reviewed; however prices were [* * *]. CR at I-106-125; PR at II-57-59; see Memorandum EC-S-028 (March 20, 1995) at 21.

¹¹⁹ Vice Chairman Nuzum does not join this section. See, her Separate Views, below.

¹²⁰ 19 U.S.C. § 1673d(b).

¹²¹ 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

¹²² See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). Alternative causes may include the following:

[T]he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

¹²³ For Chairman Watson's interpretation of the statutory requirement regarding causation, see Certain Calcium Aluminate Cement and Cement Clinker from France, Inv. No. 731-TA-645 (Final), USITC Pub. 2772, at I-14 n.68 (May 1994).

For the reasons discussed below, we determine that the domestic industry producing carbon steel butt-weld pipe fittings is not materially injured by reason of subsidized imports from India and Israel, or LTFV imports from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom or Venezuela.

A. The Volume of Subject Imports

In determining whether the domestic industry is experiencing material injury by reason of the LTFV and subsidized imports, we evaluate the cumulated subject imports from France, Thailand and the United Kingdom (for our determination as to France); the volume of cumulated subject imports from Malaysia, Thailand and the United Kingdom (for our determination as to Malaysia); the volume of cumulated subject imports from France, Malaysia, Thailand and the United Kingdom (for our determinations as to Thailand and the United Kingdom); and the volumes of imports from India, Israel, Korea and Venezuela, individually, for our determinations with respect to those countries.

With respect to each respective country or group of countries considered, the volumes and market shares were small in comparison to domestic shipments and market share, which increased significantly over the period reviewed.¹²⁵ While the rate of increase in the volume of imports from each group of cumulated subject countries was greater than the rate of increase in the domestic industry's shipments between 1991 and 1993, the absolute levels of each group of cumulated imports remained significantly smaller than the levels of U.S. shipments at all times.¹²⁶

In every full year, as well as in the two interim periods examined, the domestic market share was significantly greater than the cumulated market shares; no group of cumulated imports, or imports from any of the countries found to be negligible, held a market share that approached the sizeable domestic market share during the period

¹²⁴ (...continued)

¹²⁴ Commissioner Crawford notes that the statute requires the Commission to determine whether a domestic industry is "materially injured by reason of" the LTFV and subsidized imports. She finds that the clear meaning of the statute is to require a determination of whether the domestic industry is materially injured by reason of LTFV and subsidized imports, not by reason of LTFV imports and subsidized imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently is causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than the less-than-fair-value imports." S. Rep. No. 249, at 75. However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. *Id.* at 74; H.R. Rep. No. 317, 96th Cong., 1st Sess. at 46-47 (1979). The Commission is not to determine if the LTFV and subsidized imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249, at 74. Rather, it is to determine whether any injury "by reason of" the LTFV and subsidized imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added).

¹²⁵ While we discuss volumes and market shares of subject imports below both excluding and including available Weldbend data, we have, to the extent possible, primarily relied on data that included Weldbend's information in making our determinations.

¹²⁶ CR at I-16, Table 1, I-91, Table 21 (excludes Weldbend data); PR at II-12, Table 1, II-48, Table 21; Supplementary Table B (includes Weldbend data), derived from CR at I-16, Table 1, I-17 and n.27; PR at II-12, Table 1, II-11 and n.27 ("Supplementary Table B").

reviewed.¹²⁷ In addition, the percentage growth in domestic market share outstripped the percentage growth in the market shares of each group of cumulated imports. We find it significant that the domestic market share by volume, including Weldbend data, began at a much higher level (53 percent) in 1991 and increased 21 percentage points (to 74 percent) by 1993.¹²⁸ In the same time period, market shares of cumulated imports increased 4.5 percentage points for France, Thailand and the United Kingdom; 4.5 percentage points for Malaysia, Thailand and the United Kingdom; and 5.8 percentage points for France, Malaysia, Thailand and the United Kingdom, to 13.3, 12.8 and 14.8 percent of the market, respectively, by 1993, including Weldbend data.¹²⁹

Moreover, we find that the increases in subject import and domestic market shares between 1991 and 1992 resulted from the rapid decline of imports of Chinese and Thai (non-AST) fittings following suspension of liquidation on those products in 1991. Accordingly, given the facts of record in these investigations, we do not find that the volumes of any of the groups of cumulated subject imports, or of the imports previously determined to be negligible, are significant either in absolute or relative terms.

For the purpose of making our determination with respect to France, we note that the volume of cumulated imports from France, Thailand and the United Kingdom increased over the period reviewed from about 9 million pounds in 1991, to 11.7 million pounds in 1992, to 12.3 million pounds in 1993. In interim 1994, the volume of cumulated imports totaled 9.6 million pounds, an increase of about 131,000 pounds or only 1.4 percent, as compared to interim 1993. The market share of these cumulated imports increased from 9.8 percent in 1991, to 15.9 percent in 1992, to 16.8 percent in 1993, excluding Weldbend data. In interim 1994, market share was 15.2 percent, having declined 1.8 percentage points compared to interim 1993, excluding Weldbend data.¹³⁰ With available Weldbend data included, these imports held only an 8.8 percent market share on a cumulated basis in 1991 and a 13.3 percent share in 1993, indicating an increase of only 4.5 percentage points between 1991 and 1993.¹³¹

For the purpose of making our determination with respect to Malaysia, we note that the volume of cumulated subject imports from Malaysia, Thailand and the United Kingdom increased from 8.6 million pounds in 1991 to 12.7 million pounds in 1992, but declined to 11.9 million pounds in 1993. In interim 1994, these imports totaled 10.1 million pounds, an increase of about 876,000 pounds, as compared to interim 1993. The market share of these cumulated imports increased from 9.3 percent in 1991 to 17.3 percent in 1992, before declining to 16.1 percent in 1993, excluding Weldbend data.¹³² With available Weldbend data included, these imports held an 8.3 percent market share on a cumulated basis in 1991

¹²⁷ CR at I-16, Table 1, I-91, Table 21; PR at II-12, Table 1, II-48, Table 21; Supplementary Table B.

¹²⁸ Supplementary Table B.

¹²⁹ Supplementary Table B. In the same time period, the market share of cumulated subject imports, excluding Weldbend data, from France, Thailand and the United Kingdom increased only 7.0 percentage points; the market share of cumulated imports from Malaysia, Thailand and the United Kingdom increased only 6.8 percentage points; and the market share of cumulated subject imports from France, Malaysia, Thailand and the United Kingdom increased only 8.7 percentage points. CR at I-91, Table 21; PR at II-48, Table 21.

¹³⁰ CR at I-16, Table 1, I-91, Table 21; PR at II-12, Table 1, II-48, Table 21.

¹³¹ Supplementary Table B.

¹³² CR at I-16, Table 1, I-91, Table 21; PR at II-12, Table 1, II-48, Table 21.

and a 12.8 percent share in 1993, indicating an increase of only 4.5 percentage points between 1991 and 1993.¹³³

For the purpose of making our determinations with respect to Thailand and the United Kingdom, we note that the volume of cumulated subject imports from France, Malaysia, Thailand and the United Kingdom increased from 9.2 million pounds in 1991, to 13.2 million pounds in 1992, to 13.8 million pounds in 1993. In interim 1994, these imports totaled about 11 million pounds, a small increase of about 399,000 pounds or 3.8 percent, as compared to interim 1993. The market share of these cumulated imports increased from 10 percent in 1991, to 18 percent in 1992, and again slightly, to 18.7 percent in 1993, excluding Weldbend data.¹³⁴ With available Weldbend data included, these imports held a 9 percent market share on a cumulated basis in 1991 and a 14.8 percent share in 1993, indicating an increase of 5.8 percentage points between 1991 and 1993.¹³⁵

As explained in Section III.B, above, we find that the volumes and markets shares of imports from India, Korea and Venezuela are negligible and have no adverse effect on the domestic industry. Also, as explained above, we have determined to treat imports from Israel as negligible.

B. The Effect of Subject Imports on Domestic Prices

In evaluating the effect of LTFV and subsidized imports on domestic prices, the Commission considers whether there has been significant price underselling by imports and whether the imports depress prices to a significant degree or prevent price increases that otherwise would have occurred, to a significant degree.¹³⁶ We have evaluated the price effects of subject imports for the cumulated groups and the negligible, non-cumulated imports identified above. A number of factors are relevant to our determination of the price effects of subject imports on domestic producers' prices, including the level of substitutability among the domestic and imported products, and the level of competition among domestic producers.

The more substitutable products are, the more likely that potential purchasers will make their relative purchasing decisions based upon price differences between the products. Conversely, where there is a high degree of product differentiation, products are less substitutable, and price is less likely to be a determining factor in purchasing decisions. Several non-price factors reduce the substitutability between domestic and imported carbon steel butt-weld pipe fittings. Domestic and subject imported products are differentiated by factors such as minimum order sizes and other terms of sale, as well as the variety of a supplier's product line (product availability).¹³⁷ In addition, imported fittings generally have a longer delivery time than domestic product.¹³⁸ The record also suggests that domestic producers provide follow-up services to end-users, whereas foreign manufacturers primarily

¹³³ Supplementary Table B.

¹³⁴ CR at I-16, Table 1, I-91, Table 21; PR at II-12, Table 1, II-48, Table 21.

¹³⁵ Supplementary Table B.

¹³⁶ 19 U.S.C. § 1677 (7)(C)(ii).

¹³⁷ CR at I-99; PR at II-53. For example, minimum purchase amounts for all imports is generally a 40-foot container load, which typically contains fittings worth \$25,000 or more, whereas domestic fittings are often sold by producers in much smaller quantities - even as little as a single fitting -- and may even be shipped by expedited delivery services. *Id.*; *see* Staff Notes.

¹³⁸ CR at I-99-100; PR at II-53.

are concerned with selling product.¹³⁹ Indeed, all purchasers responding to our questionnaires indicated that the lowest price would not always win the contract or sale.¹⁴⁰

Overall price comparisons in these investigations showed more underselling than overselling.¹⁴¹ Each of the three groups of cumulated countries in these investigations showed varying degrees of underselling by subject imports.¹⁴² Nonetheless, we find that the importance of non-price factors discussed above diminishes the significance of any underselling.

We also find that subject imports did not suppress or depress domestic fittings' prices to a significant degree. Due to competitive conditions, the domestic industry could not have raised prices even in the absence of subject imports. In fact, the domestic industry increased its market share over the period reviewed by instituting price decreases.¹⁴³ Domestic producers engage in intense price competition, given the general similarity among them regarding order lead times, terms of sale and services.¹⁴⁴

Additionally, the decline in the price of raw material by about 20 percent in the last three years appears to have contributed to a decline in prices for both the domestic and imported products.¹⁴⁵ Similarly, decreased demand in the important oil exploration and production market is likely to have contributed to price declines.

¹³⁹ CR at I-99; PR at II-53.

¹⁴⁰ CR at I-102; PR at II-54.

¹⁴¹ For cumulated subject imports from France, Thailand and the United Kingdom, there were 139 instances of underselling and 34 instances of overselling. For cumulated subject imports from Malaysia, Thailand and the United Kingdom, there were 125 instances of underselling and 36 instances of overselling. For cumulated subject imports from France, Malaysia, Thailand and the United Kingdom, there were 163 instances of underselling and 44 instances of overselling.

With regard to our evaluation of countries whose imports have been determined to be negligible, price comparisons indicated a significant amount of overselling by these imports. For imports from India, there were [* * *] instances of underselling and [* * *] instances of overselling. For imports from Israel, there were [* * *] instances of underselling and [* * *] instances of overselling. For imports from Korea, there were [* * *] instances of underselling and [* * *] instances of overselling. For imports from Venezuela, there was [* * *] instance of underselling and [* * *] instances of overselling. CR at I-131; PR at II-60.

¹⁴² CR at I-128-130, Table 32; PR at II-60, Table 32.

¹⁴³ See Petitioner's Prehearing Brief at 4 ("U.S. manufacturers have put emphasis on maintaining or increasing their volume of production and market share . . . [by] sacrific[ing] remunerative prices."); at 39 ("While U.S. producers were able to increase domestic shipments in the wake of the departure of unfairly traded Chinese and Thai fittings from the U.S. market, this was achieved by sacrificing profitability."); and at 42-43. The record indicates that the domestic industry did far more than merely maintain its market share; rather, domestic market share grew by 21 percent over the period reviewed.

¹⁴⁴ See, generally, CR at I-22-24, I-99-100; PR at II-16, II-53. As competition among the domestic producers is based primarily on price, customers are unlikely to accept unilateral price increases by domestic producers. See Tr. at 54-62, e.g. at 56 (Testimony of Thomas Radley, General Sales Manager, Ladish)("Price competition is strong among us Whether [the imports are] here or not, there would be strong competition for the existing business in this country"); at 59 (Testimony of Jay Zidell, President, Tube Forgings)("[T]he market sets the price for the end users. We don't set the price."); and 60-61 (Testimony of Thomas Radley, General Sales Manager, Ladish)(customers would "rarely" pay a higher price if a lower price was available from a domestic competitor).

¹⁴⁵ CR at I-100; PR at II-53.

Thus, we do not find significant price-suppressing or depressing effects by the cumulated subject imports, or by any imports from India, Israel, Korea or Venezuela.¹⁴⁶

¹⁴⁶ To evaluate the effects of the dumping and subsidization on domestic prices, Commissioner Crawford compares domestic prices that existed when the imports were dumped or subsidized with what domestic prices would have been if the imports had been fairly traded. In most cases, if the subject imports had not been traded unfairly, their prices in the U.S. market would have increased. In these investigations, the dumping margins for the various groups of cumulated imports are relatively low. Prices for the subject imports, nonetheless, would have risen by a significant amount if they had been priced fairly. The ability of domestic producers to have raised prices depends on competitive conditions involving both supply and demand side considerations.

A significant factor in determining what the effects of higher subject import prices would have been on domestic prices is the overall demand elasticity for carbon steel butt-weld pipe fittings in the U.S. market. This elasticity is determined primarily by the share of downstream product cost that the fittings represent and the availability of alternative products. Carbon steel butt-weld pipe fittings account for a small portion of the value of the piping systems in which they are used. When the price of an input is a small part of the cost of the total product cost, changes in the price of the input are less likely to alter demand for the downstream product, and by extension, for the input product. Also, it does not appear that there are any commercially viable alternative products for carbon steel butt-weld pipe fittings. In sum, the fittings market is characterized by a relatively low elasticity of demand. That is, purchasers will not change their consumption as rapidly, in response to changes in price.

Even in a market characterized by a relatively low demand elasticity, the composition of overall demand can be sensitive to the relative prices of the alternative sources of the product, *i.e.*, subject imports, domestic product and nonsubject imports. If subject imports had been fairly priced, they would have become more expensive relative to alternative sources. In such case, there would have been a shift in the composition in demand towards the relatively cheaper products. The magnitude of the shift depends on the substitutability of subject imports for products from alternative sources. As has been discussed, subject imports and the domestic like product are only somewhat good substitutes. The importance of several non-price factors reduces the level of substitutability, as reflected by the fact that purchasers uniformly indicated that the lowest price does not always win the contract or sale. Because they are somewhat good substitutes, some purchasers that were unwilling to pay a higher price for the subject imports would have switched to the relatively less expensive domestic product. Some purchasers also would have switched to relatively less expensive nonsubject imports. A significant and increasing amount of nonsubject imports have been present in the carbon steel butt-weld pipe fittings market over the period of investigation. Purchaser responses indicate that nonsubject imports generally are comparable to the domestic product and subject imports. Therefore, it is likely that at least some of the demand that would have shifted away from the various cumulated groups of subject imports, had they been fairly traded, would have been won by nonsubject imports. Any attempt by domestic producers to increase prices would have shifted more demand towards nonsubject imports.

Whether domestic producers would have been able to increase prices if subject imports had been priced fairly is also affected by supply side considerations, including the amount of available domestic capacity and the level of competition in the market. The domestic industry operated at a low rate of capacity utilization over the period of investigation. It had more than ample unused capacity to fill the demand from any purchasers unwilling to pay higher prices for subject imports. The available data show that the domestic industry consists of a large number of producers that compete with each other for sales to the same customers. A competitive market limits the ability of any one producer to raise prices. This competitive market, along with substantial amounts of unused capacity, would have prevented any member of the domestic industry from issuing a price increase and making it stick. Further competitive discipline would have come from nonsubject imports.

In sum, given the dumping margins for the cumulated imports, the demand elasticity for the U.S. fittings market, and the level of substitutability between subject imports and the domestic product, it is likely that a significant amount of subject imports would still have entered the domestic market

(continued...)

C. Impact on the Domestic Industry

We do not find an adverse impact on the domestic industry by any group of cumulated subject imports, or by those countries whose imports were found to be negligible.

We considered the 21 percentage point increase in domestic market share over the period reviewed, to nearly 75 percent of the market in 1993, to be very significant. We noted the lack of any decline in domestic market share from 1992 to 1993, the last two full years reviewed, excluding Weldbend data. Also, from 1992 to 1993, market shares for two of the groups of cumulated countries showed virtually no increase; as to the remaining group, market share declined, also excluding Weldbend data. While the volume and respective market shares of cumulated imports also increased over the period reviewed, these increases did not displace domestic product. No significant price-suppressing or depressing effects by the subject imports were discerned. Indeed, only one specific lost sales allegation was made and confirmed.

Moreover, Weldbend, the industry's largest producer (accounting for about one-third of total domestic production in 1993), indicated that it was not injured or threatened with material injury by the subject imports, and does not support the petition.¹⁴⁷ Finally, most indicators of the condition of the industry improved over the period reviewed, with the exception of certain financial data. We attribute this, in large part, to the performance of one particular domestic producer, [* * *].¹⁴⁸ [* * *].¹⁴⁹

Accordingly, for the foregoing reasons, we find that the domestic industry is not materially injured by reason of subject imports.¹⁵⁰

¹⁴⁶ (...continued)

even if they had been priced fairly. Price increases, however, would have caused some purchasers to switch their demand away from subject imports. The demand formerly supplied by subject imports would have been satisfied by domestic carbon steel butt-weld pipe fittings and nonsubject imports. Consequently, the price increase that would result if the various cumulated groups of imports had been fairly priced would have caused some purchasers to shift their purchases to domestic fittings, but would not have caused a significant increase in sales of the domestic product. To the extent that demand for domestic fittings would have increased, the relatively inelastic demand for fittings suggest that domestic producers should have been able to increase prices. The supply side factors discussed above, however, would have acted as constraints to such price increases. Thus, even if the various cumulated groups of imports had been fairly priced, the domestic industry would not have able to raise prices significantly. Accordingly, Commissioner Crawford finds that the various groups of cumulated imports did not have significant price effects on the domestic industry. She finds that the same considerations also apply to the countries whose imports have been determined to be negligible. Therefore, she finds that imports from India, Israel, Korea and Venezuela did not have significant price effects on the domestic industry.

¹⁴⁷ See CR, Appendix G, at G-8; PR, Appendix G, at G-6.

¹⁴⁸ Letter from [* * *].

¹⁴⁹ CR, Appendix E at E-4; PR, Appendix E at E-4; see Letter from [* * *]; see CR at I-53-54, Table 10; PR at II-31, Table 10.

¹⁵⁰ In her analysis of material injury by reason of subject imports, Commissioner Crawford evaluates the impact on the domestic industry by comparing the state of the industry when the imports allegedly were dumped and subsidized with what the state of the industry would have been had imports been fairly traded. In assessing the impact of the various cumulated groups of subject imports on the domestic industry, she considers, among other relevant factors, output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital and research and development as required by 19 U.S.C. § 1677(C)(iii). These
(continued...)

V. NO THREAT OF MATERIAL INJURY BY REASON OF LTFV AND SUBSIDIZED IMPORTS

A. Cumulation

In assessing whether a domestic industry is threatened with material injury by reason of imports from two or more countries, the Commission has discretion to cumulate the volume and price effects of such imports if they compete with each other and the domestic like product.¹⁵¹ In addition, the Commission considers whether the imports are increasing at similar rates in the same markets, whether the imports have similar margins of underselling or pricing patterns, and the probability that imports will enter the United States at prices that would have a depressing or suppressing effect on domestic prices of that merchandise.¹⁵²

We have determined to exercise our discretion not to cumulate any of the subject imports in these investigations for a number of reasons. First, as we explained above, we do not find that subject imports from France compete with imports from India, Israel, Korea, Malaysia or Venezuela; thus, the former are not candidates for cumulation with any of the latter.¹⁵³

Second, there is a noticeable lack of uniformity of pricing trends among all the subject countries.¹⁵⁴ Third, volume and market penetration trends vary to some extent among the subject countries.¹⁵⁵ These factors, which render meaningful cumulative analysis difficult

¹⁵⁰ (...continued)

factors either encompass or reflect the volume and price effects of the dumped imports, and so she gauges the impact of the dumping through those effects. In this regard, the impact on the domestic industry's prices and sales is critical, because the impact on other industry indicators (e.g. employment, wages, etc.) is derived from this impact.

As she noted earlier, Commissioner Crawford finds that demand for the domestic product would not have increased significantly had the various groups of cumulated imports been priced fairly. Thus the domestic industry would not have been able to increase significantly either prices or quantity sold. Without such an increase in either price or quantity sold, the domestic industry would not have been able to significantly increase its revenues. Thus, the combination of circumstances in this case -- the supply and demand factors, level of substitutability, and dumping margins noted earlier -- would have prevented the domestic industry from significantly increasing either quantity sold or prices. Without such an increase in sales or prices, the domestic industry would not have been significantly better off if the various groups of cumulated imports had been fairly traded. Accordingly, Commissioner Crawford determines that the domestic industry is not materially injured by reason of the various groups of cumulated imports. She finds that the same considerations also apply to the countries whose imports have been determined to be negligible. Therefore, she determines that the domestic industry is not materially injured by reason of imports from India, Israel, Korea and Venezuela.

¹⁵¹ 19 U.S.C. § 1677(7)(F)(iv).

¹⁵² See Torrington v. United States, 790 F. Supp. 1161, 1172 (Ct. Int'l Trade 1992), aff'd, 991 F.2d 809 (Fed. Cir. 1993); Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (Ct. Int'l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988).

¹⁵³ Vice Chairman Nuzum finds a reasonable overlap of competition among all subject imports. See her Separate Views, below.

¹⁵⁴ CR at I-107-131, Tables 22-32; PR at II-57-60, Tables 22-32.

¹⁵⁵ CR at I-16, Table 1, I-91, Table 21; PR at II-12, Table 1, II-48, Table 21 (excluding Weldbend data); CR at I-93; PR at II-50 (including Weldbend data).

in the context of threat, have been held to constitute a sufficient basis for the Commission to decline to cumulate for a threat analysis.¹⁵⁶

Moreover, the market shares of many of the subject countries were extremely low during the period examined, particularly those imports from India, Israel, Korea and Venezuela.¹⁵⁷ Based in part on these very low market shares, we found that imports from these four countries either had no discernable adverse impact on the domestic industry or were not causing material injury, and applied the negligible imports exceptions to mandatory cumulation. Having found that imports from these countries should not be cumulated for our material injury determinations, we find no evidence in the record which compels us to conclude that these countries should now be cumulated for threat. We find that the existence of negligible imports is a factor weighing against discretionary cumulation for threat analysis.

All these factors lead us to conclude that cumulation for the purposes of threat analysis is inappropriate in these investigations. Accordingly, we make a separate threat determination for each subject country.

B. Threat of Material Injury

Section 771(7)(F) of the Act directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent." The Commission is not to make such a determination "on the basis of mere conjecture or supposition."¹⁵⁸

We have considered all the statutory factors that are relevant to these investigations.¹⁵⁹ The presence or absence of any single factor is not dispositive.¹⁶⁰ In making our determination with respect to the domestic industry as a whole, we find it significant that Weldbend, which accounts for one-third of domestic production, does not consider itself to be threatened with material injury. As discussed above, the record indicates no significant price-suppressing or depressing effects from the subject imports, and there is no evidence in the record that imports entering the United States will have significant price-suppressing or depressing effects in the future. In addition, the generally favorable and improving condition of the domestic industry suggests that actual injury is not imminent. Further, we have noted no other demonstrable adverse trends that indicate the probability that imports, or sales of imports, will cause actual injury.

¹⁵⁶ Asociacion Colombiana de Exportadores de Flores, 704 F. Supp. 1068 at 1072.

¹⁵⁷ CR at I-16, Table 1, I-91, Table 21; PR at II-12, Table 1, II-48, Table 21 (excluding Weldbend data); CR at I-93; PR at II-50 (including Weldbend data).

¹⁵⁸ 19 U.S.C. § 1677(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallwerken Nederland B.V. v. U.S., 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984), aff'd sub nom., Armco, Inc. v. United States, 760 F.2d 249 (Fed. Cir. 1985).

¹⁵⁹ 19 U.S.C. § 1677(F)(i)(I)-(X). In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. 19 U.S.C. § 1677(F)(iii)(I). There is no evidence of any third-country antidumping findings or remedies against subject imports, although the European Union is currently investigating stainless steel and carbon steel butt-weld pipe fittings from Thailand. CR at I-59; PR at II-34. The Commission does not need to analyze factor (IX) because these investigations do not involve imports of agricultural products.

¹⁶⁰ See, e.g., Rhone Poulenc, S.A. v. United States, 592 F. Supp. 1318, 1324 n.18 (Ct. Int'l Trade 1984).

Regarding France, subject imports maintained a stable market share between 1991 and 1992. While import market share increased in 1993, the record suggests that this occurred, in part, as a result of AST being removed from the Exxon approved manufacturer list and French supplying former AST customers.¹⁶¹ Since AST has been placed back on the list, it is likely that French imports will remain stable or decrease as AST regains its customers. Capacity [* * *].¹⁶² Vallourec, the exclusive importer of French subject fittings, ships its imported material directly to customers, and therefore, [* * *] inventory in the United States.¹⁶³

Regarding India, volume and market share of subject imports were negligible over the period reviewed.¹⁶⁴ Inventories, though small, [* * *] in 1992, but [* * *] to 1991 levels in 1993.¹⁶⁵ Capacity [* * *] slightly, but capacity utilization [* * *] from 1991 to 1993. Of the three subsidy programs found to be countervailable, the one found to provide the most benefit to exports from India has been abolished.¹⁶⁶

Regarding Israel, volume and market share of subject imports were negligible over the period reviewed.¹⁶⁷ Israeli imports [* * *] domestic product.¹⁶⁸ The industry in Israel is operating at [* * *] capacity.¹⁶⁹ Of the subsidy programs found to be countervailable, the Government of Israel advised the United States in August 1993 that it had terminated the Exchange Rate Risk Insurance Program.¹⁷⁰ The program is not available for any exports from Israel on or after September 1, 1993.¹⁷¹ Regarding the Encouragement of Capital Investment Law ("ECIL"), the Israeli respondent notes that this program provides regional, domestic, rather than export, subsidies.¹⁷²

Regarding Korea, volume and market share of subject imports were negligible over the period reviewed.¹⁷³ There was a greater degree of overselling than underselling of domestic product.¹⁷⁴ Home-market shipments and exports to third countries are much larger than exports to the United States, and have been increasing over the period reviewed.¹⁷⁵ Haitai America, the main importer of Korean subject fittings, ships its imported material [* * *], and therefore, maintains [* * *] in the United States.¹⁷⁶

¹⁶¹ CR at I-64; PR at II-36.

¹⁶² CR at I-63, Table 14; PR at II-36, Table 14.

¹⁶³ CR at I-60; PR at II-35.

¹⁶⁴ Vice Chairman Nuzum does not find the volume and market share of subject imports from India to be negligible within the meaning of the negligibility exception to cumulation.

¹⁶⁵ CR at I-66, Table 15; PR at II-37, Table 15.

¹⁶⁶ CR at I-6; PR at II-5.

¹⁶⁷ Vice Chairman Nuzum does not find the volume and market share of subject imports from Israel to be negligible within the meaning of the negligibility exception to cumulation.

¹⁶⁸ CR at I-131; PR at II-60.

¹⁶⁹ CR at I-68, Table 16; PR at II-37, Table 16.

¹⁷⁰ CR at I-6; PR at II-5.

¹⁷¹ See Letter from Embassy of Israel dated August 3, 1993.

¹⁷² Israeli Respondent's Prehearing Brief at 18.

¹⁷³ Vice Chairman Nuzum does not find the volume and market share of subject imports from Korea to be negligible within the meaning of the negligibility exception to cumulation.

¹⁷⁴ CR at I-131; PR at II-60.

¹⁷⁵ CR at I-70; PR at II-38.

¹⁷⁶ CR at I-60; PR at II-35.

Regarding Malaysia, its known inventories in the United States are [* * *].¹⁷⁷ The only producer of subject merchandise during the period reviewed was placed in receivership in October 1993 and has since ceased production. Its assets were sold to another firm that started operations in 1994; its output is reportedly intended for local consumption.¹⁷⁸

Regarding Thailand, while subject import market share increased generally, the record suggests that this occurred as a result of the decline of Chinese and (non-AST) Thai imports, and not at the expense of domestic product. Capacity utilization was [* * *] throughout the period reviewed, with [* * *] underutilized capacity in 1993. Thus, there is [* * *] that is likely to result in a significant increase in imports of certain carbon steel butt-weld pipe fittings into the United States.¹⁷⁹ Inventories, though [* * *], [* * *] in 1992, but [* * *] to 1991 levels in 1993.¹⁸⁰ The record indicates that imports from Thailand had no significant price effects, and will not likely affect prices in the near future.

Regarding the United Kingdom, home market shipments, exports to other markets, as well as exports to the United States, all [* * *] from 1991 to 1993. Absolute volume of shipments to the home market were [* * *] the volume of exports to the United States in 1993. While [* * *], capacity utilization [* * *] during the period reviewed.¹⁸¹ Inventories [* * *] over the period reviewed.¹⁸² Imports [* * *] domestic product to a significant degree.¹⁸³

Regarding Venezuela, volume and market share of subject imports were negligible over the period reviewed. There were no exports in interim 1994. Imports tended to [* * *] domestic product.¹⁸⁴

Accordingly, for all the reasons stated above, we find that the domestic industry is not threatened with material injury by reason of subject imports from France, India, Israel, Malaysia, Korea, Thailand, the United Kingdom and Venezuela do not threaten the industry with material injury.

CONCLUSION

In light of the foregoing, we determine that the domestic industry is not materially injured or threatened with material injury by reason of subsidized imports from Israel and India, and LTFV imports from France, India, Israel, Malaysia, Korea, Thailand, the United Kingdom or Venezuela.

¹⁷⁷ CR at I-61, Table 13; PR at II-35, Table 13.

¹⁷⁸ CR at I-69; PR at II-38.

¹⁷⁹ CR at I-72, Table 17; PR at II-39, Table 17.

¹⁸⁰ CR at I-72, Table 17; PR at II-39, Table 17.

¹⁸¹ CR at I-77, Table 18; PR at II-40, Table 18.

¹⁸² CR at I-77, Table 18; PR at II-40, Table 18.

¹⁸³ CR at I-131; PR at II-60.

¹⁸⁴ CR at I-131; PR at II-60.

SEPARATE VIEWS OF VICE CHAIRMAN JANET A. NUZUM

Certain Carbon Steel Butt-Weld Pipe Fittings from
France, India, Israel, Malaysia, the Republic of Korea,
Thailand, the United Kingdom and Venezuela

Investigations Nos. 701-TA-360-361 (Final)
and 731-TA-688-695 (Final)

Like my colleagues, I make negative determinations in these investigations. I join in the majority views of the Commission with regard to like product, domestic industry, related parties, the condition of the domestic industry, and threat of material injury analysis. In analyzing present material injury, however, I cumulated imports in a manner different than my colleagues. This opinion, therefore, presents my views on cumulation, and the lack of present material injury by the cumulated imports.

I. CUMULATION

The cumulation provision of the statute requires the Commission to assess the volume and price effects of subject imports on a cumulated basis where those imports compete both with each other and with the domestic like product.¹ In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors:²

- (1) the degree of fungibility, including considerations of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographical markets;
- (3) the existence of common or similar channels of distribution; and
- (4) simultaneous presence in the market.

Only a "reasonable overlap" of competition is required.³

The record reveals substantial commonality amongst the subject imports from various sources with regard to geographic distribution and concentration of imports, distribution channels, and periods of importation. For example, data for imports by port-of-entry do not show imports from any of the subject countries to be geographically isolated. Rather, imports from all but one of the subject countries entered through a variety of ports and regions of the country during both 1993 and 1994.⁴ Imports from Korea entered through a single port in 1993; I do not consider entry into the Gulf area, however, to indicate lack of competition.⁵

¹ See 19 U.S.C. § 1677(C)(iv)(I).

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

³ See Wieland Werke, AG v. United States, 718 F. Supp. 52 (Ct. Int'l Trade 1989); United States Steel Group v. United States, Slip Op. 94-201 (Ct. Int'l Trade Dec. 30, 1994).

⁴ See Memorandum INV-S-035 at attachment. I note that official data for Venezuela may be less representative because they include a significant amount of nonsubject fittings.

⁵ See below my discussion with regard to the alleged "isolation" of imports from Venezuela.

The subject products are sold through a network of large and small distributors, with inventories held at multiple levels of the distribution chain.⁶ The fact that products pass through a distribution network characterized by multiple participants, and are widely available from inventories, increases the likelihood of competition between various sources.⁷ These common channels of distribution also serve to dissipate any concentration of imports by port-of-entry or timing of entry. For example, many distributors serve markets and hold inventory at various locations across the country.⁸ Also, the inventories held in the distribution chain make imports readily available regardless of when they were imported.

Imports from all subject sources entered in many of the same months during the period January 1993-September 1994.⁹ There were no imports of the subject fittings from Venezuela reported for the interim 1994 period.¹⁰ I note, however, that Venezuelan product was not entirely absent from the U.S. market during interim 1994.¹¹ Thus, the record shows imports from each of the subject countries to be simultaneously present in the market.

The record also reveals substantial commonality amongst the subject imports from various sources with regard to the types and quality of products imported. Sources for which product mix data were available all showed a concentration in elbows.¹² Prices were reported for many of the same products from most of the subject countries.¹³ Fittings in the size range of the subject products are generally standardized fittings used in a variety of end use sectors. The majority of purchasers reported that subject fittings from all eight countries were used in the same applications, and that the quality of the subject fittings from each of these countries was comparable to that of the domestic product.¹⁴

The primary focus of debate has been on the distinction between approved and nonapproved products. Of all the subject imports, only the French, Thai (AST), and British products appear on an approved manufacturer's list ("AML").¹⁵ The record also reflects, however, that some purchasers bought approved product even though they did not need it for their particular end uses.¹⁶ It also appears that some of the unapproved unfinished subject imports ultimately were sold in the approved market.¹⁷ From late 1992 until March of 1994, the Thai supplier AST was removed from the Exxon AML.¹⁸ For purchasers that rely on this AML, therefore, the subject Thai product was essentially nonapproved for that period. Finally, at least *** percent of the approved subject fittings from the United Kingdom was

⁶ CR at I-34 and I-35, Figure 2; PR at II-19, II-21, and II-20, Figure 2.

⁷ See generally Petitioners' Post-Hearing Brief at A-32-A-42. I note that petitioners assert competition based in some cases on sales of product from commingled inventories. I, however, placed greater weight on information involving sales of product where country of origin was clearly identified.

⁸ CR at I-32; PR at II-18.

⁹ See Memorandum INV-S-035 at attachment. I note that official data for Venezuela may be less representative because they include a significant amount of nonsubject fittings.

¹⁰ CR at I-83-86, Table 20; PR at II-43-46, Table 20.

¹¹ See below my discussion with regard to the presence of Venezuelan fittings in the U.S. market during interim 1994.

¹² CR at I-32-33, and Appendix F, Table F-2; PR at II-18-19, and Appendix F, Table F-2.

¹³ CR at I-107-121, Tables 22-31; PR at II-57-58, Tables 22-31.

¹⁴ CR at I-102-103; PR at II-54.

¹⁵ CR at I-33-34; PR at II-19.

¹⁶ CR at I-36-37 and I-98; PR at II-21.

¹⁷ CR at I-27 n.45 and I-96 n.131; PR at II-17 n.45 and II-52 n. 131.

¹⁸ AST Posthearing Brief, answers to staff questions at 2-3.

sold in the nonapproved market.¹⁹ In sum, there was some degree of competition even between approved and nonapproved products during the period of investigation.

I find the above record supports a reasonable overlap of competition between each and every supplier, and with the domestic like product. Therefore I have assessed whether there is present material injury by reason of the subject imports on a cumulated basis.

II. NEGLIGIBLE IMPORTS EXCEPTION TO CUMULATION

Notwithstanding the general requirement for cumulation, the Commission has discretion to exempt subject imports from a particular country from cumulation pursuant to the negligible imports exception.²⁰ This exception recognizes that in certain, narrow instances, a very small amount of unfairly traded imports from a particular country may have "no discernable adverse impact on the domestic industry."²¹ In those instances, the statute provides that the Commission is "not required to apply" the cumulation requirement.²²

In determining whether imports from a particular country qualify for the exception, the Commission considers (i) the volume and market share of the imports; (ii) whether sales of the imports are "isolated and sporadic"; and (iii) the price-sensitivity of the domestic market for the like product.²³

A. Imports from Venezuela

Venezuelan respondents offer two arguments for excluding imports from Venezuela under the negligibility exception. First, they argue that their fittings were geographically isolated, because an overwhelming majority of the Venezuelan product entered the United States through ports located in the Gulf region. The U.S. petrochemical industry, one of the largest markets for carbon steel butt-weld pipe fittings, is heavily concentrated in the Gulf region.²⁴ Concentration in this major market area does not, therefore, show lack of competition.

Secondly, Venezuelan respondents note that there were no imports of subject fittings from Venezuela in interim 1994.²⁵ Pricing data, however, reveal sales of Venezuelan fittings in each quarter of interim 1994.²⁶

I further observe that Venezuelan product was sold into the nonapproved market. The standardized nature of fittings in the size range of the subject imports and the lack of qualification requirements suggest that the nonapproved market may be price-sensitive. On the basis of the above, I have not excluded the subject fittings from Venezuela as negligible.

¹⁹ Derived from data in CR at I-30, Table 3, I-89, and Appendix F, Table F-4; PR at II-18, Table 3, II-47, and Appendix F, Table F-4.

²⁰ 19 U.S.C. § 1677 (7)(C)(v).

²¹ Id.

²² Id.

²³ Id.

²⁴ CR at I-22 and I-94; PR at II-16 and II-50.

²⁵ The volume of imports from Venezuela was 1.1 million pounds in 1991, 1.2 million pounds in 1992, and 0.7 million pounds in 1993. CR at I-83-86, Table 20; PR at II-43-46, Table 20. The corresponding market shares were 1.2 percent, 1.6 percent, and 0.9 percent. CR at I-91, Table 21; PR at II-48, Table 21.

²⁶ CR at I-129, Table 32; PR at II-60, Table 32.

B. Imports from India

The volume of subject imports from India increased from 1991 to 1992, and then declined to levels slightly below the 1991 volume in 1993. The volume of subject imports from India declined further between interim periods.²⁷ This decline in market share and actual volume toward the second half of the period of investigation is not, however, the only factor to be considered.

I note that the majority of price comparisons show underselling by the Indian product.²⁸ The imports were not isolated and sporadic.²⁹ I further observe that Indian product was sold into the nonapproved market. The standardized nature of fittings in the size range of the subject imports and the lack of qualification requirements suggest that the nonapproved market may be price-sensitive. Underselling, coupled with the more than insignificant volume of subject fittings from India indicates to me that these imports are not negligible.

C. Imports from Korea

During 1991-93, the Korean product was responsible for the smallest volumes in both absolute and relative terms.³⁰ There was, however, a substantial increase in volume from 1991 to 1993. I do not place great weight on the decline in the volume of subject imports between interim periods because of the pendency of these investigations.

The imports were not isolated and sporadic.³¹ Korean product also was sold into the nonapproved market. The standardized nature of fittings in the size range of the subject imports and the lack of qualification requirements suggest that the nonapproved market may be price-sensitive. I do not find the imports from Korea negligible.

D. Imports from Malaysia

The Malaysian respondents also argue that their products should not be cumulated because of negligibility. The volume of imports from Malaysia increased dramatically from 1991 to 1992, and then declined slightly in 1993 to levels that significantly exceeded the 1991 levels. Further, between interim periods the volume of imports from Malaysia again increased.³²

²⁷ The volume of imports from India was 0.8 million pounds in 1991, 1.2 million pounds in 1992, 0.7 million pounds in 1993, and 0.4 million pounds in interim 1994. CR at I-83-86, Table 20; PR at II-43, Table 20. The corresponding market shares were 0.9 percent, 1.7 percent, 1.0 percent, and 0.7 percent. CR at I-91, Table 21; PR at II-48, Table 21.

²⁸ CR at I-131; PR at II-60.

²⁹ See Memorandum INV-S-035 at attachment.

³⁰ The volume of imports from Korea was 8 thousand pounds in 1991, 0.4 million pounds in 1992, 0.6 million pounds in 1993, and 30 thousand pounds in interim 1994. CR at I-83-86, Table 20; PR at II-43-46, Table 20. The corresponding market shares were less than 0.1 percent, 0.6 percent, 0.8 percent, and less than 0.1 percent. CR at I-91, Table 21; PR at II-48, Table 21.

³¹ See Memorandum INV-S-035 at attachment.

³² The volume of imports from Malaysia was 0.2 million pounds in 1991, 1.6 million pounds in 1992, 1.4 million pounds in 1993, and 1.4 million pounds in interim 1994. CR at I-83-86, Table 20; PR at II-43-46, Table 20. The corresponding market shares were 0.2 percent, 2.1 percent, 1.9 percent, and 2.2 percent. CR at I-91, Table 21; PR at II-48, Table 21.

The imports were not isolated and sporadic.³³ Malaysian product, too, was sold into the nonapproved market. Again, the standardized nature of the subject fittings and lack of qualification requirements suggest that the nonapproved market may be price-sensitive. The majority of price comparisons showed underselling by the Malaysian product.³⁴ I find that the volume of imports from Malaysia is not negligible.

III. IMPORTS FROM ISRAEL

Under section 1677(7)(C)(v), when investigating imports from Israel, the Commission is required to determine whether the domestic industry is materially injured, or threatened with material injury, by subject imports from Israel alone. If the Commission finds in the negative, then the Commission is not required to cumulate the Israeli products with the other subject imports.

Despite the rising trend in the volume of imports from Israel and some evidence of underselling, the record does not support a conclusion of material injury by reason of imports from Israel. The volume of these imports increased relative to a very small base and remained small throughout the period of investigation.³⁵ Israeli product did not increase its share of the U.S. market at the expense of the domestic industry.³⁶ I therefore do not find that the volume of imports from Israel was significant.

Price comparisons showed comparable instances and margins of both underselling and overselling.³⁷ For at least one product, underselling in earlier instances shifted to overselling in later instances.³⁸ I therefore do not find the observed underselling to be significant. Israeli product prices also showed a mixed pattern of increases and decreases.³⁹ In comparison, prices for the domestic products generally declined.⁴⁰ There were no allegations of lost revenues due to competition with Israeli product. Therefore, I do not find that the imports from Israel had a significant price depressing or price suppressing effect on domestic products.

The record does not demonstrate that the imports from Israel had any significant adverse impact on the domestic industry. During the period examined, the domestic industry experienced overall increases in production, capacity utilization, shipments, productivity, and sales. Employment indicators also showed improvements overall during the period. Since 1992, the industry's operating income, and its operating income as a percent of net sales, have slowly but steadily improved.⁴¹

³³ See Memorandum INV-S-035 at attachment.

³⁴ CR at I-131; PR at II-60.

³⁵ The volume of imports from Israel was 0.3 million pounds in 1991, 0.8 million pounds in 1992, 1.2 million pounds in 1993, and 0.9 million pounds in interim 1994. CR at I-83-86, Table 20; PR at II-43-46, Table 20.

³⁶ The market shares of Israeli product were 0.3 percent in 1991, 1.1 percent in 1992, 1.6 percent in 1993, and 1.4 percent in interim 1994. CR at I-91, Table 21; PR at II-48, Table 21.

³⁷ CR at I-131; PR at II-60.

³⁸ CR at I-129, Table 32; PR at II-60, Table 32.

³⁹ Prices for the Israeli products *** generally declined, and were lower at the end of the period than in the beginning of the period. Prices for Israeli products *** fluctuated during the period, and were higher at the end of the period than in the beginning of the period. CR at I-125-126; PR at II-59.

⁴⁰ CR at I-107-116, Tables 22-26; PR at II-57-58, Tables 22-26.

⁴¹ CR at Appendix A Table A-1; PR at Appendix A, Table A-1.

Improvements in the industry's performance are particularly significant when viewed against the backdrop of sluggish demand during much of the period, and declining prices throughout the period. Apparent consumption declined by almost 20 percent from 92 million pounds in 1991 to 74 million pounds in 1992. Consumption was then stable from 1992 to 1993. Only in interim 1994 did the market see growth, with consumption up 14 percent from interim 1993.⁴²

Perhaps most indicative of the impact of pricing levels on an industry's performance is the industry's financial results. Declining unit revenues here reflect declining prices. From 1992 to 1993, however, the industry improved its financial performance. That improvement continued in interim 1994.⁴³

In sum, I find no indication of any significant adverse impact on the domestic industry by the imports from Israel. The volume of Israeli imports was tiny and did not increase at the expense of the domestic industry. The observed underselling neither allowed the imports to gain market share at the expense of U.S. producers nor kept the industry from improved performance.

I also find no basis for making an affirmative threat determination for Israel. I join the views of the majority in its analysis and negative conclusion on this question.

Upon finding that the subject imports from Israel are neither causing nor threatening material injury to the domestic industry, I decline to cumulate the Israeli products with the other subject imports.

IV. PRESENT INJURY ANALYSIS FOR CUMULATED IMPORTS (FRANCE, INDIA, MALAYSIA, KOREA, THAILAND, THE UNITED KINGDOM AND VENEZUELA)

A. Volume of Subject Imports

The volume of cumulated subject imports increased significantly (48 percent) from 1991 to 1992, but then remained relatively stable.⁴⁴ In terms of market penetration, cumulated imports jumped from a 12.5-percent market share in 1991 to a 23-percent market share in 1992, and held that market share in 1993. Between interim periods, however, cumulated imports lost market share, declining from 23.4 percent in interim 1993 to 19.6 percent in interim 1994.⁴⁵

The early increase in market penetration by subject imports was not, however, at the expense of the domestic producers. The domestic industry increased its market share from 47.4 percent in 1991 to 67.1 percent in 1992, and then to 67.2 percent in 1993. Between interim periods the domestic industry lost market share (to nonsubject imports), going from 68.6 percent to 66.5 percent in interim 1994.⁴⁶

While the subject imports held a significant share of the market throughout the period examined, they did not increase this share at the expense of domestic producers. In fact, the

⁴² Id.

⁴³ CR at I-51, Table 9; PR at II-30-31, Table 9.

⁴⁴ The volume of subject imports increased from 11.4 million pounds in 1991 to 16.94 million pounds in 1992, and declined very slightly to 16.93 million pounds in 1993. Between interim periods the volume of subject imports again declined from 13 million pounds in interim 1993 to 12.4 million pounds in interim 1994. CR at I-83-84, Table 20; PR at II-43-44, Table 20.

⁴⁵ CR at I-91, Table 21; PR at II-48, Table 21.

⁴⁶ Id.

domestic industry consistently held a much greater market share and also experienced a substantially greater increase in that market share during the period of investigation.

B. Price Effects of Subject Imports

The record establishes a significant degree of interchangeability between subject imports and the domestic product. Most purchasers reported no significant difference in quality between the products purchased from various suppliers of subject imports and domestic product. Purchasers stated that subject imports are used in the same range of end-use applications as the domestic product. The majority of responding purchasers did indicate, however, that certain grades, types, and/or sizes of fittings available from domestic producers are not available from subject countries.⁴⁷

All purchasers indicated that the lowest price does not always win the contract. Other factors considered by purchasers are availability, quality, lead times, and whether a producer appears on any approved manufacturer list. Purchasers indicated a willingness to pay a price premium for shorter lead time and the availability of a wider range of products. Domestic producers are able to manufacture a wider range of products than subject sources and meet shorter turnaround requirements.⁴⁸

Out of 301 quarterly price comparisons subject imports undersold the domestic product in 212 instances. Instances and margins of underselling declining in magnitude over the period examined.⁴⁹

Prices for the domestic product generally declined during the period examined. Delivered prices for purchases made by distributors were lower toward the end of the period than they were at the beginning.⁵⁰ While this does constitute evidence of price declines, there is little evidence to support any conclusion of price depression caused by the subject imports. Prices for the subject imports declined less steeply⁵¹ than those for the domestic product. Instances and margins of underselling also decreased over the period examined.

On the basis of the record, I do not find significant price depression or suppression by the subject imports. I further note that the effect of declining prices for subject imports might be evident in the displacement of domestic product by the imports. This has not, however, occurred. Instead, the volume of subject imports has slowly declined since 1992,

⁴⁷ CR at I-105; PR at II-55.

⁴⁸ CR at I-99; PR at II-53.

⁴⁹ For France there were *** instances of underselling and *** instances of overselling with margins ranging from underselling of *** percent to overselling of *** percent.

For India there were *** instances of underselling and *** instances of overselling with margins ranging from underselling of *** percent to overselling of *** percent.

For Malaysia there were *** instances of underselling and *** instances of overselling with margins ranging from underselling of *** percent to overselling of *** percent.

For Korea there were *** instances of underselling and *** instances of overselling with margins ranging from underselling of *** percent to overselling of *** percent.

For Thailand there were *** instances of underselling and *** instances of overselling with margins ranging from underselling of *** percent to overselling of *** percent.

For the United Kingdom there were *** instances of underselling and *** instances of overselling with margins ranging from underselling of *** percent to overselling of *** percent. CR at I-131; PR at II-60.

⁵⁰ CR at I-107-124, Tables 22-31 and Figure 4; PR at II-57-58, Tables 22-31 and Figure 4.

⁵¹ * * * * *

CR at I-107-124, Tables 22-31 and Figure 4; PR at II-57-58, Tables 22-31 and Figure 4.

while the volume of domestic shipments has increased.⁵² I observe that U.S. consumption of butt-weld pipe fittings was declining or stagnant through much of the period examined.⁵³

C. Impact on Domestic Industry

The record does not demonstrate that the cumulated imports had a significant adverse impact on the domestic industry. During the period examined, the domestic industry experienced overall increases in production, capacity utilization, shipments, productivity. Employment indicators also showed improvements overall during the period. Since 1992, the industry's operating income, and its operating income as a percent of net sales, have slowly but steadily improved.⁵⁴

Improvements in the industry's performance are particularly significant when viewed against the backdrop of sluggish demand during much of the period, and declining prices throughout the period. Apparent consumption declined by almost 20 percent from 92 million pounds in 1991 to 74 million pounds in 1992. Consumption was then stable from 1992 to 1993. Only in interim 1994 did the market see growth, with consumption up 14 percent from interim 1993.⁵⁵

Perhaps most indicative of the impact of pricing levels on an industry's performance is the industry's financial results. Declining unit revenues here reflect declining prices. From 1992 to 1993, however, the industry improved its financial performance. That improvement continued in interim 1994.⁵⁶

In sum, I find no indication of significant adverse impact on the domestic industry by the subject imports. Indeed, there is no credible evidence that these imports have taken business from domestic producers. The observed underselling has neither allowed the imports to gain market share at the expense of U.S. producers nor kept the industry from improved performance.

I consequently find that the domestic industry is not materially injured by reason of subject imports of carbon steel butt-weld pipe fittings from France, India, Israel, Malaysia, Korea, Thailand, the United Kingdom, or Venezuela.

⁵² The only lost sale or revenue allegation that could be investigated was ***. CR at I-132; PR at II-61.

⁵³ The Commission has previously observed that "prices are expected to soften during the downturn in the business cycle, not increase." Coated Groundwood Paper from Belgium, Finland, France, Germany, and the United Kingdom, Invs. Nos. 731-TA-487-490 and 494 (Final), USITC Pub. 2467 at 21-22 (Dec. 1991).

⁵⁴ CR at Appendix A, Table A-1; PR at Appendix A, Table A-1.

⁵⁵ Id.

⁵⁶ CR at I-51, Table 9; PR at II-30-31, Table 9.

SEPARATE VIEWS OF COMMISSIONER DAVID B. ROHR ON THREAT OF MATERIAL INJURY BY REASON OF LTFV AND SUBSIDIZED IMPORTS

I concur with my colleagues that the domestic carbon steel butt-weld industry is neither materially injured nor threatened with material injury by reason of LTFV and subsidized imports from France, India, Israel, Malaysia, Korea, Thailand, United Kingdom, and Venezuela. In these additional views, I set forth my determinations as to whether the subject imports posed individual threats to the domestic industry.

Vulnerability

For purposes of my analysis of the vulnerability of the carbon steel butt-weld pipe fittings industry, I incorporate the discussion in the Condition of the Industry section of the views of the Commission majority. In making my determination, I relied on no single indicator, and conclude that the indicators reveal an industry that cannot be said to be presently experiencing material injury.

I also conclude, based upon these same factors, that it is not vulnerable to material injury. While consumption of certain carbon steel butt-weld pipe fittings declined considerably in 1991-92, and remained at the lower level in 1993, domestic production, capacity utilization, shipments, and employment indicators improved from 1991 to 1993. The industry's financial performance fluctuated, with strong net sales throughout the period for which data were collected. Although operating income declined sharply from 1991 to 1992, and only recovered somewhat in 1993 and interim 1994, [***]

Negligible Imports Exception

In determining whether imports are negligible, the Commission is required to consider all relevant economic factors including whether:

- (I) the volume and market share of the imports are negligible;
- (II) sales transactions involving the imports are isolated and sporadic; and
- (III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.¹

¹ 19 U.S.C. § 1677(7)(C)(V). I note that both the House Ways and Means Committee Report and the Conference Committee Report stress that the Commission is to apply the exception sparingly and that it is not to be used to subvert the purpose and general application of the mandatory cumulation provision of the statute. See H.R. Rep. No. 40, Part 1, 100th Cong., 1st Sess. 130 at 131 (1987); H.R. Rep. No. 576, 100th Cong., 2d Sess. at 621. I note further that the House Ways and Means Committee Report emphasizes that whether imports are "negligible" may differ from industry to industry and for that reason the statute does not provide a specific numeric definition of negligibility. H.R. Rep. No. 40, Part 1, 100th Cong., 1st Sess. 130 at 131 (1987). In addition, I note that the legislative history indicates this exception should be applied with "particular care in situations involving fungible products, where a small quantity of low-priced imports can have a very real effect on the market." *Id.*; see also H.R. Rep. 576, 100th Cong., 2d Sess. at 621 (April 20, 1988).

In addition to the three enumerated statutory factors, the Commission has in the past considered additional factors, for example: whether imports have been increasing;² whether the domestic industry is "already suffering considerable injury and has long been battered by import price competition";³ trends in market penetration; the degree of competition between the imported product and the domestic product; and any relationships of foreign producers to one another and to common importers.⁴

In these investigations, Petitioner argued that subject imports from all eight countries should be cumulated, and that the negligibility exceptions do not apply.⁵ Petitioner based this argument on the volume of imports from the individual countries; the presence in the U.S. market of the subject imports in 1992 and 1993; that these fittings are essentially commodity products, and that it is a price-sensitive market.⁶ Respondents made separate arguments alleging that imports from India, Israel, Malaysia, and Venezuela should be found to be negligible.⁷

Although there may be supportable arguments that several of the countries subject to these final investigations may be considered to be negligible, I have not made such determinations. Since I reached negative threat findings for all subject countries, I have given the petitioner the benefit of the doubt in not excluding any countries as negligible.

Cumulation

In the past, I have stated my views on the use of formal cumulated analysis in Commission threat opinions. I believe that formal cumulation obscures different trends in threat indicators, and can wrongly impose on one set of foreign producers the capabilities or intentions of another set of foreign producers. While I am aware that imports from different sources may have a collective impact on a domestic industry, I have reconciled these differences by applying an informal cumulation analysis in threat determinations. In carrying out an informal cumulation, I consider individual analysis of the threat posed by imports from a particular country but take into account the presence of other unfairly traded imports in my consideration of "other demonstrable trends."

In these final investigations on certain carbon steel butt-weld pipe fittings, I find that the domestic industry is not threatened with material injury by reason of LTFV and subsidized imports from any of the subject countries.

² See Coated Groundwood Paper from Austria, Belgium, Finland, France, Germany, Italy, the Netherlands, Sweden, and the United Kingdom, Invs. Nos. 731-TA-486 through 494 (Preliminary), USITC Pub. 2359 (February 1991) at 31.

³ H.R. Rep. No. 40, Part 1, 100th Cong., 1st Sess. 130 at 131 (1987).

⁴ See e.g., Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, USITC Pub. 2664 (August 1993) at 31 ("Where import penetration has increased even by small amounts, we have looked more carefully at the existence of a discernible adverse impact. . . In deciding whether imports from a particular country are negligible, we also considered the extent of direct competition between the particular imports and the domestic industry. . . We looked at the substitutability between imports and the domestic products in terms of any quality or technical differences. . ."); Certain Stainless Steel Butt-Weld Pipe Fittings from Korea and Taiwan, Invs. Nos. 731-TA-563 and 564 (Preliminary), USITC Pub. 2534 (July 1992) at 16, n. 61.

⁵ Pre-hearing Brief of Petitioner, p. 16.

⁶ Pre-hearing Brief of Petitioner, pp. 24-25.

⁷ Prehearing Briefs of Indian Respondents at p.4; Israeli Respondents at pp. 11-12; Government of Malaysia at pp. 3-4; and Venezuelan Respondents at pp. 5-6.

No Threat of Material Injury by Reason of LTFV and Subsidized Imports

Section 777(7)(F) of the Tariff Act of 1930, as amended, directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent."⁸ An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation."⁹ After careful consideration of all the relevant statutory factors,¹⁰ I find that a threat to the domestic industry producing carbon steel butt-weld pipe fittings is not real and that actual injury is not imminent.

No Threat of Material Injury by Reason of LTFV Imports from France

There is a single French producer of carbon steel butt-weld pipe fittings, and it has [***] its capacity at [***] pounds during 1991-93, and projects [***] in 1994 or 1995. [***]¹¹

Home market shipments as a share of total shipments remained at just under [***] during 1991-93, and are projected to [***] in 1994 and 1995. Exports to the United States as a share of total shipments [***] in 1993 compared to 1991-92, but then [***] in interim 1994 to a level slightly [***] than in 1991 and 1992. Virtually all sales of French imports in the United States are in the approved market, thus its competition is substantially limited to that portion of the market.¹²

⁸ 19 U.S.C. §1677(7)(F)(ii). Such a determination may not be made on the basis of mere conjecture or supposition.

⁹ See Metallwerken Nederland B.V. v. U.S., 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984), aff'd sub nom. Armco, Inc. v. United States, 760 F. 2d 249 (Fed. Cir. 1985).

¹⁰ 19 U.S.C. §1677(7)(F)(i)(I)-(X). The relevant factors include: (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; (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. In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. 19 U.S.C. §1677(7)(F)(iii)(I). Factors (VIII) and (IX) are not applicable to this investigation.

¹¹ CR and PR at Table 14.

¹² There is evidence on the record that Vallourec gained at least a portion of its sales in the U.S. market sales not at the expense of U.S. pipe fittings, rather from other imported fittings, including those produced in Thailand and the United Kingdom. CR at I-64; PR at II-36.

France's share of the U.S. market¹³ increased from 0.7 percent in 1991-92 to 2.6 percent in 1993, before dropping to 1.5 percent in interim 1994. If Weldbend data are included, France's market share was 0.6 percent in 1991 and 2.0 percent in 1993.^{14 15}

Prices for the subject fittings from France [***] during the period for which data were collected, however the price [***] were [***] than those for the domestic industry. While there is evidence of underselling, I do not find that the presence of these imported fittings in the domestic market will have a depressing or suppressing effect on domestic prices.

The subject imports, when considered jointly, accounted for 12.5 percent of the U.S. market in 1991, and increased to 23.0 percent in 1992. Subject import market share held at this level in 1993, and dropped somewhat in interim 1994 to 19.6 percent.¹⁶ If Weldbend data are included, cumulated market share for subject imports was 11.1 percent in 1991 and 18.2 percent in 1993. I find no other demonstrable adverse trends or evidence in the record that would support a finding of threat of injury by reason of subject imports from France.

Based on the French producer's capacity and projected shipments to its home market, the United States, and other third markets, its market share in the United States, and the absence of price suppression or depression on the part of these subject imports, I do not find that threat of material injury to the domestic industry is real or imminent.

No Threat of Material Injury by Reason of LTFV and Subsidized Imports from India

Three Indian producers account for the bulk of exports to the United States.¹⁷ For two of these companies, Karmen and Sivanandha Pipe, capacity to produce [***] in 1993 from 1991-92 levels, but [***] in interim 1994 compared to interim 1993.¹⁸ Production also [***] in 1993, and again in interim 1994, with [***] projected for full-year 1994 and 1995.¹⁹

As a percentage of total shipments, imports to the United States accounted for [***] share of total Indian shipments, but [***] in interim 1994, and were projected to [***] in full year 1994 and 1995 (compared to full-year 1993). Shipments to the Indian home market were expected to [***] concurrently.

India's share of the U.S. market²⁰ increased from 0.9 percent in 1991, to 1.7 percent in 1992, then dropped to 1.0 percent in 1993. In interim 1994, India held 0.7 percent of the U.S. market, compared to 0.9 percent in interim 1993. If Weldbend data are included, India's market share was 0.8 percent in both 1991 and 1993.²¹

Prices for the subject fittings from India either [***] during the period for which data were collected.²² The majority of price comparisons show underselling by the Indian

¹³ Excludes Weldbend data. CR and PR at Table 21.

¹⁴ CR at I-93; PR at II-50.

¹⁵ Weldbend has given its consent to the Commission to publicly divulge its production data.

¹⁶ CR and PR at Table 21. These data include imports from Israel. While it is not clear that these imports are subject to even informal cumulation under the U.S.-Israel FTA, in light of my negative determination I have included such imports in the joint data.

¹⁷ Two of these firms [***] estimate that together they account for [***] of total Indian production of the subject product exported to the United States. CR at I-65; PR at II-36.

¹⁸ CR and PR at Table 15.

¹⁹ Id.

²⁰ Excludes Weldbend data. CR and PR at Table 21.

²¹ CR at I-93; PR at II-50.

²² CR and PR at Tables 22 through 26.

fittings,²³ however there were no lost sales or lost revenue allegations which involved imports from India. Thus, I do not find that these fittings have had a price depressing or suppressing effect on domestic fittings.

In this investigation, Commerce also found subsidized sales on the part of the Indian producers. Commerce calculated the final subsidies margin for Karmen Steels at 9.62 percent, of which none was an export subsidy; for Sivanandha Pipe Fittings at 3.16 percent, of which all was an export subsidy; Tata Iron & Steel at 61.56 percent, of which 1.58 percent was an export subsidy; and an all other subsidy margin of 29.40 percent, of which 2.26 percent was an export subsidy.²⁴

I note that for purposes of analyzing the threat posed by imports from India, I considered the joint impact of other unfairly traded imports.²⁵ I find no other demonstrable adverse trends or evidence in the record that would support a finding of threat of injury by reason of subject imports from India.

Based on actual and projected [***] in India's total shipments destined for the U.S. market, and [***] to its home market, along with its market share in the United States and the lack of adverse price effects from these subject fittings, I do not find that material injury to the U.S. industry is real or imminent.

Threat of Material Injury by Reason of LTFV and Subsidized Imports from Israel

There is one known producer of carbon steel butt-weld pipe fittings in Israel, Pipe Fittings Carmiel Ltd., (Carmiel). Its capacity to produce [***] in 1993 over that reported in 1991 and 1992, however this increase was attributed to more efficient use of production equipment.²⁶ Production [***] throughout 1991-93, and [***] in interim 1994 compared to interim 1993. Capacity utilization rates were [***] throughout the period, thus I find no evidence that there will be any significant increase in imports of the subject fittings due to increases in production capacity or unused capacity, or the presence of underutilized capacity to produce the subject fittings.²⁷

Israeli home market shipments have remained at or near [***] of total shipments in 1991-93 and in interim 1994, while shipments to the U.S. market accounted for [***] in most periods. The market share of Israeli pipe fittings in the U.S. market increased from 0.3 percent in 1991 to 1.6 percent in 1993, and fell somewhat to 1.4 percent in interim 1994.²⁸ If Weldbend data are included, the Israeli share of the U.S. market was 0.3 percent in 1991 and 1.0 percent in 1993.²⁹ I do not find that this increase represents a real or imminent threat of material injury to the U.S. industry.

Prices for Israeli carbon steel butt-weld fittings fluctuated throughout the period, with some products remaining relatively stable while others fell. Price comparisons yielded the [***] of overselling instances as underselling.³⁰ There were no lost sales or lost revenue

²³ CR and PR at Table 32.

²⁴ CR at I-5; PR at II-5.

²⁵ CR and PR at Table 21. These data include imports from Israel. While it is not clear that these imports are subject to even informal cumulation under the U.S.-Israel FTA, in light of my negative determination I have included such imports in the joint data. See discussion with respect to joint impact in connection with French imports on page I-44 above.

²⁶ CR at I-67; PR at II-37.

²⁷ CR and PR at Table 16.

²⁸ CR and PR at Table 21.

²⁹ CR at I-93; PR at II-50.

³⁰ CR and PR at Table 32.

allegations which involved imports from Israel. I do not find that these fittings have had a price depressing or suppressing effect on domestic fittings.

In this investigation, Commerce calculated an ad valorem subsidy margin of 4.93 percent for Israel. Of this, 2.26 percent was accounted for by export subsidies.³¹

I note that for purposes of analyzing the threat posed by imports from Israel, I considered the joint impact of other unfairly traded imports.³² I find no other demonstrable adverse trends or evidence in the record that would support a finding of threat of injury by reason of subject imports from Israel.

Based on high rates of capacity utilization, the steady home market for pipe fittings in Israel, and the lack of evidence suggesting price suppression or depression, I do not find that imports of the subject pipe fittings from Israel pose a real or imminent threat of material injury to the domestic industry.

No Threat of Material Injury by Reason of LTFV Imports from Malaysia

Throughout most of the period for which data were collected, there was a single known Malaysian producer of the subject fittings, Malaysia Mining Corp. Pipe and Fittings Sdn. Bhd. (MMC). This producer closed in October 1993, but manufacturing resumed in late 1994 following the purchase of its assets by another company.³³

Data provided by the Government of Malaysia indicates that production in Malaysia in 1993 was [***] that of 1992. Production was sold locally, as well as exported to the United States and other third countries.³⁴

Malaysian imports entered the U.S. market throughout the period, and captured an increasing share of the market, from 0.2 percent in 1991 to 2.1 percent in 1992, then falling somewhat to 1.9 percent in 1993. Malaysia's interim 1994 market share was 2.2 percent, compared to 1.0 percent in interim 1993.³⁵ If Weldbend data are included, Malaysia's 1991 market share was 0.2 percent and 1.5 percent in 1993.³⁶

Prices for Malaysian pipe fittings in the domestic market either [***] or [***] during the period for which data were collected.³⁷ While about [***] of possible price comparisons showed the Malaysian pipe fittings priced below domestic fittings, the petitioner was [***] instances in which sales or revenues were lost to these imports. Thus, I am unable to conclude that the Malaysian imports have had, or will have, a price suppressing or depressing effect on domestic prices.

I note that for purposes of analyzing the threat posed by imports from Malaysia, I considered the joint impact of other unfairly traded imports.³⁸ I find no other demonstrable

³¹ CR at I-5; PR at II-5.

³² CR and PR at Table 21. These data include imports from Israel. While it is not clear that these imports are subject to even informal cumulation under the U.S.-Israel FTA, in light of my negative determination I have included such imports in the joint data. See discussion with respect to joint impact in connection with French imports on page I-44 above.

³³ CR at I-69; PR at II-37-38.

³⁴ Id.

³⁵ CR and PR at Table 21.

³⁶ CR at I-93; PR at II-50.

³⁷ CR and PR at Tables 22-26.

³⁸ CR and PR at Table 21. These data include imports from Israel. While it is not clear that these imports are subject to even informal cumulation under the U.S.-Israel FTA, in light of my negative determination I have included such imports in the joint data. See discussion with respect to joint impact in connection with French imports on page I-44 above.

adverse trends or evidence in the record that would support a finding of threat of injury by reason of subject imports from Malaysia.

Despite increases in U.S. market share during the period under review, I find that declining Malaysian production, the uncertainty of future shipments to the U.S. market, and the lack of specific allegations on lost sales and lost revenues, do not support a conclusion that there exists a real and imminent threat of material injury by reason of Malaysian imports.

No Threat of Material Injury by Reason of LTFV Imports from Korea

Although there are a number of producers of carbon steel butt-weld pipe fittings in Korea, one company accounts for the majority of exports to the United States.³⁹ Data for this company, Taekwang Bend, suggest that while capacity to produce and production [***] during 1991-93, capacity utilization was [***], and home market shipments accounted for [***] of total shipments. Further, exports from Korea to the United States by this company [***]⁴⁰

Korean pipe fittings accounted for an insignificant share of domestic consumption in 1991, and reached an 0.8 percent share in 1993, before falling again in 1994, to less than 0.05 percent. If Weldbend data are included, Korea accounted for less than 0.05 percent of the domestic market in 1991, and rose to 0.6 percent of the U.S. market in 1993. I do not find that this level of market penetration will rise to an injurious level.

Prices for Korean fittings were [***] than domestic fittings in [***] comparable periods, although the importer reported prices that [***] as requested in the questionnaire. However, there were no lost sales or lost revenue allegations which specified imports from Korea. I do not find that these fittings have had a price depressing or suppressing effect on domestic fittings.

I note that for purposes of analyzing the threat posed by imports from Korea, I considered the joint impact of other unfairly traded imports.⁴¹ I find no other demonstrable adverse trends or evidence in the record that would support a finding of threat of injury by reason of subject imports from Korea.

Based on [***] capacity utilization rates, a large home market, the [***] to the United States, and the lack of evidence of price depression or suppression, I find that imports from Korea of the subject pipe fittings do not pose a real and imminent threat of material injury to the domestic industry.

No Threat of Material Injury by Reason of LTFV Imports from Thailand

Only one Thai producer, Awaji Sangyo (Thailand) Co. (AST) is subject to investigation. AST's capacity to produce [***] in 1992 from the 1991 level, then [***] throughout the remainder of the period for which data were collected. Production [***] during 1991-93, and in interim 1994 compared to interim 1993. Capacity utilization was [***] throughout the period.⁴²

³⁹ CR at I-70; PR at II-38-39.

⁴⁰ Id.

⁴¹ CR and PR at Table 21. These data include imports from Israel. While it is not clear that these imports are subject to even informal cumulation under the U.S.-Israel FTA, in light of my negative determination I have included such imports in the joint data. See discussion with respect to joint impact in connection with French imports on page I-44 above.

⁴² CR and PR at Table 17.

Export shipments account for [***] of AST's shipments. Shipments to the U.S. market increased from [***] percent of export shipments in 1991, and rose to [***] percent in 1992. Exports to the United States increased slightly in 1993, and [***] when comparing interim 1994 to interim 1993. Export shipments to the United States as a share of total shipments in 1995 are projected to [***].⁴³

Of the imports subject to investigation, pipe fittings from Thailand (AST) accounted for the largest share. Thailand accounted for 6.2 percent of the domestic market in 1991, increasing to 11.1 percent in 1993. Interim 1994 market share was 8.8 percent, down from 11.3 percent in interim 1993.⁴⁴ If Weldbend data are included, these Thai fittings held 5.5 percent of the U.S. market in 1991 and 8.8 percent in 1993.⁴⁵

Prices for Thai fittings [***] for some products, while prices [***] for others.⁴⁶ [***] price comparisons that were possible showed the Thai fittings priced [***] domestic fittings.⁴⁷ The domestic industry was [***] in which sales or revenue was lost to competition with the imported Thai fittings.

I note that for purposes of analyzing the threat posed by imports from Thailand (AST), I considered the joint impact of other unfairly traded imports.⁴⁸ I find no other demonstrable adverse trends or evidence in the record that would support a finding of threat of injury by reason of subject imports from Thailand (AST).

I find that imports of the subject pipe fittings from Thailand (AST) pose no real and imminent threat of material injury to the U.S. industry based on the above factors, such as the [***] rates of capacity utilization and the projected [***] ratio of shipments to the U.S. market.

No Threat of Material Injury by Reason of LTFV Imports from the United Kingdom

BKL Fittings is the major producer of the subject pipe fittings in the United Kingdom,⁴⁹ and is the sole exporter to the United States. Capacity to produce and production [***] in 1991-93, and [***] in interim 1994 compared to interim 1993. Capacity utilization also [***] during the period, reaching its highest level, [***] percent, in interim 1994.⁵⁰ BKL projects that capacity will [***] in 1994 and 1995, and that production will also [***] in 1995.⁵¹ Capacity utilization is projected to [***] to [***] for both 1994 and 1995.⁵² I do not find that these projections support a finding that there will be a rapid increase in imports of U.K. fittings to the United States.

⁴³ Id.

⁴⁴ CR and PR at Table 21.

⁴⁵ CR at I-93; PR at II-50.

⁴⁶ CR and PR at Tables 22-26.

⁴⁷ CR and PR at Table 32.

⁴⁸ CR and PR at Table 21. These data include imports from Israel. While it is not clear that these imports are subject to even informal cumulation under the U.S.-Israel FTA, in light of my negative determination I have included such imports in the joint data. See discussion with respect to joint impact in connection with French imports on page I-44 above.

⁴⁹ BKL estimates that it accounts for [***] percent of the subject carbon steel butt-weld pipe fittings production in the United Kingdom.

⁵⁰ CR and PR at Table 18.

⁵¹ In 1994, BKL reduced its workforce by 40 percent, and has thus reduced its projections for capacity to produce and production. CR at I-78; PR at II-41.

⁵² CR and PR at Table 18.

Shipments to the United States, as a percentage of total shipments, [***] from 1991 to 1992, from [***] percent to [***] percent, then [***] in 1993, to [***] percent.⁵³ BKL has indicated it will [***]⁵⁴

Certain carbon steel butt-weld pipe fittings from the United Kingdom held a 2.9 percent share of the U.S. market in 1991, 5.3 percent in 1992, and 3.2 percent in 1993. The interim 1994 market share was 5.0 percent, up from 3.2 percent in interim 1993.⁵⁵ Including Weldbend data, the United Kingdom share of the U.S. market was 2.6 percent in 1991 and 2.5 percent in 1993.⁵⁶ The increase in market share for the United Kingdom in interim 1994 compared to interim 1993 was caused by a large increase in shipments by BKL to a single importer, Allied.⁵⁷ I do not find that the U.K. market share will increase to a level at which it would be injurious.

Prices for pipe fittings imported from the United Kingdom followed trends similar to other subject countries, generally [***] around a [***] base.⁵⁸ Price comparisons show that the U.K. fittings were priced [***] the U.S. fittings in [***] of [***] instances. BKL was the [***]⁵⁹ I do not find the price trends and comparisons, or the [***] to be probative of price suppression or depression of domestic pipe fittings.

I note that for purposes of analyzing the threat posed by imports from the United Kingdom, I considered the joint impact of other unfairly traded imports.⁶⁰ I find no other demonstrable adverse trends or evidence in the record that would support a finding of threat of injury by reason of subject imports from the United Kingdom.

Based on projected [***] in capacity and production, and [***] in capacity utilization, and statements that BKL [***], I find no real and imminent threat of material injury to domestic carbon steel butt-weld pipe fittings producers by reason of imports from the United Kingdom.

No Threat of Material Injury by Reason of LTFV Imports from Venezuela

There are two producers of carbon steel butt-weld pipe fittings in Venezuela, COVECO and Petrotubos S.A. For these companies, capacity, production, and capacity utilization [***] throughout 1991-1993, and in interim 1994.⁶¹

Shipments to the Venezuelan home market, as a share of total shipments, accounted for [***] of total shipments throughout the period. Shipments to the United States increased slightly from 1991 to 1992, before falling significantly in 1993, and then dropping to 0.0 percent in interim 1994. There are [***] shipments projected for 1995.⁶² These data, along with the [***] in production and the [***] capacity utilization rates do not support a finding that there will be a significant increase in imports to the United States.

⁵³ Id.

⁵⁴ CR at I-78; PR at II-40-41.

⁵⁵ CR and PR at Table 21.

⁵⁶ CR at I-93; PR at II-50.

⁵⁷ CR at I-92; PR at II-49.

⁵⁸ CR and PR at Tables 22-26.

⁵⁹ CR at I-132; PR at II-61.

⁶⁰ CR and PR at Table 21. These data include imports from Israel. While it is not clear that these imports are subject to even informal cumulation under the U.S.-Israel FTA, in light of my negative determination I have included such imports in the joint data. See discussion with respect to joint impact in connection with French imports on page I-44 above.

⁶¹ CR and PR at Table 19.

⁶² Id.

Venezuela's share of the U.S. market increased from 1.2 percent in 1991 to 1.6 percent in 1992, before falling to 0.9 percent in 1993 and 0.0 percent in interim 1994.⁶³ Including Weldbend data, Venezuelan market share was 1.1 percent in 1991 and 0.7 percent in 1993.⁶⁴ I do not find that these data suggest that Venezuelan pipe fittings will increase to a level at which injury to the U.S. industry would be real and imminent.

Venezuelan price data were limited⁶⁵, and showed only a [***].⁶⁶ Price comparisons were limited to [***] quarters, and showed the Venezuelan fittings priced [***] the U.S. product in [***] of these comparisons.⁶⁷ Further, Venezuela was not named in any lost sales or lost revenues allegations.⁶⁸ These price data do not suggest that Venezuelan subject pipe fittings will enter the U.S. market at prices that will suppress or depress domestic prices.

I note that for purposes of analyzing the threat posed by imports from Venezuela, I considered the joint impact of other unfairly traded imports.⁶⁹ I find no other demonstrable adverse trends or evidence in the record that would support a finding of threat of injury by reason of subject imports from Venezuela.

Based on the [***] of total Venezuelan shipments destined for the home market, [***] capacity utilization rates, the lack of shipments to the U.S. market in 1994 and projected for 1995, and lack of evidence of price suppression or depression, I find no threat of material injury to domestic producers by reason of imports of the subject product from Venezuela.

I conclude that none of the imports subject to these investigations pose a real or imminent threat of material injury to the domestic carbon steel butt-weld pipe fitting industry.

⁶³ CR and PR at Table 21.

⁶⁴ CR at I-93; PR at II-50.

⁶⁵ [***] CR at I-127; PR at II-60.

⁶⁶ CR and PR at Table 25.

⁶⁷ CR and PR at Table 32.

⁶⁸ CR at I-132; PR at II-61.

⁶⁹ CR and PR at Table 21. These data include imports from Israel. While it is not clear that these imports are subject to even informal cumulation under the U.S.-Israel FTA, in light of my negative determination I have included such imports in the joint data. See discussion with respect to joint impact in connection with French imports on page I-44 above.

SEPARATE VIEWS OF COMMISSIONER NEWQUIST

In all of the subject investigations I make negative determinations. I join the majority's discussion of like product, domestic industry, and condition of the domestic industry, and begin these views with further elaboration on the latter.

I. CONDITION OF THE DOMESTIC INDUSTRY

In my analytical framework, I must first determine whether the domestic industry is "experiencing material injury" before I reach the question of whether such injury is "by reason of" subject imports. For the purpose of Title VII determinations, what constitutes material injury will vary from one industry to another, and no single performance indicator is dispositive of the question of injury.

Based on the record in these investigations, the domestic industry is performing favorably. For example, domestic production, capacity utilization, and shipments and net sales by both volume and value, all increased over the period of investigation.¹ Accordingly, I cannot conclude that this industry is experiencing "harm which is not inconsequential, immaterial, or unimportant."² Therefore, after addressing cumulation, I proceed to a threat of material injury analysis.

II. CUMULATION

For purposes of a threat analysis, cumulation is discretionary. Specifically, the cumulation provision provides that

[for purposes of a threat of material injury analysis]
the Commission may cumulatively assess the volume and price effects of imports from two or more countries if such imports--compete with each other, and with the products of the domestic industry in the United States market...³

There is no dispute that the statutory factors for cumulation are satisfied in these investigations. As in the preliminary investigations, none of the parties contest the simultaneous presence of subject imports in the same geographical markets as the domestic like product. The record indicates that both the domestic product and the subject imports are generally sold throughout the United States, and are distributed and marketed in a similar manner.⁴ Moreover, subject imports from all countries were present in the U.S. market during every period of the investigations.⁵

¹ Confidential Report ("CR") at I-38, Table 4; I-16, Table 1; I-51, Table 9; Public Report ("PR") at II-22, Table 4; II-12, Table 1; II-30, Table 9.

² 19 U.S.C. § 1677(7)(A).

³ 19 USC § 1677(7)(F)(iv)(I) (emphasis added).

⁴ CR at I-22 to I-23, I-32 to I-35; PR at II-16, II-18-20; official statistics of the U.S. Department of Commerce, by month, for 1991, 1992, 1993, and 1994; Memorandum INV-S-035 (March 17, 1995).

⁵ Id.

Although parties have argued that differing levels of fungibility between subject imports preclude cumulation,⁶ this distinction is, in my view, not an important factor, and does not preclude cumulation of these imports.⁷ Thus, imports from all subject countries are eligible for cumulation.

With regard to mandatory cumulation for present injury, the Commission is not required to cumulate imports that "are negligible and have no discernible adverse impact on the domestic industry."⁸ In my view, although cumulation for threat is discretionary, the negligibility analysis is helpful in determining whether to exercise such discretion. What level of imports may be considered negligible is, for the most part, a function of the relative health of the domestic industry. While this industry has been vulnerable to the effects of unfair import competition in the past,⁹ I find it is not presently manifesting such vulnerability.

I decline to find imports from any of these countries to be negligible and without discernible impact. Sales of carbon steel butt-weld pipe fittings from each of these countries were not isolated or sporadic and, as discussed below, the subject merchandise was imported into the U.S. throughout the period of the investigations in quantities which I find not to be negligible. While the level of imports which may be defined as negligible varies from industry to industry, the levels described below¹⁰ correspond to similar levels which I have previously found not to be negligible in investigations involving related products.¹¹

In both 1991 and 1992, imports from France¹² accounted for .7% of domestic consumption.¹³ This share increased to 2.6% in 1993, and remained high in interim 1994 (January-September).¹⁴

⁶ See, e.g., AST Brief at 5-9.

⁷ As I have stated previously, the language of the cumulation provision requires scrutiny of primarily geographic and temporal competition between the subject imports and the domestic like product; assessing competition on the basis of the substitutability of these products is a lesser consideration. See my "Additional and Dissenting Views" in Certain Flat-Rolled Carbon Steel Products, USITC Pub. 2664 (August 1993).

⁸ 19 U.S.C. § 1677(7)(C)(v). In determining whether imports are negligible, the statute directs the Commission to consider all relevant economic factors including whether:

(I) the volume and market share of the imports are negligible,

(II) sales transactions involving the imports are isolated and sporadic, and

(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.

⁹ See Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand, Inv. Nos. 731-TA-520, 521 (Final), USITC Pub. 2528 (June 1992).

¹⁰ I note that the following market penetration figures do not include data collected from Weldbend. When data from Weldbend is included, these numbers are slightly lower. See CR at I-17 n. 27, and I-93; PR at II-11 n. 27, and II-50.

¹¹ See generally, Certain Flat-Rolled Carbon Steel Products, USITC Pub. 2664 (August 1993).

¹² I note that I did not participate in Inv. No. 731-TA-688, Certain Carbon Steel Butt-Weld Pipe Fittings from France. However, as I have determined to cumulate all subject imports, I am required to consider the volume and price effects, and impact of, subject French imports together with the other subject imports.

¹³ CR at I-91, Table 21; PR at II-48, Table 21.

¹⁴ Id.

Imports from India occupied 1.7% of the U.S. market in 1992, and although the share decreased thereafter, imports from India continued to hold considerable market share during the remaining period of investigation.¹⁵

Imports from Israel¹⁶ rose throughout the period of investigation, except for a slight decrease in interim 1994. In 1991 Israeli imports accounted for .3% of domestic consumption; this number more than doubled in 1992 to 1.1%, rose to 1.6% in 1993, and remained at high levels in interim 1994.¹⁷

Malaysian imports grew rapidly after 1991 and accounted for 2.1% of domestic consumption by 1992.¹⁸ Imports from Malaysia were higher in interim 1994 than in interim 1993.

Imports from Korea also rose steadily throughout the period of investigation. By 1993, Korea accounted for .8% of domestic consumption.¹⁹

Of all the subject countries, Thailand (AST) was by far the single largest supplier of carbon steel butt-weld pipe fittings to the U.S. Thailand's share of domestic consumption stood at 6.2% in 1991, surged to 9.9% in 1992, and grew again, to 11.1%, in 1993.²⁰

Imports from the United Kingdom also accounted for a large portion of domestic consumption; in 1992, the U.K held 5.3% of the U.S. market.²¹ While this percentage decreased in 1993, it rose again in interim 1994 as compared to interim 1993.²²

Venezuelan imports accounted for 1.2% of domestic consumption in 1991, and 1.6% in 1992, although Venezuela's share of domestic consumption fell to zero by interim 1994.²³

Therefore, based on the relative healthy state of the industry and the rather considerable market penetration by subject imports from each country individually over the period of investigation, I determine that none of the imports are negligible and that all may be cumulated for purposes of a threat of material injury analysis.

III. NO THREAT OF MATERIAL INJURY

Like my negligibility analysis above, the condition of the domestic industry significantly affects my assessment of whether there is a threat of material injury to the industry by reason of LTFV and subsidized imports from the subject countries. Section 771(7)(F) of the Act directs the Commission to consider whether an industry in the United States is threatened with material injury by reason of subject imports "on the basis of

¹⁵ Id.

¹⁶ For purposes of mandatory cumulation for a present injury analysis, the statute provides that the Commission may treat imports from Israel as negligible and without discernible adverse impact, if it finds that such imports alone are not a cause of injury. 19 U.S.C. § 1677(7)(C)(v).

As discussed above, cumulation for threat is within the Commission's discretion. § 19 U.S.C. 1677(7)(F)(iv)(I). It follows, therefore, that it is within the Commission's discretion to cumulate imports from Israel for purposes of a threat analysis, both by virtue of § 1677(7)(F)(iv)(I) and § 1677(7)(C)(v). I choose here to cumulate imports from Israel with those from the other subject countries.

¹⁷ CR at I-91, Table 21; PR at II-48, Table 21.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

evidence that the threat of material injury is real and that actual injury is imminent."²⁴ The Commission is directed to consider ten factors in the threat analysis.²⁵ Upon review of the data gathered in these final investigations, and particularly in light of the relatively healthy condition of the domestic industry, I determine that there is no real and imminent threat of material injury to the domestic industry by reason of the cumulated subject imports.

While the production capacity of the cumulated foreign producers increased during the period of investigation, the growth was just a modest 15%.²⁶ More importantly, capacity for the cumulated countries is projected to decline in 1995 to a level only slightly above that of 1991.²⁷ Weighted-average capacity utilization increased steadily throughout the period under review, and is projected to continue this upward trend in 1995 as the result of declining capacity levels.²⁸ I do not find that these data evidence a real and imminent threat of material injury to the domestic industry.

End-of-period inventories of the cumulated imports held by U.S. importers rose slightly during the period, but, as a ratio of imports, remained at levels that do not pose an

²⁴ 19 U.S.C. §771(7)(F).

²⁵ These ten factors are as follows:

(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 probability that importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury;

(VIII) the potential for product shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 1671 or 1673 of this title or to final orders under section 1671e or 1673e of this title, are also used to produce the merchandise under investigation;

(IX) in any investigation under this title which involves imports of both raw agricultural product (within the meaning of paragraph (4)(E)(iv) and any product processed from such raw agricultural product, the likelihood there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both); and

(X) the actual and potential 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.

19 U.S.C. § 1677(7)(F)(i). In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. See 19 U.S.C. section 1677(7)(F)(iii).

²⁶ CR at I-63-81, Tables 14 through 19; PR at II-36-41, Tables 14 through 19. These figures do not include data from Malaysia and Korea, which are unavailable. See CR at I-69-71; PR at II-37-39.

²⁷ Id.

²⁸ Id.

imminent threat of material injury.²⁹ While subject imports generally increased their share of the U.S. market during the period of investigation, it was a gradual increase.³⁰ In fact, notwithstanding this increase in market penetration, the performance of the domestic producers improved,³¹ and there is nothing to indicate that a more rapid increase in market penetration is imminent.

The record indicates that subject imports may have had a depressing or suppressing effect on domestic prices for carbon steel butt-weld pipe fittings.³² However, the domestic industry was not injured by these price effects, and in fact was able to increase the volume and value of its net sales every year during the period of investigation.³³ Thus, while I note that imports from the subject countries may enter the United States in the future at prices that might have a depressing or suppressing effect on domestic prices, given the recent experience of the industry in face of similar price effects, I cannot conclude that such effects constitute a real and imminent threat of material injury to the domestic industry.

I make the same conclusion concerning export subsidies extended to the Indian and Israeli producers by their respective governments. While the subsidized imports from India and Israel were found to be countervailable by the Commerce Department, my colleagues have determined that the subsidized imports did not cause injury to the domestic industry. I find no reason to presume that these subsidized imports will cause injury to the industry in the future.

Finally, I note that, since 1993 the foreign producers under investigation have decreased considerably their exports to the United States of the subject product, and that this decrease is projected to continue well into 1995.³⁴ In fact, as a ratio of cumulated total shipments, the share of total exports destined for the United States fell from 31.7% in interim 1993 to 22.9% in interim 1994, and is projected to decline to 8.4% in 1995.³⁵

Based on the foregoing,³⁶ I find that the domestic industry producing carbon steel butt-weld pipe fittings is not threatened with material injury by reason of subject imports from France, India, Israel, Korea, Malaysia, Thailand, the United Kingdom, and Venezuela.

²⁹ CR at I-61 and I-83, Table 13 and Table 20. PR at II-35 and II-43, Table 13 and Table 20.

³⁰ Calculated from CR at I-16, Table 1, and CR I-17, n. 27; PR at II-12, Table 1, and II-11, n. 27.

³¹ Cumulated subject imports increased their share of domestic consumption by 7.1 percentage points between 1991 and 1993. In contrast, domestic producers increased their share of domestic consumption by 21 percentage points during the same time period. Id.

³² CR at I-107-121, Tables 22-31; PR at II-57-58, Tables 22-31.

³³ CR at I-51, Table 9; PR at II-30, Table 9.

³⁴ CR at I-63-81, Tables 14 through 19; PR at II-36-41, Tables 14 through 19. These figures do not include data from Malaysia and Korea, which are unavailable. See CR at I-69-71; PR at II-37-39.

³⁵ Id.

³⁶ I also find it significant that the largest domestic producer of carbon steel butt-weld pipe fittings, Weldbend, did not support this petition, despite the fact that it could benefit from the imposition of antidumping duties against subject imports. CR and PR at Appendix G. See also Suramerica de Aleaciones Laminadas, C.A. v. United States, Nos. 93-1579 and 94-1021 (Dec. 30, 1994)(the Commission should consider "all relevant factors" in making a threat determination, including domestic industry support for the petition).

PART II

INFORMATION OBTAINED IN THE INVESTIGATIONS

INTRODUCTION

These investigations result from a petition filed on February 28, 1994, by the U.S. Fittings Group, Washington, DC, an *ad hoc* trade association consisting of five domestic firms,¹ alleging that subsidized imports from India and Israel and less-than-fair-value (LTFV) imports of certain carbon steel butt-weld pipe fittings² from France, India, Israel, Malaysia, the Republic of Korea (Korea), Thailand,³ the United Kingdom, and Venezuela are materially injuring and threatening to materially injure an industry in the United States.⁴ The following list provides information relating to the background of these investigations:

<u>Date</u>	<u>Action</u>
February 28, 1994 . .	Petition filed at Commission and Commerce; institution of Commission's preliminary investigations
March 25, 1994 . . .	Commerce's notice of initiation (59 F.R. 14148)
April 14, 1994	Commission's affirmative preliminary determinations
June 1, 1994	Commerce's notice of affirmative preliminary countervailing duty determinations (59 F.R. 28337)
June 1, 1994	Commission's institution of final countervailing duty investigations (59 F.R. 37054, July 20, 1994) ⁵
June 27, 1994	Commerce's notice of alignment of final countervailing duty and antidumping determinations (59 F.R. 32955)
July 26, 1994	Notice of postponement of Commerce's preliminary antidumping determinations and final countervailing duty determinations (59 F.R. 37961)

Tabulation continued.

¹ The firms are Hackney, Inc., Dallas, TX; Ladish Co., Inc., Cudahy, WS; Mills Iron Works, Inc., Gardena, CA; Steel Forgings, Inc., Shreveport, LA; and Tube Forgings of America, Inc., Portland, OR.

² The products covered by these investigations are carbon steel butt-weld pipe fittings having an inside diameter of less than 14 inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings).

Finished and unfinished carbon steel butt-weld pipe fittings under 355 millimeters (14 inches) in diameter are provided for in subheading 7307.93.30 of the *Harmonized Tariff Schedule of the United States (HTS)*, a subheading that specifically provides for such products of iron or nonalloy steel, with an inside diameter of less than 360 millimeters (14.17 inches). The column 1-general (most-favored-nation) rate of duty for this subheading, applicable to goods from all countries subject to these investigations is 6.2 percent ad valorem. Further, imports of such products from Israel are eligible to enter free of duty under the United States-Israel Free-Trade Area program.

³ For Thailand, only the products of one producer--Awaji Sangyo (Thailand) Co., Ltd. (AST)--are subject to the petitioner's complaint. All other producers and exporters of certain carbon steel butt-weld pipe fittings from Thailand are subject to a 1992 antidumping duty order currently in effect. AST was excluded from the original order because Commerce found its LTFV margins to be *de minimis*.

⁴ A summary of the data collected in these investigations is presented in app. A.

⁵ *Federal Register* notice is presented in app. B.

Continuation of tabulation.

October 4, 1994 . . .	Commerce's notice of affirmative preliminary antidumping determinations (59 F.R. 50560)
October 3, 1994 ⁶ . . .	Commission's institution and scheduling of final antidumping investigations and scheduling of the ongoing countervailing duty investigations (59 F.R. 52806, Oct. 19, 1994) ⁵
November 14, 1994 .	Notice of postponement by Commerce of final antidumping and countervailing duty determinations (59 F.R. 56461)
November 21, 1994 .	Commission's revised schedule (59 F.R. 61342, Nov. 30, 1994) ⁵
February 27, 1995 . .	Commerce's affirmative final antidumping and countervailing duty determinations (60 F.R. 10538) ⁵
February 28, 1995 . .	Commission's hearing ⁷
March 23, 1995 . . .	Commission's vote
April 3, 1995	Commission determinations transmitted to Commerce

Certain carbon steel butt-weld pipe fittings have been the subject or part of the subject of at least six previous Commission investigations. Most recently, in 1992, the Commission conducted antidumping investigations on the fittings from China and Thailand (investigations Nos. 731-TA-520 and 521 (Final), USITC publication 2528 (June 1992)), which resulted in the imposition of antidumping duties on imports from both countries, except those produced by AST. Earlier, in 1986, the Commission conducted similar investigations on Brazil, Japan, and Taiwan (investigations Nos. 731-TA-308-310 (Final), USITC publications 1918 (December 1986) and 1943 (January 1987)).⁸ These, too, resulted in the imposition of antidumping duties. In addition, in 1990, Commerce determined that imports of subject fittings from Thailand were subsidized within the meaning of the countervailing duty law.⁹

THE NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

Subsidized Sales

Commerce calculated the final subsidies margins to be as follows (in percent ad valorem):

⁶ The Commission was notified by a letter received on Oct. 3, 1994, of Commerce's affirmative preliminary antidumping determinations.

⁷ A list of the participants in the hearing is presented in app. C.

⁸ Also in that year, the Commission published the results of a study on the competitive position of the U.S. forging industry (including pipe fittings) in U.S. and world markets (*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 (Apr. 1986)); the investigation was conducted for the United States Trade Representative at the direction of the President.

⁹ As Thailand was not a "country under the Agreement," it was not entitled to an injury test in the countervailing duty investigation.

	<u>Total</u>	<u>Export subsidy</u>
India:		
Karmen Steels of India	9.62	9.62
Sivanandha Pipe Fittings, Ltd	3.16	3.16
Tata Iron & Steel Limited	61.56 ¹	(2)
All others	29.40	(2)
Israel	4.93	2.26

¹ Tata Iron did not respond to Commerce's countervailing duty questionnaire and Commerce based its final margin for Tata Iron primarily on information provided in the petition under the best information available (BIA) provisions of its regulations.

² Not available.

Responses to Commerce's questionnaires for its countervailing duty investigation concerning India were received from Karmen Steels of India, Sivanandha Pipe Fittings, Ltd., and the Government of India. It determined that the following programs were countervailable:

(1) Preferential Pre-Shipment Financing. Pre-shipment financing is extended to exporters before shipment as working capital for purchasing raw materials, processing, packing, warehousing, transporting and shipping. Commerce determined that estimated net subsidies, ad valorem, of 0.47 percent for Karmen, 0.44 percent for Sivanandha, and 5.27 percent for Tata were provided under this program.

(2) Income Tax Deductions Under Section 80HHC. Tax deductions are available to exporters in India under a program that allows exporters to reduce their taxable income by the profits earned on exports. Commerce found that such deductions provided estimated net subsidies, ad valorem, of 2.10 percent for Karmen, 2.73 percent for Sivanandha, and 15.82 percent for Tata.

(3) International Price Reimbursement Scheme or "IPRS." The IPRS was established to compensate Indian exporters for the difference between the domestic price of inputs and their world market price. Commerce determined the estimated net subsidies, ad valorem, from this program to be 7.05 percent for Karmen, 0.00 percent for Sivanandha, and 32.66 percent for Tata. The IPRS has since been abolished.

With respect to Israel, Commerce received questionnaires from Pipe Fittings Carmiel Ltd. and the Government of Israel. It determined that the following programs were countervailable:

(1) Grants under the Encouragement of Capital Investments Law of 1959 or "ECIL." ECIL, which provides investment grants to manufacturers for the development of production capacity, provided an estimated net subsidy for Carmiel of 2.31 percent ad valorem.

(2) Long-term industrial development loans funded by the Government of Israel provided an estimated net subsidy of 0.36 percent ad valorem.

(3) The Exchange Rate Risk Insurance Scheme (which allowed exporters to insure themselves against the risk of losses which would occur when the rate of devaluation lags behind the rate of inflation) provided an estimated net subsidy for Carmiel of 0.19 percent ad valorem.

(4) The exemption from wharfage fees and rates of wharfage fees provided estimated net subsidies for Carmiel of 1.50 percent ad valorem and 0.34 percent ad valorem, respectively.

(5) The Fund for the Promotion of Marketing Abroad provided an estimated net subsidy for Carmiel of 0.23 percent ad valorem

Sales at LTFV

Commerce calculated the final LTFV margins to be as follows (in percent ad valorem):

	<u>Margin</u>	<u>Deposit</u>
France:		
Interfit, SA	32.58	32.58
All others	32.58	32.58
India:		
Sivanandha Pipe Fittings, Ltd	13.99	10.83 ¹
Karmen Steels of India	0.87 ²	0.87 ^{2 3}
All others	7.84	6.26 ¹
Israel:		
Pipe Fittings Carmiel, Ltd	8.84	6.58 ¹
All others	8.84	6.58 ¹
Malaysia	194.70	194.70
The Republic of Korea	207.89	207.89
Thailand (AST):		
Awaji Sangyo (Thailand) Co., Ltd.	17.13	16.39 ^{1 4}
The United Kingdom:		
BKL Industries, Ltd	48.85	48.85
All others	48.85	48.85
Venezuela	203.63	203.63

¹ Article VI, paragraph 5 of the General Agreement on Tariffs and Trade provides that "[no] product ... shall be subject to both antidumping and countervailing duties to compensate for the same situation for dumping or export subsidization." Since antidumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no basis to require a cash deposit or bond for that amount.

² Commerce made a ministerial error in its calculation of the LTFV margin for Karmen and revised its original margin of 1.69 percent to 0.87 percent. Commerce A-533-811 Investigation Public Document, dated Mar. 15, 1995.

³ Export subsidies did not affect the margin calculations for Karmen; accordingly, its rate was not adjusted.

⁴ The rate reflects an adjustment (subtraction) of 0.74 percent ad valorem to offset that portion of the margin attributable to export subsidies in the most recent administrative review of an outstanding countervailing duty order (57 F.R. 5248, February 13, 1992).

Commerce based its final margin for LTFV sales for France, India, Israel, Thailand (Awaji Sangyo Thailand (AST)), and the United Kingdom on a comparison of the respective United States prices to the foreign market values. The same comparison, based on best information available, was used to calculate the final LTFV margins for Korea, Malaysia, and Venezuela.

Commerce also found that critical circumstances exist for Malaysia and the United Kingdom.¹⁰ A finding of critical circumstances means that suspension of liquidation will apply to all unliquidated entries of subject product from Malaysia or the United Kingdom that are entered, or withdrawn from warehouse, for consumption on or after the period 90 days prior to October 4, 1994.¹¹ To assist the Commission in its critical circumstances determinations, monthly import data of subject fittings from Malaysia and the United Kingdom for January 1993 to September 1994 are presented in app. D.

THE PRODUCT

Description of Certain Carbon Steel Butt-Weld Pipe Fittings

The products subject to the petitioner's complaint are finished and unfinished butt-weld pipe fittings of carbon (nonalloy) steel with inside diameters of less than 14 inches (355 millimeters).¹² The beveled edges¹³ of butt-weld fittings distinguish them from otherwise similar fittings, such as threaded, grooved, or bolted fittings, which rely on other means of fastening.¹⁴ Unfinished fittings, which typically lack the beveled ends and require further steps for completion (see description below), are used to produce finished fittings.

The subject product is imported in both finished, that is, ready-to-be-used, and unfinished condition. The latter fittings, which are commonly referred to as "roughs," require one or more steps of additional processing. An unfinished fitting consists of seamless carbon steel pipe (or plate) that is first cut to proper size and, then, either heat processed or cold-formed through a series of pressing, hammering, and/or die-forming steps into the basic shape and size desired. Such steps, including the cost of the original pipe or plate, account for approximately 85 percent of the value of the finished fitting.¹⁵ To finish the fitting, several further steps are necessary, including (1) coining or sizing to achieve true circularity, (2) heat treatment, (3) shot blasting to clean the fitting's surface, (4) beveling the connecting edges to allow for the "bead" of weld, (5) boring and tapering the insides to achieve finer tolerances, (6) grinding to remove surface imperfections, (7) inspecting to detect flaws and defects, (8) die stamping to indicate lot number, parent material, size and wall thickness,

¹⁰ The petitioner also alleged critical circumstances with respect to France and Israel. Commerce determined that critical circumstances do not exist for imports of the subject product from France because the volume of imports into the United States decreased in the 7 months after the petition was filed, compared with the 7 months immediately before that period. Because the calculated margin for certain carbon steel butt-weld pipe fittings from Israel is below 25 percent and there have been no antidumping orders in the United States or elsewhere pertaining to butt-weld pipe fittings from Israel, Commerce also determined that critical circumstances do not exist with respect to imports of the subject product from Israel.

¹¹ 19 U.S.C. § 1673b(e)(2).

¹² In previous investigations of certain carbon steel butt-weld pipe fittings, the Commission determined that there is one domestic like product consisting of both finished and unfinished carbon steel butt-weld pipe fittings of less than 14 inches in inside diameter. No party argued for a different like product determination in the preliminary or in these final investigations.

¹³ When placed against the end of a similarly beveled pipe, the corresponding edges form a shallow channel into which a "bead" of weld can be laid, effectively fastening the two adjoining pieces.

¹⁴ The welded connections used with the subject product provide a better seal than threaded, grooved, or bolted connections, which are more likely to fail under pressure.

¹⁵ Peter Feller, counsel for the petitioner, testified to the added value at the conference held during the Commission's preliminary investigations, conference transcript (TR), p. 40.

and compatibility with American Society for Testing and Materials (ASTM) and American National Standards Institute (ANSI) standards, and finally (9) painting, which serves as a protective coating.¹⁶ ¹⁷ The overwhelming majority of fittings that enter the United States from the subject countries are finished. Of the relatively small number of unfinished fittings that are imported from these (and non-subject) countries, all are apparently sold to U.S. manufacturers for processing into finished fittings.¹⁸

Uses of Certain Carbon Steel Butt-Weld Pipe Fittings

The primary industries that use certain carbon steel butt-weld pipe fittings include chemicals, oil refining, power generation, construction, and shipbuilding. These industries purchase the subject product for use in forming permanent, fixed piping systems that convey gases or liquids. The pipe fittings are also used as support members in structural applications.

For the subject product's uses, there are no substitutes other than similar but more costly fittings made from stainless or other alloy steel. Such fittings typically are used in specialized applications requiring resistance to corrosion.

Types of Certain Carbon Steel Butt-Weld Pipe Fittings

In the United States, fittings are typically standardized, and their composition and dimensions conform to recognized tolerances. For example, chemical properties and physical tolerances are defined by the ASTM and actual dimensions are defined by the ANSI. Non-standard fittings, having special dimensions or meeting user-defined specifications more stringent than those specified by the ASTM or the ANSI, are also available; however, they must be specially ordered and are only used by a small segment of the market.¹⁹ Only a few of the smaller sized U.S. producers handle custom-ordered fittings, and they are imported only rarely, if at all.²⁰

Certain carbon steel butt-weld pipe fittings are produced in a number of shapes, sizes, and wall-thicknesses (or "schedules"). The most common shapes are (1) elbows, designed to connect two pipes at various angles; (2) tees, designed to connect three pipes; (3) reducers, designed to connect two or more pipes of different sizes; and (4) caps, designed to seal pipe ends. (See figure 1.) A

¹⁶ Petitioner's posthearing brief, app. A, p. A-24.

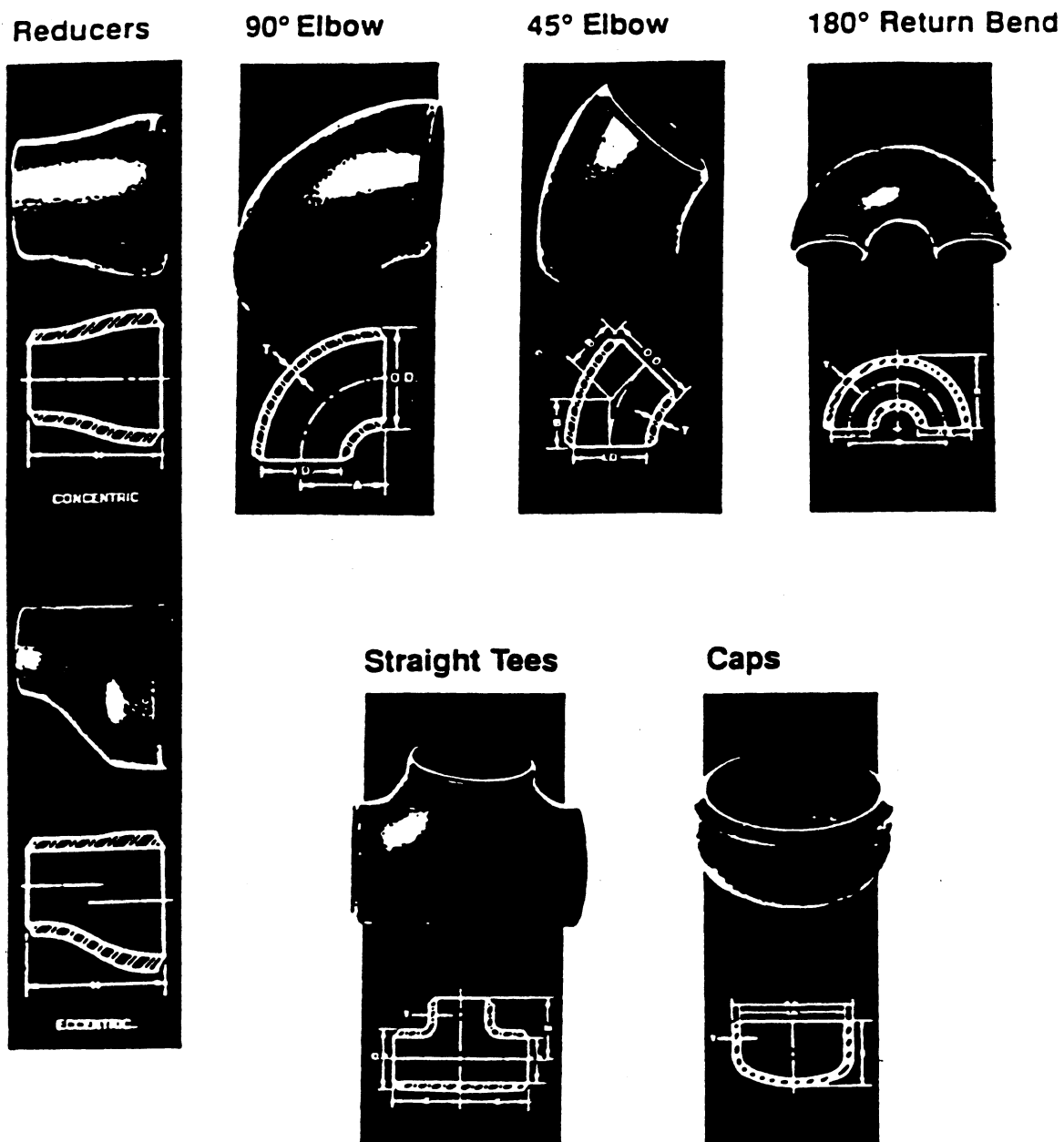
¹⁷ A complete description of the processes used to manufacture certain carbon steel butt-weld pipe fittings is provided in app. E. The terms "integrated" manufacturing and "conversion" operations are used within this report. Integrated manufacturing consists of both forming the rough and machining and otherwise finishing it into a finished fitting. Conversion operations refer to the finishing of purchased roughs.

¹⁸ Responses by firms to Commission questionnaires. Likewise, all known U.S.-produced unfinished fittings are used to produce finished fittings. There is no independent market for unfinished fittings.

¹⁹ Standardized fittings, which are basically interchangeable, are often referred to as "commodity" fittings. (Testimony of Jay Zidell, president of Tube Forgings, conference TR, pp. 29-30.) According to ***, commodity fittings are those fittings in such demand that they are commonly stocked by distributors. (Staff conversation with ***, Dec. 22, 1994). Alternatively, *** would even consider fittings produced to user-provided specifications to be commodity products because any producer could, in theory, manufacture them. (According to ***'s usage, a non-commodity product is one engineered by the manufacturer to have special properties or design features that are unique to the manufacturer. Because of considerations of liability, there are no such products in the U.S. fittings industry.) Staff conversation with ***, Dec. 20, 1994.

²⁰ Some specially-ordered fittings have been provided by ***. Importers' questionnaire response by ***.

Figure 1. Typical carbon steel butt-weld pipe fittings



Source: Weldbend Product Catalog.

wide variety of fittings, all conforming to ASTM and ANSI specifications, is available in the United States from both foreign and domestic sources, although the range of types, sizes, and schedules provided varies among sources.

Appendix F contains data on the shipments of various sizes and shapes of fittings. As shown, elbows account for most of the fittings consumed within the United States. Over 90 percent of the imported product consists of elbows; no importer reported any shipments of subject caps.²¹ Most of the tees and reducers consumed within the United States were manufactured by U.S. firms. Low-temperature and high-yield carbon steel fittings are reportedly available only from U.S. producers and from manufacturers in France and the United Kingdom.²²

THE U.S. MARKET

Discussion of Information Included in the Staff Report

The data for the following sections on the U.S. market (and for the other sections of this report) are principally based on the responses of industry participants to Commission questionnaires. Information obtained from producers and importers is believed to represent almost 80 percent of the domestic market.^{23 24} However, Weldbend Corp., *** (representing about one-third of U.S. production), did not complete the Commission's questionnaire. Weldbend, which is not a petitioning company in these investigations, was willing to answer staff questions, to allow an on-site plant tour

²¹ However, one importer (***) reported importing a small number of caps from an unspecified source.

²² Importers' questionnaire response by ***. High-yield fittings are products with higher yield strength (to withstand pressure) and an increased tensile (toughness) standard.

²³ Other exceptions to this statement and any identified data inconsistencies are discussed in detail in the relevant sections of this report.

²⁴ The Commission sent producers' questionnaires to those 11 firms known to be manufacturing certain carbon steel butt-weld pipe fittings. ("App," a firm reportedly manufacturing a small amount of customized product, did not receive a questionnaire.) Responses were received from all firms except from Weldbend. The data provided by two small producers (specifically, ***) were not usable and are not included in any of the data presented in this report. (As discussed in the section entitled "U.S. Producers," each of these firms produces only minimal quantities of the subject product.) Producers that provided usable responses account for approximately two-thirds of the quantity of U.S. production in 1993.

A total of 70 importers' questionnaires were mailed, primarily to the producers and to firms that reported more than insignificant amounts of imports into the United States from subject countries under the *HTS* classification for subject fittings. Additional firms named in the petition were also sent questionnaires if staff had not been able to confirm during the preliminary investigations that the firms had not, in fact, been importing. Affirmative responses were received from 30 importers, although a number of firms were not able to complete all sections of the questionnaire due to the difficulty they experienced in separating subject data from those for other sources and fitting types. Most of the remaining firms indicated that they did not, in fact, import or could not be contacted by Commission staff. (The latter group primarily included firms which were almost certainly not importers; they were listed in the petition, but not in information provided by the U.S. Customs Service, i.e., a computer printout of data extracted from the Customs entry documents filed when goods are imported into the United States.) Firms known to be importing potentially significant amounts which did not respond to the Commission's questionnaire included: *** (firm is out of business and records were not available), *** (no telephone listing), ***, ***, *** (no telephone listing), *** (firm is out of business), and *** (no telephone listing). However, as will be discussed in detail in the section entitled "U.S. imports," staff utilized official Commerce statistics or, when necessary, data reported by the foreign producers to analyze import trends and market penetration, and those data are believed to be generally complete.

by Commission staff, and to permit the use of data provided to the Commission in connection with the 1992 antidumping investigations on China and Thailand. That information is incorporated into this report when possible, and a complete record of discussions between the Commission's staff and Weldbend's president and legal counsel is provided in appendix G. The president of Weldbend, James Coulas, Sr., made a number of observations about how the operations of his firm compared to the rest of the industry. In general, Mr. Coulas contends that his firm is doing "well," with *** which is due, at least in part, to factors unique to Weldbend.²⁵ Where relevant, his observations were incorporated into this staff report. However, although Mr. Coulas appears to be knowledgeable about the fittings industry, he is, of course, not privy to certain specific and confidential information maintained by his competitors. Because Weldbend did not provide data, staff is unable to provide specific, quantified comparisons of Weldbend's actual performance relative to other domestic producers.²⁶

Apparent U.S. Consumption

Data on apparent consumption of certain carbon steel butt-weld pipe fittings (excluding Weldbend) are presented in table 1. As shown in table 1, the quantity of total consumption declined by 19.9 percent from 1991 to 1993, then increased by 13.7 percent in interim 1994 as compared to interim 1993. If production data for Weldbend were included, consumption of finished fittings would have declined by 9.6 percent from 102.7 million pounds in 1991 to 92.9 million pounds in 1993²⁷ and there would have been a greater magnitude in the rise in interim 1994 consumption.²⁸ (Weldbend has given the Commission permission to publicly divulge production data that it provided to the Commission.)

²⁵ ***.

²⁶ *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*, USITC publication 2528, June 1992, p. 16. In the 1992 investigations, the Commission found that Weldbend was dependent on low-cost unfinished imports. As will be discussed in the section of this report entitled "U.S. Producers," Weldbend today functions ***.

²⁷ In its preliminary questionnaire response, Weldbend reported that it produced 18.6 million pounds in 1991. Simon Kriesberg, counsel for Weldbend, stated that, in 1993, the firm manufactured 23.5 million pounds. (Staff conversation with Mr. Kriesberg, Mar. 24, 1994.) Weldbend's production data were used in lieu of shipment data to calculate apparent consumption; ***. Staff conversation with James Coulas, Sr., president of Weldbend, Dec. 14, 1994.

²⁸ ***.

Table 1

Certain carbon steel butt-weld pipe fittings: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

Item	1991	1992	1993	Jan.-Sept.--	
				1993	1994
<hr/>					
	<hr/> Quantity (1,000 pounds) <hr/>				
Producers' U.S. shipments	43,500	49,329	49,454	38,185	42,073
U.S. imports from--					
France	636	509	1,887	1,430	953
India	847	1,231	743	519	443
Israel	295	834	1,186	846	898
Malaysia	209	1,580	1,413	1,120	1,388
Republic of Korea	8	449	568	524	30
Thailand (AST)	5,697	7,271	8,140	6,286	5,558
United Kingdom	2,661	3,889	2,319	1,804	3,139
Venezuela	1,092	1,179	673	488	0
Subtotal	11,445	16,942	16,928	13,016	12,410
Thailand (non-AST)	4,945	0	0	0	369
China	27,110	113	117	117	91
Other sources	4,828	7,169	7,063	4,374	8,364
Total	48,327	24,224	24,108	17,507	21,234
Apparent consumption	91,827	73,553	73,562	55,692	63,307
<hr/>					
	<hr/> Value (1,000 dollars) <hr/>				
Producers' U.S. shipments	45,292	47,460	46,734	36,090	37,692
U.S. imports from--					
France	448	353	1,249	955	620
India	639	724	448	319	252
Israel	164	472	632	452	472
Malaysia	158	1,076	884	720	880
Republic of Korea	34	370	501	462	48
Thailand (AST)	3,746	4,675	4,784	3,704	3,342
United Kingdom	2,526	3,148	1,839	1,462	2,311
Venezuela	572	623	345	248	0
Subtotal	8,287	11,441	10,683	8,321	7,925
Thailand (non-AST)	4,200	0	0	0	383
China	14,367	52	61	61	64
Other sources	6,628	6,722	6,439	4,329	7,841
Total	33,483	18,215	17,183	12,711	16,213
Apparent consumption	78,775	65,675	63,917	48,801	53,905

Note.--There is a small degree of double-counting in the figures for consumption because a certain quantity of unfinished fittings imported and/or purchased from importers by U.S. producers for finishing. The quantity of such fittings, reported by U.S. producers (excluding Weldbend), amounted to *** million pounds in 1991, *** million pounds in 1992, *** million pounds in 1993 and *** million pounds in January-September 1994. ***.

Source: Data for producers' U.S. shipments are compiled from questionnaire data (and exclude *** and Weldbend). Data for U.S. imports were obtained from official statistics of the U.S. Department of Commerce and, where necessary, from data submitted by foreign producers. (See table 20 for a complete itemization of the source of data used for each subject country.)

Consumption data for the U.S. market including Weldbend are shown in the following tabulation (1,000 pounds):

<u>Source</u>	<u>1991</u>	<u>1993</u>
Producers' U.S. shipments:		
U.S.-origin shipments	54,407	68,779
Foreign-origin shipments	***	***
Total	***	***
U.S. imports:		
France	636	1,887
India	847	743
Israel	295	1,186
Malaysia	209	1,413
Korea	8	568
Thailand (AST)	5,697	8,140
United Kingdom	2,661	2,319
Venezuela	<u>1,092</u>	<u>673</u>
Subtotal	11,445	16,928
Thailand (non-AST)	4,945	0
China	27,110	117
Other sources	<u>4,828</u>	<u>7,063</u>
Total	<u>48,327</u>	<u>24,108</u>
Apparent consumption	102,734	92,887

Note.--Apparent consumption is calculated as the total of U.S.-origin shipments of finished fittings plus U.S. imports of finished and unfinished fittings. It, therefore, eliminates the double-counting of unfinished fittings that are purchased by U.S. manufacturers and converted into the finished product. Significant double-counting occurs when ***. The source of the data on foreign-origin shipments for 1991 is as follows: for subject sources and Thailand (non-AST), foreign-origin production from U.S. producer questionnaire responses; for China, data reported by *** in connection with investigations Nos. 731-TA-520 and 521 (Final); for all other sources, public data from investigations Nos. 731-TA-520 and 521 (Final), adjusted using data collected in the instant investigations. The sources of the 1993 data are as follows: for ***, data reported in ***, and for all other producers, foreign-origin production data from U.S. producer questionnaire responses.

Demand for the subject product is driven, in part, by spending within the U.S. petrochemical industry, the single largest consumer. Because of the high cost of complying with environmental regulations in the United States, oil refineries and chemical plants have been relocating overseas during the last few years, with an apparent resulting decline in U.S. consumption of the subject product.²⁹ The specific timing of that drop in consumption is somewhat difficult to pinpoint due to uncertainty regarding the status of the large number of certain butt-weld pipe fittings imported from

²⁹ Testimony of Jay Zidell, president of Tube Forgings, conference TR, p. 27.

China in 1991 (table 1 and the above tabulation).³⁰ An unknown portion of the fittings imported from China in 1991 is believed to have been inventoried subsequent to the importation of the product and, thus, was not immediately consumed by end users.³¹ Concerns over the quality of the Chinese-produced product reportedly led to widespread rejection of these fittings in the marketplace during the period reviewed, and distributors holding the Chinese product experienced some difficulty in selling it.³² Therefore, the actual consumption of fittings in 1991 by end users does not appear to be as high as that reported in the above tabulation. Further, the impact from the overseas relocation of petrochemical facilities discussed in the first part of this paragraph almost certainly began before the period in review.³³ Reported apparent consumption of certain carbon steel butt-weld pipe fittings was level between 1992 and 1993 and increased during the interim periods.

U.S. Producers

In addition to the five petitioners, which represent about half of U.S. production, six other firms are known to have produced finished or unfinished certain carbon steel butt-weld pipe fittings during the period for which data were collected (table 2).

No firm manufactured only unfinished fittings. Four of the producers--Hackney and Tube Forgings (petitioners) and Tube-Line and Weldbend (nonpetitioners)--accounted for about 90 percent of U.S. production in 1993. Standard Fittings began production operations in 1992; no firm has left the industry during the period reviewed.

³⁰ The 1991 imports do not appear to constitute a surge in Chinese fittings. Fewer certain carbon steel butt-weld pipe fittings were imported from China in 1991 than were imported in either 1989 or 1990. See *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*, USITC Publication 2528, June 1992. As shown in table 18 (p. I-35) of that report, 25.1 million pounds of fittings were imported from China in 1989 and 34.5 million pounds were imported in 1990.

³¹ As noted earlier, apparent consumption is calculated in this staff report using imports (rather than importers' U.S. shipments). (Data on importers' U.S. shipments (and Weldbend's U.S. shipments in 1993) are either not available or, in the case of subject imports, not complete.) Any changes in the levels of the U.S. inventories maintained by the importers (and Weldbend) result in a proportionate distortion in the trends of actual consumption of the product at the next level of the distribution chain. As discussed in the section of this report entitled "Distribution Network," there is a multilayered distribution chain for fittings. It is unknown at what stage of the distribution network the Chinese imports stalled before their actual use or consumption by end users (although a portion was held by ***). In the 1991-92 antidumping investigation concerning imports of certain butt-weld pipe fittings from China, 17 firms reported imports of finished fittings from China. *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*, USITC Publication 2528, June 1992, p. I-18.

³² ***. In September 1992, the National Board of Boiler and Pressure Vessel Inspectors, Columbus, OH, published a warning concerning the quality of Chinese fittings and flanges. Information concerning the pending report had been circulating throughout the industry during the 6-to-8 month period before its actual release. ***.

³³ The apparent U.S. consumption of certain carbon steel butt-weld pipe fittings was 98.9 million pounds in 1989 and 105.4 million pounds in 1990. *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*, USITC publication 2528, June 1992, p. I-20.

Table 2

Certain carbon steel butt-weld pipe fittings: U.S. producers, plant locations, positions on the petition, and 1993 U.S. production of finished product

Names of firms	Plant location	Position on the petition	U.S. production in 1993 ¹ (1,000 pounds)	Share of U.S. production in 1993
Petitioners:				
Hackney ²	West Memphis, AR	Supports	***	***
	Elkhart, IN			
	Enid, OK			
Ladish ³	Cynthiana, KY	Supports	***	***
	Russellville, AR			
Mills Iron Works ³ . . .	Gardena, CA	Supports	***	***
Steel Forgings ³	Shreveport, LA	Supports ⁴	***	***
Tube Forgings ³	Portland, OR	Supports	***	***
Subtotal			***	***
Non-petitioners:				
Custom Alloy ⁵	High Bridge, NJ	***	(6)	***
Flo-Bend ⁷	Sand Springs, OK	***	***	***
L.A. Boiler Works ³ . . .	Blackwell, OK	*** ⁸	***	***
Standard Fittings ³ . . .	Opelusas, LA	(9)	***	***
Tube-Line ¹⁰	Union, NJ	***	***	***
	New Brunswick, NJ			
Weldbend ³	Chicago, IL	*** ¹¹	***	***
Subtotal			***	***
Total			***	100.0

¹ Includes only production of finished certain carbon steel butt-weld pipe fittings. In addition to the finished product, a few firms produced and sold fittings in an unfinished form to other domestic producers. ***.

² ***.

³ Not owned, in whole or in part, by any other firm.

⁴ Steel Forgings states that it ***. Steel Forgings is a job shop that makes fittings to order.

⁵ ***.

⁶ Custom Alloy primarily manufactures non-commodity or specialized fittings. *** is of nickel or high alloy or, if carbon, is 14 inches or greater in inside diameter. However, the firm does produce *** heavy-walled carbon fittings and other "specials" that are subject to these investigations. Custom Alloy could not estimate the annual weight of the subject production; the corresponding value is approximately \$*** to \$*** annually.

⁷ Flo-Bend is ***. The firm manufactures alloy and carbon high-yield fittings; the carbon fittings meet the definition of the subject product. (*** is of specialty alloy fittings.)

⁸ In its response to the preliminary questionnaire, L.A. Boiler Works wrote that "****." L.A. Boiler Works manufactures a complete line of butt-weld pipe caps. *** of its production ranges from 14 inches to 24 inches inside diameter.

⁹ Standard Fittings states that ***. The firm *** produces threaded and socket weld carbon steel fittings and ***.

¹⁰ ***.

¹¹ Weldbend did not respond to the Commission's questionnaire in its final investigations. However, in a partial response to the preliminary questionnaire, Weldbend stated ***.

Source: Compiled from responses to questionnaires of the U.S. International Trade Commission and from staff conversations with Custom Alloy (Nov. 11, 1994), Tube-Line (Jan. 17, 1995), and Weldbend (Mar. 24, 1995).

Description of Fittings Produced

As shown in the notes to table 2, Custom Alloy and Flo-Bend produce specialized high-yield and/or heavy-walled fittings. L.A. Boiler Works produces *** caps, Standard Fittings manufactures the product *** and Steel Forgings is a job shop. Mills specializes in concentric reducers (its only subject product). The four large producers (Hackney, Tube Forgings, Tube-Line, and Weldbend) manufacture a broad range of products, although Weldbend indicated to Commission staff that it ***.³⁴

Location of Manufacturing Facilities and Shipping Cost

There is a nationwide market for fittings, although demand is concentrated in pockets such as the petrochemical facilities of the Gulf States. U.S. manufacturers each generally ship to all parts of the United States,³⁵ although ***.³⁶ Because of the high freight costs, the location of a firm may be relevant when analyzing its competitiveness. In response to the question, "How do you account for ***?", *** stated that--

* * * * *

Most of the product is shipped by truck with freight allowances supplied by producers for certain minimum order levels. The allowances constitute a significant business expense for U.S. manufacturers. Hackney, Tube Forgings, and Tube-Line estimate that inland transportation costs account for *** percent of their total delivered cost of certain carbon steel butt-weld pipe fittings.³⁸ Mr. Coulas states that freight comprises ***.³⁹

Integration of Manufacturing Facilities

All 11 producers make finished fittings, and all use internally produced unfinished stock for this purpose--some exclusively. The four larger producers supplement or complement their own unfinished stock with that purchased from each other (mostly from ***) or from foreign manufacturers. In recent years, the industry as a whole has become less reliant on outside sources for unfinished fittings as two firms, Tube-Line and Weldbend, changed their focus from converting unfinished fittings to operating integrated production facilities. Tube-Line began *** and, in ***, started such operations in a new facility located in New Brunswick, NJ. The New Brunswick plant was completed by ***.⁴⁰ Tube-Line operated primarily as an integrated manufacturer during the

³⁴ Staff visit to Weldbend, Dec. 5, 1994.

³⁵ For example, Tube Forgings (located in Oregon) ships approximately *** percent of its fittings into the Gulf States. Staff conversation with ***. Hackney competes with ***. Staff conversation with ***.

³⁶ Staff conversation with ***.

³⁷ Question directed to *** in letter from the Commission staff dated Mar. 1, 1995; response received by fax from ***.

³⁸ Responses to producers' questionnaires.

³⁹ ***. Hackney's central distribution facility is located in ***. ***.

⁴⁰ ***.

period reviewed.⁴¹ In ***, Weldbend also started to construct a facility to forge or form "rough" fittings.⁴² That plant is now operational.⁴³

The following tabulation presents the source of the unfinished roughs used to produce subject fittings, in 1993, by those producers whose operations are not wholly integrated:

* * * * *

¹ At the Commission's conference held during the antidumping investigations concerning China and Thailand, Mr. Coulas stated that upon completion of the integrated facility "We will be able to produce the pipe {roughs} for over 90 percent of our fittings that we sell." James Coulas, Sr., president of Weldbend, Conference TR, investigations Nos. 731-TA-520 and 521 (Preliminary), p. 57.

Note.--The method used to calculate the above data follows the assumption that purchases of unfinished fittings were used in the year of their purchase to produce finished product. ***.

At this time, conversion operations constitute a minor share of ***'s total production. ***. Producing firms reported that they imported or otherwise purchased some roughs because they were "unable to fabricate within cost/price constraints" (***); the roughs were "out of our production range" (***);⁴⁴ or due to "price and availability" (***).

Related Party Issues

As discussed above, a number of the unfinished roughs used to produce finished fittings by the four larger manufacturers (Hackney, Tube Forgings, Tube-Line, and Weldbend) are imported or purchased from subject countries.⁴⁵ However, the amounts are small *** and usually account for an insignificant portion of total finished fittings manufactured by the firms.⁴⁶

In addition to directly importing a *** amount of unfinished subject fittings for internal consumption, Tube Forgings was, during the period reviewed, *** affiliated with Gulf Supply, Inc., Houston, TX, an importer and distributor of certain butt-well pipe fittings. ***. The firm stopped

⁴¹ Tube-Line reported to the Commission during the 1992 antidumping investigations for China and Thailand that approximately *** of its product was finished from roughs imported from its affiliate in Thailand, Thai Benkan. ***.

⁴² In the September 1993 issue of *Supply House Times*, Mr. Coulas discussed the reasons for deciding, at the age of 78, to redirect the operations of his company. In the article, Mr. Coulas was quoted as saying that "Producers from around the world would see what American companies were selling, send over their own agents to sell against us, and then continue to try to sell us. That made me think even more that we should get more deeply involved in manufacturing ourselves." (Direct quote attributed to Mr. Coulas.) According to the article, Mr. Coulas indicated that "a number of offshore suppliers sought to set themselves up in competition against Weldbend and other U.S. manufacturers." (Quotation to article, and not directly to Mr. Coulas.)

⁴³ Staff visit to Weldbend, Dec. 5, 1994.

⁴⁴ ***.

⁴⁵ ***.

⁴⁶ ***.

commercial activities in late spring/early summer 1993. ***.^{47 48} At the Commission's conference during its preliminary investigations, Yves Pognonec, executive vice president of Vallourec, an importer, testified that he believes some distributors "were not very comfortable with placing orders to a manufacturer that was also controlling a distributor that was competing with them."⁴⁹

* * * * *

*50 51 52

U.S. Importers and Description of Fittings Imported

Table 3 lists the U.S. importers of the subject product.

Table 3

Certain carbon steel butt-weld pipe fittings: U.S. importers, quantity of reported imports, share of total reported imports from subject countries, and foreign manufacturer, 1993

* * * * *

Note--Questionnaire data received for France, Malaysia, Korea, and Thailand (AST) are believed to represent virtually all of U.S. imports in 1993 from these respective sources. Questionnaire data received for India exclude *** and are believed to represent about 80 percent of 1993 U.S. imports from India. Questionnaire data received for Israel exclude *** and are believed to represent over 90 percent of 1993 U.S. imports from Israel. Questionnaire data received for the United Kingdom exclude *** and are believed to represent 80 percent of 1993 U.S. imports from the United Kingdom. Questionnaire data received for Venezuela exclude ***, but still total to more than 100 percent of 1993 U.S. imports from Venezuela. The firms listed as excluded did not respond to the Commission's importers' questionnaire or in one instance, i.e., ***, provided an incomplete response.

Most of the product from the countries under investigation is imported by independent distributors. Exceptions include Benkan America and Vallourec, importing "agents" related to foreign manufacturers. The importers are located throughout the United States, although more are concentrated in states that have major petrochemical facilities (specifically, Oklahoma, Louisiana, and Texas).

As indicated earlier, the majority of the fittings imported into the United States are in the shape of elbows. Further, most of the imports (like most of the domestically produced product) meet, but do not exceed, the basic carbon steel standard of ASTM A-234 (and are thus labelled a "WPB" fitting). With the possible exception of imports from the United Kingdom, the majority of the imports shipped into the United States are of standard or extra-heavy wall thicknesses. (Fittings produced to other schedules, or to a standard other than ASTM A-234, are commonly referred to as "specials.")

⁴⁷ ***.

⁴⁸ ***.

⁴⁹ Conference TR, pp. 118-119.

⁵⁰ ***.

⁵¹ ***.

⁵² ***.

As shown in table 3, *** were, either individually or together, the *** importers from India, Israel, Malaysia, and Venezuela in 1993. *** report the importation of, almost exclusively, fittings formed to standard and extra-heavy wall thicknesses.⁵³ The fittings are distinguished from one another by the country-of-origin markings and, as is discussed in the section of this report entitled "U.S. Importers' Inventories," *** importers physically commingle the fittings purchased from various offshore sources into a common inventory.

Similarly, the imports from France and Thailand (AST) are primarily elbows in standard and extra-heavy wall thicknesses.⁵⁴ (As shown in table F-2, both sources export a *** number of shapes other than elbows into the United States; there are *** amounts of fittings in nonstandard schedules.) A key factor that distinguishes fittings manufactured by Interfit in France and by AST in Thailand from fittings imported from India, Israel, Malaysia, and Venezuela is the fact that Interfit and AST are "approved" manufacturers. (The issue of approval is discussed in the following section of this report.)

In contrast to most of the other subject sources, a portion of the subject fittings imported from the United Kingdom are heavy-walled fittings (used for high-pressure service) and low-temperature product.⁵⁵ Most of the certain carbon steel butt-weld pipe fittings imported in 1993 by *** (see table 3) were nonstandard specials.⁵⁶ James Arthur Smith, general manager of export sales, BKL Fittings, testified at the Commission's hearing that "Our internal statistics indicate that the percentage of finished butt-weld fittings shipped to the United States, which were neither heavy-walled schedule, nor WPL-6 {low-temperature} fittings, has progressively decreased."⁵⁷ The fittings imported from the United Kingdom in 1993 by *** (see table 3) were almost all commodity items, that is, "standard" rather than "specialty" fittings.⁵⁸ Like AST and Interfit, BKL Fittings is on major end user-approved manufacturer lists and, as discussed in the section of this report entitled "The Industry in France," there is some evidence on the record of competition for sales among subject imports of approved fittings.

Channels of Distribution

Distribution Network

The subject butt-weld pipe fittings flow through a relatively complex distribution network (figure 2). The players in the network are domestic manufacturers, importing "agents" related to foreign manufacturers, master distributors, semi-master distributors, large and small non-master distributors, direct-purchase fabricators, other fabricators, and end users. Master distributors carry a wide inventory and do not sell to end users. Semi-master distributors sell primarily to the same purchasers as master distributors, but may also sell some product to end users. Large distributors handle large volumes and are likely to have warehouses in several locations, while small distributors

⁵³ ***.

⁵⁴ ***.

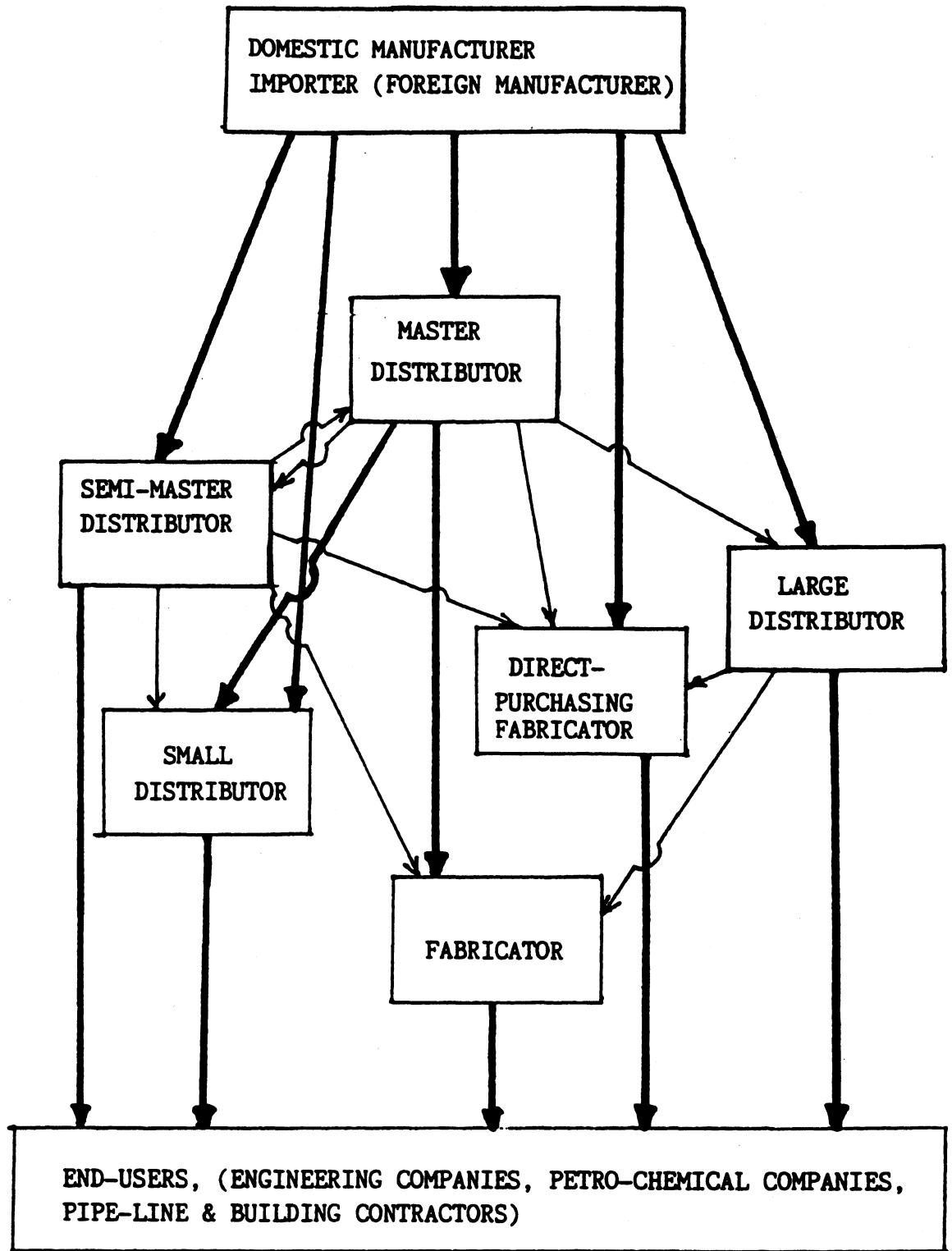
⁵⁵ Imports from Korea, the only other subject source, also include heavy-walled fittings used for high-pressure applications. ***.

⁵⁶ ***.

⁵⁷ Hearing TR, p. 154.

⁵⁸ ***.

Figure 2
Finished certain carbon steel butt-weld pipe fittings: Channels of distribution



Source: Importers' questionnaire submitted by ***.

are likely to serve a limited area. Fabricators assemble piping systems for installation by engineering and construction companies.

Both domestic manufacturers and importing "agents" sell to the four types of distributors and to direct-purchase fabricators. (Master distributors, semi-master distributors, and large distributors also act as importers.) Almost no fittings are sold directly to end users by either domestic manufacturers or importers (tables F-3 and F-4).

End-User Market

End users for standard fittings are numerous and widely distributed in the petrochemical, nuclear energy, power generation, plumbing, and construction industries. For many of these users, any finished fitting of the appropriate size and shape is usable as long as it is stamped to indicate that it meets ASTM and ANSI standards. Virtually all fittings sold in the United States are so designated. Certain members of the petrochemical industry, however, are more particular in this regard and require that any producer wishing to sell to them must submit to periodic audits of its quality control procedures to insure that its product will consistently meet the standard specifications. In theory, these end users will only buy fittings that originate with producers that have been so approved.

Numerous lists of such "approved" manufacturers are maintained. Some end users conduct their own inspections and evaluations; others rely on a commonly used list, such as the Exxon "accepted manufacturer list" (AML).⁵⁹ Each of the domestic manufacturers, including Weldbend, appears on one or more AMLs. In addition to the U.S. producers, Interfit (France), AST (Thailand), and BKL Fittings (United Kingdom) currently meet such approval by various purchasers; and Vallourec, the exclusive importer for Interfit, reports that it sells its finished fittings exclusively to distributors in this segment of the market. Based on conversations with its distributors, Vallourec further believes that almost all of the finished fittings are eventually sold to end users who required approved product.⁶⁰ In contrast, a *** portion of the finished fittings manufactured by BKL are sold to purchasers that do not require approval (table F-4). ***⁶¹

The share of the market attributable to all "approving" end users is unknown, although industry sources estimate that it is considerably less than the share of the market held by the

⁵⁹ The Exxon AML is published every 6 months.

⁶⁰ Posthearing brief of Vallourec, "Response to Question from Debra Baker." Counsel for Vallourec, citing testimony by the executive vice president of Vallourec (Yves Pognonec) at the Commission's hearing that his firm never competes with imports from the non-approved countries at the distributor level, argues that "the fact that customers may occasionally purchase approved fittings from distributors even though they do not need them, is not relevant to the issue of competition between imports." Posthearing brief, pp. 3-4.

⁶¹ ***.

petrochemical industry.⁶² The petrochemical industry as a whole accounts for an estimated 30 to 40 percent of U.S. consumption of the subject butt-weld pipe fittings.⁶³ The actual operation of the distribution system is further discussed in the section of this report entitled "Product Comparisons."

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

As stated earlier, producers that provided usable responses account for over two-thirds of the quantity of U.S. production of finished fittings in 1993, and exclude the operations of *** and Weldbend. In certain instances, reporting producers did not provide information for a specific section of the Commission's questionnaires. Such exceptions are identified in the table notes.

U.S. Capacity, Capacity Utilization, and Production

Capacity and Capacity Utilization

Data for the capacity and capacity utilization of manufacturers are presented in table 4.

Table 4

Finished certain carbon steel butt-weld pipe fittings: U.S. capacity, production, and capacity utilization, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

Item	1991	1992	1993	Jan.-Sept.--	
				1993	1994
Average-of-period capacity (1,000 pounds)	87,894	87,552	87,544	65,781	65,781
Production (1,000 pounds)	44,949	50,720	49,577	38,525	43,726
Average-of-period capacity utilization (percent)	51.1	57.9	56.6	58.5	66.4

Note 1.--Capacity utilization is calculated using data of firms providing both capacity and production information. ***.

Note 2.--***.

Note 3.--Data exclude *** and Weldbend.

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

⁶² Testimony by Jay Zidell, president of Tube Forgings, at the Commission's conference. Conference TR, p. 28. It is difficult to measure the market from the point of the supplier (i.e., domestic producer or importer). "Approval" is bestowed on the manufacturer, not on a specific quantity of fittings. (However, only a specific type of a manufacturer's fittings, i.e., elbows, may be approved.) The fittings are then sold by the manufacturer to distributors which frequently carry both "approved" and "non-approved" product.

⁶³ Conference TR, p. 28. The various members of the petitioning group estimated that AML sales comprise *** percent of total U.S. sales of certain carbon steel butt-weld pipe fittings. Petitioner's postconference brief, p. 16.

The capacity to produce by the reporting firms remained relatively constant during the period reviewed.⁶⁴ Capacity utilization increased irregularly from 1991 to 1993, then rose during the interim period. However, the capacity (and capacity utilization) data exclude the operations of Weldbend. ***.⁶⁵ ***.⁶⁶

Allocation of Productive Capability

In responding to the Commission's questionnaire, a number of the firms indicated that they manufacture non-subject products on the machinery and equipment used to produce certain carbon steel butt-weld pipe fittings. The following tabulation lists the other products manufactured and the firms' total annual 1993 manufacturing capacity for the subject product (in 1,000 pounds):

* * * * *

¹ *** thought that the question was a "silly" one. He pointed out that painting machines, for example, can handle all types of products, whereas the presses that form or forge roughs may handle a limited range. ***.

Note 1.--Other products manufactured on production equipment shared, at least in part, with the subject fittings include alloy fittings (by ***) and high-pressure threaded and socket weld carbon steel fittings (by ***).

Note 2.--Firms producing non-subject product based allocations of capacity either on sales or on actual production.

The industry tends not to set up continuous production lines per se, although some firms have designed their equipment so that several operations are performed in sequence with minimal manual intervention. It may be difficult to address the issue of dedication in industries where there are no fixed production lines, but instead, collections of various equipment that perform a wide range of functions that add disparate amounts of value. Generally, different equipment is required to forge and bevel the various types of subject fittings (such as elbows, reducers, and so forth). While it is theoretically possible to use a "large" press to forge a "small" fitting, it is not economical to do so unless other presses are unavailable.⁶⁷ According to ***, it would be desirable to dedicate equipment to produce only one size, with the greatest economies of scale resulting from the use of dedicated presses for forming or forging roughs.⁶⁸

⁶⁴ ***.

⁶⁵ The Commission's questionnaire requested that respondents report "finished" capacity, regardless of the whether or not the roughs were manufactured internally. ***.

⁶⁶ ***.

⁶⁷ ***. For additional information, see the discussion on manufacturing processes and productivity in app. E.

⁶⁸ ***. However, no manufacturer (including those located outside the United States) currently has the ability to so dedicate presses. ***.

Production

As shown in table 4, production increased irregularly (by 10.3 percent) from 1991 to 1993, and continued to rise during the interim period of 1994 (by 13.5 percent). The following tabulation presents the production of finished fittings, by firms (in 1,000 pounds):

* * * * *

The 1991-93 production increase shown in table 4 excludes data for Weldbend; the rise shown in U.S. production from 1991 to 1993 can be primarily attributed to ***. Weldbend *** made significant changes to its operations during the period reviewed; if data for that firm are included, overall 1991-93 production rose by 14.9 percent. (***.) ***.⁶⁹

U.S. Shipments

The trends for the quantity of shipments mirrored the production trends discussed above (table 5).

There are no intracompany transfers of certain carbon steel butt-weld pipe fittings; exports are insignificant. The value of U.S. shipments increased during 1991-93 and the interim period of 1994 by a magnitude smaller than the increase in the quantity of U.S. shipments. The disparity in the direction or magnitude of quantity trends compared with value trends is a result of a decline in the value per pound of certain carbon steel butt-weld pipe fittings. The unit value of U.S. shipments fell steadily throughout the period reviewed, and may have contributed to declines in annual operating income, as shown in the section of the report entitled "Financial Experience of U.S. Producers."

U.S. Inventories

Data on inventories maintained by U.S. producers (excluding Hackney and Weldbend) are presented in table 6. ***. Unlike most other industry suppliers, Weldbend boxes or "cartonizes" much of its inventory. ***. The boxes, some of which contain a picture of "Uncle Sam," clearly emphasize that the product is made in the United States.⁷⁰ ***.⁷¹ ⁷²

⁶⁹ ***.

⁷⁰ Mr. Coulas was quoted in the September 1993 issue of the *Supply House Times*: "I see the trend going back to American-made products ... For many years, it was in vogue to buy everything overseas. That had to change because the real wealth of this country is in manufacturing." Further, "... our made-in-America emphasis has increased sales."

⁷¹ Staff visit to Weldbend, Dec. 5, 1994.

⁷² ***.

Table 5

Finished certain carbon steel butt-weld pipe fittings: Shipments by U.S. producers, by types, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

Item	1991	1992	1993	Jan.-Sept.-- 1993	1994
<i>Quantity (1,000 pounds)</i>					
Company transfers	0	0	0	0	0
Domestic shipments	43,500	49,329	49,454	38,185	42,073
Subtotal	43,500	49,329	49,454	38,185	42,073
Exports	***	***	***	***	***
Total	***	***	***	***	***
<i>Value (1,000 dollars)</i>					
Company transfers	0	0	0	0	0
Domestic shipments	45,292	47,460	46,734	36,090	37,692
Subtotal	45,292	47,460	46,734	36,090	37,692
Exports	***	***	***	***	***
Total	***	***	***	***	***
<i>Unit value (per pound)</i>					
Company transfers	(1)	(1)	(1)	(1)	(1)
Domestic shipments	\$1.04	\$0.96	\$0.94	\$0.95	\$0.90
Average	1.04	.96	.94	.95	.90
Exports	***	***	***	***	***
Average	***	***	***	***	***

¹ Not applicable.

Note.--Data exclude *** and Weldbend.

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

Table 6

Finished certain carbon steel butt-weld pipe fittings: End-of-period inventories of U.S. producers, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

Item	1991	1992	1993	Jan.-Sept.-- 1993	1994
Inventories (1,000 pounds)	5,340	6,642	6,622	6,909	8,113
Ratio of inventories to--					
Production (percent)	19.5	22.5	23.4	23.2	23.9
U.S. shipments (percent)	20.7	23.7	23.6	23.7	25.6
Total shipments (percent)	20.0	23.5	23.3	23.5	25.4

Notes appear on following page.

Notes for table 6.

Note 1.--*** was unable to provide data on inventories. (Its annual inventory is maintained for a time period other *** and includes non-subject fittings.) Its inventory level (of all fittings) is approximately *** percent of shipments and is relatively stable, fluctuating by no more than *** percent. ***. Data also exclude *** and Weldbend.

Note 2.--Ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

Employment

Data concerning employment are reported in table 7.

Table 7

Average number of U.S. production and related workers producing certain butt-weld pipe fittings, hours worked,¹ wages and total compensation paid to such employees, and hourly wages, productivity, and unit labor costs,² 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

Item	1991	1992	1993	Jan.-Sept.--	
				1993	1994
Production and related workers (PRWs)	277	308	287	248	248
Hours worked by PRWs (<i>1,000 hours</i>)	583	638	589	385	398
Wages paid to PRWs (<i>1,000 dollars</i>)	5,796	6,851	6,528	4,232	4,524
Total compensation paid to PRWs (<i>1,000 dollars</i>)	6,781	7,665	7,432	5,818	6,284
Hourly wages paid to PRWs	\$9.94	\$10.74	\$11.08	\$10.99	\$11.37
Hourly total compensation paid to PRWs	\$13.14	\$14.17	\$14.83	\$15.11	\$15.79
Productivity (<i>pounds per hour</i>)	77.2	79.5	84.2	80.5	87.2
Unit labor costs (<i>per pound</i>)	\$0.17	\$0.18	\$0.19	\$0.19	\$0.18

¹ Includes hours worked plus hours of paid leave time.

² On the basis of total compensation paid.

Note. 1--Ratios are calculated using data of firms supplying both numerator and denominator information.

Note. 2--*** the data reported for interim 1993 and interim 1994 ***. *** and Weldbend are excluded.

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

The increase in productivity demonstrated for the period from 1991 to 1993 reflects rises reported by ***; the interim increase results from productivity rises reported by ***. Productivity increased as production rose while hours worked remained constant. As noted in table 7, reported productivity data do not include information for Weldbend. ***. Manufacturing processes and productivity are discussed further in appendix E.

The production and related workers of Ladish and Tube-Line belong to trade unions, specifically to the International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers (for Ladish) and the United Steelworkers (for Tube-Line). The production and related workers of Hackney, Standard, Steel Forgings, Tube Forgings, and Weldbend do not belong to any trade unions.

Financial Experience of U.S. Producers

Six producers, accounting for approximately 68 percent of U.S. production of finished fittings in 1993, furnished financial data on both their overall establishment operations and on their operations producing certain carbon steel butt-weld pipe fittings.⁷³ Five of these producers, Tube-Line excepted, also provided financial data on all carbon steel butt-weld pipe fittings operations.

Weldbend, the largest U.S. producer, accounting for approximately one-third of U.S. production of certain butt-weld pipe fittings in 1993, did not provide financial data (see appendix G). According to Mr. James J. Coulas, Sr., president of Weldbend, the firm is doing "well" financially; sales and profits on the overall operations of Weldbend have been *** each year. He estimated that the same *** trends of sales and profits apply also to the subject product operations and that total fittings sales are about *** percent of total sales of the company. *** fittings sales are for products less than 14 inches in diameter.⁷⁴

Overall Establishment Operations

The six producers produce larger sizes of carbon steel butt-weld pipe fittings and other types of forged or formed steel products besides producing the products under investigation. The sales of certain butt-weld pipe fittings accounted for about *** percent of overall establishment sales in 1993. Income-and-loss data on the U.S. producers' overall establishment operations are presented in table 8.

Reliability of Data

As in the previous investigations on these products, the producers had difficulty preparing the questionnaire data even though some have upgraded their data information systems. Estimates and allocations were used to varying degrees by most of the producers. This was due to the combination of two factors: the various shapes of the product involved and the size limitation (under 14 inches in inside diameter).

⁷³ These producers are Hackney, Ladish, Mills, Steel Forgings, Tube Forgings, and Tube-Line.

⁷⁴ Staff conversation with Mr. James J. Coulas, Sr., Dec. 14, 1994.

Table 8

Income-and-loss experience of U.S. producers on the overall operations of their establishments wherein certain butt-weld pipe fittings are produced, calendar years 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994¹

Item	1991	1992	1993	Jan.-Sept.-- 1993	1994
<i>Value (1,000 dollars)</i>					
Net sales	119,100	122,087	122,407	94,860	96,577
Cost of goods sold	97,494	106,232	107,120	81,030	83,985
Gross profit	21,606	15,855	15,287	13,830	12,592
Selling, general, and administrative expenses	12,004	13,082	13,358	10,414	10,760
Operating income	9,602	2,773	1,929	3,416	1,832
Interest expense	3,070	2,961	1,963	1,608	1,487
Other expense items	126	134	28	79	25
Other income items	266	264	243	258	309
Net income or (loss) before income taxes	6,672	(58)	181	1,987	629
Depreciation and amortization	2,799	3,364	3,537	2,677	2,981
Cash flow ²	9,471	3,306	3,718	4,664	3,610
<i>Ratio to net sales (percent)</i>					
Cost of goods sold	81.9	87.0	87.5	85.4	87.0
Gross profit	18.1	13.0	12.5	14.6	13.0
Selling, general, and administrative expenses	10.1	10.7	10.9	11.0	11.1
Operating income	8.1	2.3	1.6	3.6	1.9
Net income or (loss) before income taxes	5.6	(3)	.1	2.1	0.7
<i>Number of firms reporting</i>					
Operating losses	1	2	2	2	2
Net losses	1	2	2	2	2
Data	6	6	6	6	6

¹ These producers are Hackney, Ladish, Mills, Steel Forgings, Tube Forgings, and Tube-Line.
Fiscal years are ***. ***.

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

³ Negative figure, but less than significant digits displayed.

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

Questionnaire data of two companies--Tube Forgings and Hackney--were verified. Tube Forgings accounted for about *** percent of reported U.S. production of finished certain butt-weld pipe fittings in 1993. Tube Forgings produces only butt-weld pipe fittings in its plant in Portland, OR. Its data on butt-weld pipe fittings were reconciled to its audited financial statements. Tube Forgings was able to generate key financial and other data on the subject butt-weld pipe fittings from its ***. The company used reasonable allocation methods to derive the remaining reported financial data on the subject butt-weld pipe fittings. ***.

Hackney accounted for about *** percent of reported U.S. production of finished certain butt-weld pipe fittings in 1993. Hackney's overall establishment data were reconciled with the "Metal Components" segment of the business information in the parent company's audited annual report. ***. The company used reasonable allocation methods to derive the final reported financial data on the subject butt-weld pipe fittings.

*** accounted for about *** percent of reported U.S. production of certain butt-weld pipe fittings in 1993. ***'s overall establishment data were derived from the submitted income-and-loss statements which were compiled by its accountant. The quantity and sales data on the subject butt-weld pipe fittings represent the shipment data. All costs and expenses were allocated on the basis of sales.

*** revised its selling, general and administrative expenses for the subject products according to the allocation on the basis of sales because ***.

Operations on Certain Carbon Steel Butt-Weld Pipe Fittings

The aggregate income-and-loss data of the reporting producers on their certain carbon steel butt-weld pipe fittings operations are presented in table 9. Net sales value increased by 5.9 percent, whereas quantity rose by 16.5 percent from 1991 to 1993. Net sales value and quantity rose by 4.1 and 9.4 percent from January-September 1993 to January-September 1994. The increase in the quantity of sales is higher than sales value because average net sales value per pound declined in each period from \$1.03 in 1991 to \$0.89 in January-September 1994. Operating income dropped from 1991 to an operating loss in 1992 and 1993. The responding producers reported an operating income margin of 0.6 percent in January-September 1994 compared with an operating loss margin of 0.1 percent in January-September 1993. One firm incurred operating losses in 1991, but three firms incurred such losses in 1992, 1993, and in both interim periods.

Selected income-and-loss data of the U.S. producers, by firms, are shown in table 10. ***.

***.

* * * * *

*** 76

⁷⁵ *** letter, Jan. 26, 1995.

⁷⁶ Staff conversation with ***, Mar. 19, 1994.

Table 9

Income-and-loss experience of U.S. producers on their operations producing certain carbon steel butt-weld pipe fittings, calendar years 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994¹

Item	1991	1992	1993	Jan.-Sept. -- 1993	1994
<i>Quantity (1,000 pounds)</i>					
Net sales	44,945	50,950	52,350	40,215	43,983
<i>Value (1,000 dollars)</i>					
Net sales	46,393	48,758	49,149	37,766	39,309
Cost of goods sold	39,146	43,351	43,304	33,065	34,014
Gross profit	7,247	5,407	5,845	4,701	5,295
Selling, general, and administrative expenses	5,082	5,950	5,980	4,756	5,074
Operating income or (loss)	2,165	(543)	(135)	(55)	221
Interest expense	1,768	1,816	1,048	892	864
Other expense items	***	***	***	***	***
Other income items	***	***	***	***	***
Net income or (loss) before income taxes	428	(2,361)	(1,164)	(877)	(522)
Depreciation and amortization	1,045	1,392	1,424	1,039	1,190
Cash flow ²	1,473	(969)	260	162	668
<i>Ratio to net sales (percent)</i>					
Cost of goods sold	84.4	88.9	88.1	87.6	86.5
Gross profit	15.6	11.1	11.9	12.4	13.5
Selling, general, and administrative expenses	11.0	12.2	12.2	12.6	12.9
Operating income or (loss)	4.7	(1.1)	(.3)	(.1)	.6
Net income or (loss) before income taxes . . . . .	.9	(4.8)	(2.4)	(2.3)	(1.3)
<i>Value (per pound)</i>					
Net sales	\$1.03	\$0.96	\$0.94	\$0.94	\$0.89
Cost of goods sold . . . . .	.87	.85	.83	.82	.77
Gross profit . . . . .	.16	.11	.11	.12	.12
Selling, general, and administrative expenses . . . . .	.11	.12	.11	.12	.12
Operating income or (loss) . . . . .	.05	(.01)	(.3)	(.3)	.01
<i>Number of firms reporting</i>					
Operating losses	1	3	3	3	3
Net losses	1	2	3	3	4
Data	6	6	6	6	6

Notes appear on the following page.

Notes for table 9

¹ These producers are Hackney, Ladish, Mills, Steel Forgings, Tube Forgings, and Tube-Line. Fiscal years are Dec. 31 for all producers except Hackney (Mar. 31). Hackney provided data on a calendar year basis.

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

³ Positive figure, but less than significant digits displayed.

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

Table 10

Income-and-loss experience of U.S. producers on their operations producing certain butt-weld pipe fittings, by firms, calendar years 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

* * * * *

Because almost all the producers do not keep separate data on the subject product, the Commission also requested financial data on all carbon steel butt-weld pipe fittings. However, the producers also did not keep separate data on that product grouping (i.e., on all carbon steel butt-weld fittings). Data for all carbon steel butt-weld pipe fittings is compiled with data on other products produced and, as a consequence, the firms also had to make allocations for the category "all carbon steel butt-weld fittings."

As ***'s data on all carbon steel butt-weld pipe fittings are not usable,⁷⁷ the following tabulation presents key income-and-loss data for the remaining five producers on their operations producing all carbon steel butt-weld pipe fittings and certain carbon steel butt-weld pipe fittings for comparative purposes.

<u>Item</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>Jan-Sept.--</u>	
				<u>1993</u>	<u>1994</u>
All carbon steel butt-weld pipe fittings:					
Net sales (<i>1,000 dollars</i>)	59,065	58,179	57,186	43,961	44,621
Operating income (<i>1,000 dollars</i>)	6,549	3,776	4,987	4,257	2,980
Operating income margin (<i>percent</i>)	11.1	6.5	8.7	9.7	6.7
Certain carbon steel butt-weld pipe fittings:					
Net sales (<i>1,000 dollars</i>)	***	***	***	***	***
Operating income (<i>1,000 dollars</i>)	***	***	***	***	***
Operating income margin (<i>percent</i>)	***	***	***	***	***

⁷⁷ ***.

The profitability of certain carbon steel butt-weld pipe fittings operations followed the same trend as that for all carbon steel butt-weld pipe fittings operations during the period for which data were collected in the investigations.

The product mix for the producers may not have remained constant over the course of the period for which data were collected; therefore, per-pound computations may be influenced by changes in the relative quantity of shapes as well as changes in a particular product's per-pound sales value or cost. Overall average per-pound sales values have declined and overall quantity sold has increased. A summary of the unit sales values for each producer is presented in the following tabulation (in dollars per pound):

* * * * *

Investment in Productive Facilities

U.S. producers' investment in property, plant, and equipment and return on total assets are shown in table 11. *** did not furnish fixed assets and total assets data. If *** had provided fixed assets data on all carbon steel butt-weld pipe fittings and certain carbon steel butt-weld pipe fittings operations, operating and net return on total assets on such operations would have shown overall *** in 1992, 1993, and January-September 1993, and also a *** in January-September 1994 for all producers.

Capital Expenditures

Capital expenditures by U.S. producers are shown in table 12.

Research and Development Expenses

Only *** reported research and development expenses for the certain carbon steel butt-weld pipe fittings operations. Such expenses were \$*** in 1991, \$*** in 1992, \$*** in 1993, \$*** in January-September 1993, and \$*** in January-September 1994. All other responding firms reported *** research and development expenses.

Impact of Imports on Capital and Investment

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of certain carbon steel butt-weld pipe fittings from France, India, Israel, Korea, Malaysia, Thailand (products produced by AST only), the United Kingdom, and/or Venezuela on their U.S. operations. Their respective responses are shown in appendix H.

Table 11

Value of assets and return on assets of U.S. producers' establishments wherein certain butt-weld pipe fittings are produced, fiscal years 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

Item	As of the end of fiscal year--			As of Sept. 30--	
	1991	1992	1993	1993	1994
<i>Value (1,000 dollars)</i>					
All products:					
Fixed assets: ¹					
Original cost	46,135	50,146	50,710	52,239	56,205
Book value	25,723	25,984	28,636	25,614	31,052
Total assets ²	86,782	86,122	80,966	85,953	90,311
Certain butt-weld pipe fittings:					
Fixed assets: ³					
Original cost	14,364	17,318	15,083	14,402	15,230
Book value	6,974	7,200	6,895	5,740	6,047
Total assets ⁴	28,275	28,600	23,256	23,730	20,636
All butt-weld pipe fittings:					
Fixed assets: ³					
Original cost	27,451	29,185	28,161	29,583	29,048
Book value	14,848	16,064	16,570	14,434	15,877
Total assets ⁴	51,139	51,348	43,563	45,647	42,131
<i>Return on total assets (percent)⁵</i>					
All products:					
Operating return ⁶	11.1	3.2	2.4	5.3	2.7
Net return ⁷	7.7	(0.1)	0.2	3.1	0.9
Certain butt-weld pipe fittings:					
Operating return ⁶	16.5	12.6	16.2	15.5	14.7
Net return ⁷	13.8	10.6	14.0	13.3	12.7
All butt-weld pipe fittings:					
Operating return ⁶	12.8	7.4	11.4	12.4	9.4
Net return ⁷	10.8	6.0	10.0	10.9	8.2

¹ The reporting companies were Hackney, Ladish, Mills, Steel Forgings, Tube Forgings, and Tube-Line.

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

³ The reporting companies were Hackney, Ladish, Mills, Steel Forgings, and Tube Forgings.

⁴ Total establishment assets are apportioned, by firm, to product groups on the basis of the ratio of the respective book values of fixed assets.

⁵ Computed using data provided only by those firms supplying both asset and income-and-loss information, and as such, may not be derivable from data presented. Data for the partial-year periods are calculated using annualized income-and-loss information.

⁶ Defined as operating income or loss divided by asset value.

⁷ Defined as net income or loss divided by asset value.

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

Table 12

Capital expenditures by U.S. producers of certain carbon steel butt-weld pipe fittings, by products, calendar years 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994¹

<i>(In thousands of dollars)</i>					
Item	1991	1992	1993	Jan.-Sept.--	
				1993	1994
All products	3,344	2,821	2,950	2,205	2,232
Certain butt-weld pipe fittings	778	890	977	735	697
All butt-weld pipe fittings	1,471	1,376	1,901	1,537	1,115

¹ The reporting companies were Hackney, Ladish, Mills, Steel Forgings, Tube Forgings, and Tube-Line. *** did not provide data for all products. *** did not incur any capital expenditures for certain carbon steel butt-weld pipe fittings. ***.

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

CONSIDERATION OF THE QUESTION OF THE THREAT OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(i)). Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury." Information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in the section entitled "Consideration of the Question of Material Injury to an Industry in the United States." Available information on U.S. inventories of the subject products; foreign producers' operations, including the potential for "product-shifting"; and any other threat indicators, if applicable, follows. Other threat indicators have not been alleged or are otherwise not applicable. Except for Thailand, for which an antidumping investigation is pending in the European Union (along with investigations on China, Croatia, Slovakia, and Taiwan), no country subject to these investigations is known to have been investigated or is subject to any remedies under the unfair-trade laws of any foreign country concerning the same class or kind of merchandise manufactured or exported by these countries under these investigations.⁷⁸

⁷⁸ Counsel for AST states that the firm "has not been significantly affected by the European Union antidumping proceeding. The proceeding, which covers both stainless steel and carbon steel fittings, involves a large number of countries besides Thailand." Prehearing brief, p. 22. The investigations are still pending; a decision is expected within ***. Staff conversation with Alistair Stewart, Head of Section, Antidumping Investigations, Directorate-General, External Relations, Commission of the European Communities, Mar. 17, 1995.

U.S. Importers' Inventories

Information was received from importers representing substantial portions of imports from each of the countries under investigation; however, several importers were unable to distinguish inventories by country of origin. Many of the importers import and/or purchase from several sources and make no effort to separate multisourced fittings in storage.⁷⁹ In addition, Vallourec, which imports *** from France, and ***, ship their imported material directly to their customers.

Reported inventories are listed in table 13. As shown, ***. ***.

Table 13

Finished certain carbon steel butt-weld pipe fittings: End-of-period inventories of U.S. importers, by products and by sources, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

* * * * *

Current Orders

In response to a question in the importers' questionnaire, almost all firms indicated that they have not imported, or arranged for the importation of, subject fittings for delivery after September 30, 1994. ***.⁸⁰

Ability of Foreign Producers to Generate Exports and the Availability of Export Markets Other than the United States

The data in the following sections of the report are based primarily on responses to Commission requests for information submitted to foreign manufacturers through their U.S. counsels. Staff also provided the names and addresses of all foreign manufacturers listed in the petitions to the U.S. embassies in France, India, Israel, Malaysia, Korea, Thailand, the United Kingdom, and Venezuela, and requested that the embassies obtain information on the capacity to produce, production, shipments, and inventories of those firms and for any other identified producers.

The Industry in France

The only manufacturer of certain carbon steel butt-weld pipe fittings in France is Interfit S.A., Maubeuge, France. Interfit (and its corporate predecessor, Vallourec) have been producing fittings in France for more than 50 years and exporting to the United States for the past 20 years. Data for its fittings operations are presented in table 14.

⁷⁹ Two of the largest such importers are ***. ****.

⁸⁰ ***.

Table 14

Certain carbon steel butt-weld pipe fittings: France's capacity, production, inventories, capacity utilization, and shipments, 1991-93, Jan.-Sept. 1993, Jan.-Sept. 1994, and projected 1994-95

* * * * *

As shown in table 14, subject exports to the United States *** from 1991 to 1992, then rose *** in 1993. According to Vallourec, its increased sales in 1993 were at the expense of other foreign producers that have appeared on approved lists. Specifically, some 1993 sales were made to customers who had previously purchased from AST, the Thai manufacturer of subject fittings. (AST was, for some time, not acceptable to Exxon and, as a consequence, distributors required an alternate Exxon-approved source).⁸¹ Also, Vallourec believes that it captured a significant volume of sales from BKL because of BKL's changing its sales policy to concentrate more on large volume sales at the expense of its traditional distributors.^{82 83}

The Industry in India

Several firms produce certain carbon steel butt-weld pipe fittings in India; the bulk of the exports into the United States are reportedly by Karmen Steels, Sivanandha Pipe Fittings Ltd., and The Tata Iron and Steel Company, Ltd.⁸⁴ Karmen and Sivanandha Pipe are both located in Madras, India. Tata Iron is headquartered in Calcutta. U.S. importers also listed *** as Indian manufacturers of fittings that were imported into the United States.

Data for the operations of Sivanandha Pipe and Karmen are presented in table 15. ***.

⁸¹ ***.

⁸² Importers' questionnaire response by Vallourec and testimony by Yves Pognonec, executive vice president, Vallourec, at the Commission's hearing, TR, p. 116.

⁸³ In response to a request by Commissioner Bragg at the Commission's hearing (Hearing TR, pp. 126-127), counsel for Vallourec reported that the following customers purchased French fittings instead of other "approved" imports: *** (replacing AST) and *** (replacing BKL). Representatives of each of the firms, who were contacted by Commission staff, reported the following:

* * * * *

Vallourec reports that ***; in 1993, the firms purchased a total of *** pounds. That quantity accounts for over *** percent of the total increase in exports to the United States by Vallourec from 1992 to 1993 (table 14).

⁸⁴ Both Sivanandha and Karmen, responding to the Commission's foreign producer questionnaire, estimate that they account for a total of *** percent of the exports of subject product to the United States. Tata Iron did not participate in Commerce's investigations. In its preliminary affirmative countervailing duty determination for India, Commerce stated that a May 1994 questionnaire response from the Government of India reported that the three firms together account for over 85 percent of exports of certain carbon steel butt-weld pipe fittings to the United States. (59 F.R. 28337, June 1, 1994.)

Table 15

Certain carbon steel butt-weld pipe fittings: India's capacity, production, inventories, capacity utilization, and shipments, 1991-93, Jan.-Sept. 1993, Jan.-Sept. 1994, and projected 1994-95

* * * * *

Tata Iron believes itself to be the largest exporter of Indian-produced carbon steel butt-weld pipe fittings from 1991 to 1993. According to an inquiry made by the U.S. Embassy in New Delhi, the firm appears to have functioned primarily as a supplier of the raw materials and as an exporter of the finished product. Tata Iron produces seamless pipes which are then converted into fittings "by a company in southern India." It also resells finished product manufactured by firms which do not export directly. Tata Iron exported a total of *** pounds in 1991, *** pounds in 1992, and *** pounds in 1993. Over *** percent of its exports were directed into the United States. A senior official of the firm informed the U.S. Embassy that "due to the heavy import duty levied by the U.S. on Tisco's {Tata Iron's} exports of CSPF and various other problems, including low profitability, in April 1994 the company decided to stop exports of these products."⁸⁵

The Industry in Israel

The only known manufacturer of certain carbon steel butt-weld pipe fittings in Israel is Pipe Fittings Carmiel Ltd., Carmiel Industrial Zone, Israel.⁸⁶ Data for its fittings operations are presented in table 16. The reported increase in the capacity to produce shown in 1993 was the result of a small capital investment which permitted the equipment to be used more efficiently.⁸⁷

Table 16

Certain carbon steel butt-weld pipe fittings: Israel's capacity, production, inventories, capacity utilization, and shipments, 1991-93, Jan.-Sept. 1993, Jan.-Sept. 1994, and projected 1994-95

* * * * *

The Industry in Malaysia

In response to an inquiry, officials of the Malaysian Industrial Development Authority reported to the U.S. Embassy in Kuala Lumpur that the Malaysia Mining Corp. Pipe and Fitting

⁸⁵ U.S. Dept. of State telegram No. R 290433Z, Dec. 1994, prepared by the U.S. Embassy, New Delhi.

⁸⁶ The petition listed a second firm, Upper Galilee Metal Products Ltd. According to the U.S. Embassy in Tel Aviv, Upper Galilee Metal Products only produces stainless steel threaded fittings and cannot presently manufacture the subject product. It reportedly does not have any plans to invest in producing certain carbon steel butt-weld pipe fittings. (U.S. Dept. of State telegram No. O 220941Z, Mar. 1994, prepared by the U.S. Embassy, Tel Aviv.)

⁸⁷ Prehearing brief of Carmiel, p. 20. The U.S. Embassy in Tel Aviv reports that, as of Mar. 1994, no application has been filed by Carmiel to obtain government approval to expand its production capacity. (U.S. Dept. of State telegram No. O 220941Z, Mar. 1994, prepared by the U.S. Embassy, Tel Aviv.)

Sdn. Bhd. (MMC) was the only producer in Malaysia.⁸⁸ MMC began in 1989 as a joint venture between Malaysia Mining Corp. Bhd. and the Taiyo Steel Corp., Tokyo, Japan. Production did not start until the end of 1991. MMC produced *** pounds of "unclassified" pipe fittings in 1992; in 1993, *** pounds were manufactured. Some of the fittings were sold locally; the remainder were exported to the United States, Japan, and New Zealand through the Taiyo Steel Corp.⁸⁹ Reportedly, only a limited range of fittings were manufactured.⁹⁰

The firm "closed its doors" and was placed in receivership in October 1993. All of the assets of MMC were sold to a Malaysian-based firm, S.S. Industries, Sdn. Bhd., Kuala Lumpur. The firm started manufacturing operations in the fall of 1994; its output is reportedly intended for local consumption.⁹¹

The Industry in Korea

Several firms manufacture subject fittings in Korea. The Korean market is dominated by three companies: Sungkang Bend, Asia Bend, and Taekwang Bend. Approximately 80 to 85 percent of Korean-made pipe fittings are consumed within Korea; the remaining product is exported, primarily to Japan and to southeast Asia. According to both the U.S. Embassy in Seoul and to ***, only Taekwang Bend exports into the United States.⁹² In the face of stagnating or even declining domestic demand in 1992 and 1993, firms reportedly have shifted their efforts to export markets. However, an industry source estimates that domestic sales for the next two to three years will be stable at 1993 levels.⁹³

The following data was provided by the U.S. Embassy in Korea for the carbon steel butt-weld pipe fitting operations of Taekwang Bend. The data cover fittings under 14.17 inches in inside diameter⁹⁴ (in 1,000 pounds):

* * * * *

⁸⁸ U.S. Dept. of State telegram No. R 300811Z, Mar. 1994, prepared by the U.S. Embassy, Kuala Lumpur. However, ***, an importer of the product from Malaysia, also reported purchases of fittings from a firm called "Wing Tiek."

⁸⁹ U.S. Dept. of State telegram No. R 060522Z, Dec. 1994, prepared by the U.S. Embassy, Kuala Lumpur.

⁹⁰ Response by *** to the importers' questionnaire.

⁹¹ U.S. Dept. of State telegram No. R 060522Z, Dec. 1994, prepared by the U.S. Embassy, Kuala Lumpur.

⁹² U.S. Dept. of State telegram No. R 290719Z, Mar. 1994, prepared by the U.S. Embassy, Seoul, and staff conversation with ***. A subsequent telegram from the U.S. Dept. of State reported some exports (in the amount of \$****) to the United States in 1994 by Sungwang Bend. It is not known whether these exports fell within the January-September 1994 period reviewed by the Commission. U.S. Dept. of State telegram No. R 260726Z, Jan. 1995, prepared by the U.S. Embassy, Seoul.

⁹³ U.S. Dept. of State telegram No. R 290719Z, Mar. 1994, prepared by the U.S. Embassy, Seoul.

⁹⁴ None of the fittings exported to the United States fall into the size range from 14 inches to under 14.17 inches inside diameter. (Staff conversation with ***)

Taekwang Bend reported year-end inventories of *** pounds.⁹⁵

A representative of the U.S. Embassy also reported that a meeting was held by the Korean Ministry of Trade, Industry, and Energy after the filing of the petition to discuss possible countermeasures to the petition. At the meeting, Taekwang Bend, the sole U.S. exporter, indicated that "it would give up its U.S. market rather than fight the case as the volume is too small and mostly based on specialized orders to bear the cost of an anti-dumping suit."⁹⁶ Taekwang Bend is not represented by counsel in these investigations and did not respond to the Commerce questionnaire.

The Industry in Thailand (AST)

Data for the fitting operations of AST are presented in table 17. AST is a subsidiary of Awaji Sangyo KK (ASK) of Japan, a manufacturer of certain carbon steel butt-weld pipe fittings, currently subject to a U.S. antidumping order.

Table 17

Certain carbon steel butt-weld pipe fittings: Thailand's (AST) capacity, production, inventories, capacity utilization, and shipments, 1991-93, Jan.-Sept. 1993, Jan.-Sept. 1994, and projected 1994-95

* * * * *

AST is the only Thai producer subject to investigation. The firm estimates that it accounts for *** percent of total production in Thailand. AST began manufacturing operations in 1987; exports were first shipped into the United States in ***. *** of the certain carbon steel butt-weld pipe fittings produced by AST are exported. In 1993, *** percent of total shipments were to locations outside the home market (table 17).

As shown in table 17, AST's production of certain carbon steel butt-weld pipe fittings rose from *** pounds in 1991 to *** pounds in 1993; the greatest share of the increase in production was directed to the United States. ***.⁹⁷

However, in 1995, AST anticipates that exports will be redirected to markets other than the United States as shipments to the United States decrease by *** pounds or by over *** percent of the amount exported in 1993 (table 17). Counsel for AST attributes this decision, at least in part, to

⁹⁵ In addition to data for Taekwang Bend, information was obtained for Sungwang Bend's operations that showed the firm to have the capacity to produce *** pounds in 1993. Sungwang Bend actually produced *** pounds, and shipped *** percent of that amount within the home market. Asia Bend provided data to Embassy officials showing ***.

⁹⁶ U.S. Dept. of State telegram No. R 290719Z, Mar. 1994, prepared by U.S. Embassy, Seoul.

⁹⁷ The petition for the investigations was filed on May 22, 1991.

Counsel for AST states in its prehearing brief (p. 20) that, while "AST admits that one of the reasons for its shift away from the United States as its export destination is ***, the most significant reason for this change {i.e., the projected decrease in exports to the United States} lies in the economic circumstances surrounding AST." These circumstances are further described in pages 20 and 21 of its prehearing brief. The quantity of exports that AST expects to ship to markets other than the United States in 1995 should be *** that exported in 1993 (table 17). AST reports that a share of these increased exports will be to Japan and will replace product previously manufactured by its parent, ASK. Since 1987, ASK has been shifting its equipment to AST.¹⁰³

The Industry in the United Kingdom

BKL Fittings Ltd., Worcestershire, is the major producer of certain carbon steel butt-weld pipe fittings in the United Kingdom and is the only exporter of the product to the United States. ***.¹⁰⁴ BKL Fittings estimates that it accounts for approximately *** percent of all production of the subject product in the United Kingdom; the other producers concentrate on the manufacture of specialized alloy or stainless fittings for contract customers.¹⁰⁵

As shown in table 18, BKL Fittings reported ***. ***.

Table 18

Certain carbon steel butt-weld pipe fittings: United Kingdom's capacity, production, inventories, capacity utilization, and shipments, 1991-93, Jan.-Sept. 1993, Jan.-Sept. 1994, and projected 1994-95

* * * * *

⁹⁸ Staff conversation with Yoshihiro Saito, counsel for AST, Jan. 19, 1995.

⁹⁹ Commerce determined the total bounty or grant to be 1.76 percent *ad valorem* for exports shipped in 1990 (57 F.R. 5248, Feb. 13, 1992); the LTFV margins for imports from AST were found to be *de minimis* (57 F.R. 21065, May 18, 1992).

¹⁰⁰ In November 1993, the U.S. Fittings Group filed a circumvention petition with respect to the 1992 antidumping order for imports from China (investigation No. 731-TA-520 (Final)) and, in March 1994, a circumvention petition was filed with respect to the 1987 antidumping order covering imports of certain carbon steel butt-weld pipe fittings from Japan (investigation No. 731-TA-309 (Final)). ***. In Mar. 1994, Commerce determined that the shipment of Chinese roughs finished by AST into the United States constituted circumvention. (59 F.R. 15155, Mar. 31, 1994.) ***. The circumvention petition covering the Japanese fittings is still pending. ***. Postconference statement of AST (Mar. 24, 1994) and staff conversation with Yoshihiro Saito, counsel for AST, Jan. 19, 1995.

¹⁰¹ ***.

¹⁰² Staff conversations with Yoshihiro Saito, counsel for AST, Jan. 19, 1995 and Feb. 2, 1995.

¹⁰³ Staff conversation with Yoshihiro Saito, counsel for AST, Jan. 19, 1995.

¹⁰⁴ Benkan Corp. manufactures butt-weld pipe fittings in Japan. ***. Staff conversation with Yoshihiro Saito, counsel for BKL Fittings, Jan. 18, 1995.

¹⁰⁵ Response to the foreign producer questionnaire, staff conversation with Yoshihiro Saito, counsel for BKL Fittings, Jan. 15, 1995, and Jan. 23, 1995 letter from Yoshihiro Saito. Staff requested that the U.S. Embassy in London obtain information for any producers other than BKL Fittings. No response was received.

According to counsel for BKL Fittings, it is important to first understand BKL Fittings' strategic plans before interpreting its data. ***.¹⁰⁶ However, in March 1993, when reviewing ***, BKL Fittings *** decided to concentrate on selling to those distributors that primarily purchased high-priced non-commodity fittings.¹⁰⁷

In the first part of 1994, BKL further decided to downsize its butt-weld fitting operations and, as of the end of the year, the work force was reduced under a redundancy plan by 40 percent, with a corresponding decrease in its reported capacity to produce.^{108 109}

***.¹¹⁰ This information is generally verified by ***.¹¹¹

The Industry in Venezuela

Certain carbon steel butt-weld pipe fittings are produced in Venezuela by Compania Venezolana de Conexiones (COVECO), Carabobo, Venezuela, and Petroltubos S.A., Caracas, Venezuela.¹¹² Aggregate data on the operations of the firms are presented in table 19.

Table 19

Certain carbon steel butt-weld pipe fittings: Venezuela's capacity, production, inventories, capacity utilization, and shipments, 1991-93, Jan.-Sept. 1993, Jan.-Sept. 1994, and projected 1994-95

* * * * *

Note.--The *** of the inventories listed are held by COVECO. COVECO states that "more than *** percent of COVECO's inventories are permanently engraved with *** trademark name and are committed to *** or its subsidiaries. All of the remaining inventory serves the *** in the domestic market. Inventories are ***. ... All contracts to supply fittings to *** or its subsidiaries require COVECO to maintain sufficient inventories to supply the fittings on short notice. Such inventories cannot legally be sold or shipped to anyone except *** without first grinding off the *** trademark name, at substantial cost." ***.

* * * * *

¹⁰⁶ ***.

¹⁰⁷ Those products generally include fittings such as heavy-walled tees that require extensive engineering. ***.

¹⁰⁸ According to James Arthur Smith, general manager of export sales, BKL, "under the British labour law, employees who are placed on a redundancy cannot be rehired. These employees, whether skilled or unskilled, were permanently lost to BKL." Hearing TR, p. 157.

¹⁰⁹ Testimony by James Arthur Smith, general manager of export sales, BKL, at the Commission's hearing, TR, pp. 156-157, and staff conversation with Yoshihiro Saito, counsel for BKL Fittings, Jan. 18, 1995.

¹¹⁰ Ibid.

¹¹¹ Staff conversation with ***.

¹¹² There are no other producers. (U.S. Dept. of State telegram No. R 251953Z, Mar. 1994, prepared by the U.S. Embassy, Caracas.)

***. According to counsel for Petroltubos, the firm is directing more of its product into the home market; PDVSA increased *** in 1994 and will have new projects on-line in 1995.¹¹³

* * * * *

*114 115

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

U.S. Imports

Import Trends

As shown in table 20, total imports of certain carbon steel butt-weld pipe fittings declined, in terms of quantity, by 50.1 percent from 1991 to 1993. The decrease in total imports is primarily due to the withdrawal of Chinese and non-AST Thai fittings from the market following the 1991-92 antidumping investigations concerning China and Thailand. In 1992, imports from subject sources increased, as did imports from nonsubject sources (other than China and Thailand), before both leveled off in 1993. Taiwan was the source of most of the nonsubject imports in 1992 and 1993, and Mexico, in January-September 1994.

From 1991 to 1993, imports from the countries under investigation increased by 47.9 percent, and imports from nonsubject countries (other than China and Thailand) increased by 46.3 percent. Subject imports grew as a share of the quantity of total imports from 23.7 percent in 1991 to 70.2 percent in 1993.¹¹⁶

The quantity of imports from nonsubject countries (other than China and Thailand) continued to increase in interim 1994 compared with interim 1993, rising from 4.4 million pounds to 8.4 million pounds; the largest nonsubject source of imports in 1994 was Mexico, closely followed by Taiwan. In contrast, imports of subject product decreased by 606,000 pounds or by 4.7 percent (table 20).¹¹⁷ The increase in imports of nonsubject product in January-September 1994 was primarily due to the entry of fittings from Mexico into the market. (Imports from Italy also rose somewhat.) In interim 1994, 2.5 million pounds of fittings were imported from Mexico; there were no imports in interim 1993.

¹¹³ ***.

¹¹⁴ ***.

¹¹⁵ Response by COVECO to the foreign producer questionnaire.

¹¹⁶ In 1993, in terms of quantity, France accounted for 11.2 percent of total subject product imports; India for 4.4 percent; Israel for 7.0 percent; Malaysia for 8.3 percent; Korea for 3.4 percent; Thailand for 48.1 percent; the United Kingdom for 13.7 percent; and Venezuela for 4.0 percent.

¹¹⁷ The petition was filed on February 28, 1994. Petitioner notes that "more than two-thirds of the Commission's '1994 interim period,' as well as the last two quarters of the Commission's price comparison data, thus reflect a period after the Petition was filed." Petitioner's prehearing brief, p. 6. ***, a U.S. distributor of the subject fittings, commented that the 1994 decrease "is a result of foreign producers awaiting the outcome of this investigation." Response to importers' questionnaire.

Table 20

Certain carbon steel butt-weld pipe fittings: U.S. imports, by sources, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

Item	1991	1992	1993	Jan.-Sept.-- 1993	1994
<i>Quantity (1,000 pounds)</i>					
France	636	509	1,887	1,430	953
India	847	1,231	743	519	443
Israel	295	834	1,186	846	898
Malaysia	209	1,580	1,413	1,120	1,388
Korea	8	449	568	524	30
Thailand (AST)	5,697	7,271	8,140	6,286	5,558
United Kingdom	2,661	3,889	2,319	1,804	3,139
Venezuela	1,092	1,179	673	488	0
Subtotal	11,445	16,942	16,928	13,016	12,410
Thailand (non-AST)	4,945	0	0	0	369
China	27,110	113	117	117	91
Other sources	4,828	7,169	7,063	4,374	8,364
Total	48,327	24,224	24,108	17,507	21,234
<i>Value (1,000 dollars)¹</i>					
France	448	353	1,249	955	620
India	639	724	448	319	252
Israel	164	472	632	452	472
Malaysia	158	1,076	884	720	880
Korea	34	370	501	462	48
Thailand (AST)	3,746	4,675	4,784	3,704	3,342
United Kingdom	2,526	3,148	1,839	1,462	2,311
Venezuela	572	623	345	248	0
Subtotal	8,287	11,441	10,683	8,321	7,925
Thailand (non-AST)	4,200	0	0	0	383
China	14,367	52	61	61	64
Other sources	6,628	6,722	6,439	4,329	7,841
Total	33,483	18,215	17,183	12,711	16,213
<i>Unit value (per pound)</i>					
France	\$0.70	\$0.69	\$0.66	\$0.67	\$0.65
India . . . . .	.75	.59	.60	.62	.57
Israel . . . . .	.56	.57	.53	.53	.53
Malaysia . . . . .	.76	.68	.63	.64	.63
Korea	4.25	.82	.88	.88	1.59
Thailand (AST) ¹ . . . . .	.66	.64	.59	.59	.60
United Kingdom . . . . .	.95	.81	.79	.81	.74
Venezuela ¹ . . . . .	.52	.53	.51	.51	(2)
Average . . . . .	.72	.68	.63	.64	.64
Thailand (non-AST) . . . . .	.85	(2)	(2)	(2)	1.04
China . . . . .	.53	.46	.52	.52	.71
Other sources	1.37	.94	.91	.99	.94
Average . . . . .	.69	.75	.71	.73	.76

Footnotes appear at end of table.

Table 20--Continued

Certain carbon steel butt-weld pipe fittings: U.S. imports, by sources, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

Item	1991	1992	1993	Jan.-Sept.-- 1993	1994
<hr/> Share of total quantity (percent) <hr/>					
France	1.3	2.1	7.8	8.2	4.5
India	1.8	5.1	3.1	3.0	2.1
Israel . . . . .	.6	3.4	4.9	4.8	4.2
Malaysia . . . . .	.4	6.5	5.9	6.4	6.5
Korea	(3)	1.9	2.4	3.0	.1
Thailand (AST)	11.8	30.0	33.8	35.9	26.2
United Kingdom	5.5	16.1	9.6	10.3	14.8
Venezuela	2.3	4.9	2.8	2.8	0
Subtotal	23.7	69.9	70.2	74.3	58.4
Thailand (non-AST)	10.2	0	0	0	1.7
China	56.1	.5	.5	.7	.4
Other sources	10.0	29.6	29.3	25.0	39.4
Total	100.0	100.0	100.0	100.0	100.0
<hr/> Share of total value (percent) <hr/>					
France	1.3	1.9	7.3	7.5	3.8
India	1.9	4.0	2.6	2.5	1.6
Israel . . . . .	.5	2.6	3.7	3.6	2.9
Malaysia . . . . .	.5	5.9	5.1	5.7	5.4
Korea . . . . .	.1	2.0	2.9	3.6	.3
Thailand (AST)	11.2	25.7	27.8	29.1	20.6
United Kingdom	7.5	17.3	10.7	11.5	14.3
Venezuela	1.7	3.4	2.0	2.0	0
Subtotal	24.7	62.8	62.2	65.5	48.9
Thailand (non-AST)	12.5	0	0	0	2.4
China	42.9	.3	.4	.5	.4
Other sources	19.8	36.9	37.5	34.1	48.4
Total	100.0	100.0	100.0	100.0	100.0

¹ Landed duty-paid, except for Thailand (AST) and Venezuela. The values (and unit values) for Thailand (AST) and Venezuela are those reported by the foreign manufacturers.

² Not applicable.

³ Positive figure, but less than significant digits displayed.

Note 1.--During the 1991-92 investigations concerning certain carbon steel butt-weld pipe fittings from China and Thailand, Commerce found a *de minimis* LTFV margin of 0.22 percent for imports from Thailand manufactured by AST. (57 F.R. 21066, May 18, 1992.) Commerce's period of investigation was December 1, 1990 through May 31, 1991, and, as a result, AST imports may be considered to be fairly traded during the first five months of the period for which data were collected in the instant investigations.

Notes continued on the following page.

Continuation of notes for table 20.

Note 2.--Because of rounding, figures may not add to the totals shown; unit values are calculated from unrounded figures.

Note 3.--AST and the foreign producers in Venezuela gave the Commission permission to publicly divulge certain data that they provided to the Commission on exports to the United States.

Source: Data were compiled from official statistics of the U.S. Department of Commerce unless there is documentation on the record showing those data to be in significant error. (Some overall minor error is introduced in that the HTS subheading includes butt-weld pipe fittings under 14.17 inches inside diameter while the subject product consists of fittings under 14 inches.)

The following compares the various sets of data (i.e., Commerce, foreign producer, and, where complete, importer data) for each country. Staff notes that any comparison of import data with export data maintained by foreign manufacturers will not be exact due to discrepancies caused by the times required to ship the product.

France.--The trends shown by the quantity of imports reported by Commerce are roughly comparable to the trends reported by the foreign producer (and the one importer), except for January-September 1994. Staff utilized Commerce data.

India.--The trends shown by the quantity of imports reported by Commerce are roughly comparable to the trends reported by the responding foreign producers and importers (when adjusted to include Tata, an Indian exporter representing non-responding producers), except for January-September 1994. The discrepancy between Commerce data and foreign producer data appears to center on the amount ***, an Indian manufacturer, shipped to *** in January-September 1994. ***. However, its U.S. customer, ***, reports receiving product valued at \$*** from *** in interim 1994. ***. (Staff conversation with ***) Because the reported foreign producer data are incomplete, staff relied on Commerce data, adjusted as described below.

A portion of the butt-weld pipe fittings shipped into the United States from India are rusty fittings from Singapore that have been refurbished by Karmen, a manufacturer in India. Commerce determined as part of both its antidumping and countervailing duty investigations (60 F.R. 10538, Feb. 27, 1995) that Karmen does not substantially transform the merchandise and it is, therefore, not included within the scope of these investigations. The totals of such fittings were *** pounds, valued at \$*** in October-December 1993 and *** pounds valued at \$*** in January-September 1994. According to counsel for Karmen, the fittings were reported to U.S. Customs as products of India; they, therefore, should be subtracted from the data reported in table 20. (Staff conversation with Dennis James, counsel for Karmen, Mar. 3, 1995, and letter from Mr. James, dated Mar. 7, 1995.) The corrected total imports from India are as follows: *** pounds in 1993, valued at \$***, and *** pounds in January-September 1994, valued at \$***. Staff did not adjust the data in the body of table 20 because any such adjustment would reveal the actual amount of fittings from Singapore. That information is confidential.

Israel.--The trends shown by the quantity of imports reported by Commerce are roughly comparable to the trends reported by the foreign producer and the importers, except for 1991. The 1991 data reported by importers were comparable to Commerce data and staff utilized the Commerce statistics. (***) The discrepancy between Commerce data and foreign producer data appears to center on the amount Carmiel, the Israeli manufacturer, shipped to *** in 1991. Carmiel's records show that *** pounds (valued at \$****) were shipped. However, its customer, ***, reports receiving product valued at \$**** from Carmiel in 1991. ***.

Notes continued on the following page.

Continuation of notes for table 20.

Korea.--The trends shown by the quantity of imports reported by Commerce are roughly comparable to the trends reported by the primary importer. Staff utilized Commerce data.

Malaysia.--The trends shown by the quantity of imports reported by Commerce are roughly comparable to the trends reported by the importers. Staff utilized Commerce data.

Thailand (AST).--There are no available statistics from Commerce showing the amount of imports from AST in Thailand; AST's foreign producer questionnaire was utilized as the source for 1991 data and January-September 1994 data. But, because the exports to the United States reported on the foreign producer questionnaire for 1992 and 1993 *** the official Commerce import statistics on imports into the United States, official statistics were used for 1992 and 1993.

United Kingdom.--The trends shown by the quantity of imports reported by Commerce differ from those reported by the foreign producer. The discrepancies for 1993 and January-September 1994 may be due to shipping lags. Although incomplete, the trends reported by importers are comparable to Commerce data when adjusted for nonresponses using data from the U.S. Customs Service, and staff utilized the Commerce statistics.

Venezuela.--In contrast to other sources, a significant number of 14-inch fittings are imported from Venezuela. Thus, Commerce data are significantly overstated. (Preliminary postconference brief submitted by counsel for COVECO and Petroltubos, pp. 12-13.) When adjusted for non-responses using data from the U.S. Customs Service, data reported by importers verifies the data reported by the two producers in Venezuela. Staff utilized the foreign producer data.

Imports by U.S. Producers

As discussed in the section of the report entitled "U.S. Producers," the U.S. manufacturing firms imported or purchased relatively small amounts of subject product during the period reviewed. In addition, some (primarily unfinished) certain carbon steel butt-weld pipe fittings are also imported from nonsubject sources and, although the data are somewhat unclear, U.S. manufacturers may have increased the quantities of such imports during the latter part of the period reviewed. However, it is difficult to trace the imports from Mexico and to assess their impact on the U.S. market since they were not handled by ***, but by ***.¹¹⁸ At least some of the imports from Mexico that entered in January-September 1994 were unfinished fittings for consumption by ***, a domestic manufacturer.¹¹⁹

Also, in January-September 1994, *** directly imported *** pounds of unfinished fittings from Taiwan. (***)¹²⁰ However, unlike the Mexican fittings, the *** purchase did not contribute to the overall increase in imports of non-subject fittings in interim 1994. The quantity of imports from

¹¹⁸ Information provided by the U.S. Customs Service.

¹¹⁹ Further, there is a discrepancy in data in that ***. ***. In addition, there may be some imports of fittings sized 14 inches to 14.17 inches in diameter from Mexico. Response by *** to the importers' questionnaire.

¹²⁰ Response to importers' questionnaire by *** and information provided by the U.S. Customs Service.

Taiwan was level in interim 1994 compared with interim 1993. Increased sales to *** were apparently offset by reduced imports by distributors of the finished product.

Imports of Unfinished Certain Carbon Steel Butt-Weld Pipe Fittings

The import data presented in table 20 include finished and unfinished fittings. As stated earlier in this report, all imports of unfinished certain carbon steel butt-weld pipe fittings are believed to be machined into finished product by U.S. manufacturers. Accordingly, imports of unfinished fittings that enter the domestic market do not directly compete for sales with finished fittings manufactured, in aggregate, by U.S. firms. (However, they could, in theory, compete for sales of the relatively small amounts of unfinished fittings manufactured and sold within the United States.) In order to examine trends only for the finished product, staff adjusted the data presented in table 20. The following tabulation presents the quantity of finished and unfinished fittings imported from specific subject countries (in 1,000 pounds):

* * * * * * *

No unfinished fittings are known to be imported from Israel, Malaysia, or Korea. In contrast to data presented in table 20, the trends for finished imports from India and Venezuela *** from 1991 to 1993. Imports of finished fittings from the United Kingdom decreased (irregularly) *** than did imports of all subject product from the United Kingdom. In 1993, imports of unfinished fittings from all subject sources accounted for *** percent of total imports of subject fittings.

U.S. Market Penetration

As shown in table 21, the share of the quantity of U.S. consumption accounted for by both U.S. producers' shipments (excluding Weldbend) and total subject sources increased from 1991 to 1993, then declined in interim 1994 compared with interim 1993.¹²¹ The removal of the Chinese and non-AST Thai fittings from the market after 1991 resulted in a rise in market shares for U.S. producers (in aggregate) and for subject sources (in aggregate). Similarly, the market shares for both declined in interim 1994 with the entry of imports from Mexico (and smaller amounts from other countries).

¹²¹ The absolute value of the import market share is overstated because data for Weldbend, which accounts for approximately one-third of domestic production, are excluded. ***. Therefore, including the Weldbend shipments would have resulted in a sharper rise in the 1991-93 increase in producer market share, and could have mitigated (or even reversed) the decline in producer share shown in interim 1994. ***.

Table 21

Certain carbon steel butt-weld pipe fittings: Apparent U.S. consumption and market penetration, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

Item	1991	1992	1993	Jan.-Sept.-- 1993	1994
<i>Quantity (1,000 pounds)</i>					
Apparent consumption	91,827	73,553	73,562	55,692	63,307
<i>Value (1,000 dollars)</i>					
Apparent consumption	78,775	65,675	63,917	48,801	53,905
Share of the quantity of U.S. consumption (percent)					
Producers' U.S. shipments	47.4	67.1	67.2	68.6	66.5
U.S. imports from--					
France . . . . .	.7	.7	2.6	2.6	1.5
India . . . . .	.9	1.7	1.0	.9	.7
Israel . . . . .	.3	1.1	1.6	1.5	1.4
Malaysia . . . . .	.2	2.1	1.9	2.0	2.2
Republic of Korea	(1)	.6	.8	.9	(1)
Thailand (AST)	6.2	9.9	11.1	11.3	8.8
United Kingdom	2.9	5.3	3.2	3.2	5.0
Venezuela	1.2	1.6	.9	.9	0
Subtotal	12.5	23.0	23.0	23.4	19.6
Thailand (non-AST)	5.4	0	0	0	.6
China	29.5	.2	.2	.2	.1
Other sources	5.3	9.7	9.6	7.9	13.2
Total	52.6	32.9	32.8	31.4	33.5
Share of the value of U.S. consumption (percent)					
Producers' U.S. shipments	57.5	72.3	73.1	74.0	69.9
U.S. imports from--					
France . . . . .	.6	.5	2.0	2.0	1.2
India . . . . .	.8	1.1	.7	.7	.5
Israel . . . . .	.2	.7	1.0	.9	.9
Malaysia . . . . .	.2	1.6	1.4	1.5	1.6
Republic of Korea	(1)	.6	.8	.9	.1
Thailand (AST)	4.8	7.1	7.5	7.6	6.2
United Kingdom	3.2	4.8	2.9	3.0	4.3
Venezuela . . . . .	.7	.9	.5	.5	0
Subtotal	10.5	17.4	16.7	17.1	14.7
Thailand (non-AST)	5.3	0	0	0	.7
China	18.2	.1	.1	.1	.1
Other sources	8.4	10.2	10.1	8.9	14.5
Total	42.5	27.7	26.9	26.0	30.1

¹ Positive figure, but less than significant digits displayed.

Notes appear on following page.

Notes for table 21.

Note 1.--As discussed in the source notes to table 20, a portion of the butt-weld pipe fittings shipped into the United States from India are refurbished fittings from Singapore that are not included within the scope of these investigations. Adjusting the data presented in the body of table 21 to exclude these fittings results in market shares, in terms of quantity, of *** percent in 1993 and *** percent in January-September 1994 for imports from India.

Note 2.--During the 1991-92 investigations concerning certain carbon steel butt-weld pipe fittings from China and Thailand, Commerce found a *de minimis* LTFV margin of 0.22 percent for imports from Thailand manufactured by AST. (57 F.R. 21066, May 18, 1992.) Commerce's period of investigation was December 1, 1990 through May 31, 1991, and, as a result, AST imports may be considered to be fairly traded during the first five months of the period reviewed during the instant investigations.

Source: Data for producers' U.S. shipments were compiled from questionnaire data (and exclude *** and Weldbend). Data for U.S. imports were obtained from official statistics of the U.S. Department of Commerce and, where necessary, from data submitted by foreign producers. (See table 20 for a complete description of the source of data used for each subject country.)

In terms of quantity, market penetration for each individual subject source, except Venezuela, increased (albeit irregularly) from 1991 to 1993. From interim 1993 to interim 1994, the share of the quantity of consumption accounted for by each source decreased--except for imports from Malaysia and the United Kingdom. *** increased its purchases of fittings manufactured in Malaysia from *** pounds in interim 1993 to *** pounds in interim 1994.¹²² The rise in imports and (market share) of U.K.-produced fittings is due to a large increase in shipments to the United States by BKL Fittings to Allied.¹²³ For reasons described in the source notes to table 20, the decline in the share of U.S. consumption held by India during the interim periods is somewhat sharper than that shown in table 21.

The quantities of market penetration for a U.S. market that includes Weldbend are presented in the following tabulation (in percent, with period changes in percentage points):

¹²² Total imports of product manufactured in Malaysia rose from 1.1 million pounds in interim 1993 to 1.4 million pounds in interim 1994, or by 23.9 percent (table 20). However, as stated earlier in this report, MMC, the major (or only) producer in Malaysia, was placed in receivership in October 1993. According to Silbo, its 1994 purchases from MMC had been contracted for well before October 1993; the receivership authorized their actual shipment. Staff conversation with David Simon, counsel for Silbo, Feb. 3, 1994, and prehearing brief of Silbo, p. 15.

¹²³ Testimony by James Arthur Smith, general manager for export sales, BKL Fittings, TR, p. 158, and ***. Total imports of fittings manufactured in the United Kingdom rose from 1.8 million pounds in interim 1993 to 3.1 million pounds in interim 1994, or by 74.0 percent (table 20).

<u>Source</u>	<u>1991</u>	<u>1993</u>	<u>Period change</u>
Producers' U.S. shipments ¹	53.0	74.0	+21.0
U.S. imports:			
France . . . . .	.6	2.0	+1.4
India . . . . .	.8	0.8	-
Israel . . . . .	.3	1.3	+1.0
Malaysia . . . . .	.2	1.5	+1.3
Korea	(²)	.6	+0.6
Thailand (AST)	5.5	8.8	+3.3
United Kingdom	2.6	2.5	-.1
Venezuela	<u>1.1</u>	<u>.7</u>	<u>-.4</u>
Subtotal	11.1	18.2	+7.1
Thailand (non-AST)	4.8	-	-4.8
China	26.4	.1	-26.3
Other sources	<u>4.7</u>	<u>7.6</u>	<u>+2.9</u>
Total	<u>47.0</u>	<u>26.0</u>	<u>-21.0</u>
Apparent consumption	100.0	100.0	-

¹ Production data were used of shipment data for ***.

² Less than 0.05 percent.

Note.--The data in the above tabulation are calculated from data presented in the section of this report entitled "Apparent U.S. Consumption."

Prices

Marketing Characteristics

The subject butt-weld pipe fittings are used primarily in the petrochemical, oil refining, energy generation, construction, and shipbuilding industries. Most such fittings are used in conjunction with pipe in the construction of piping systems in the initial construction of facilities in these industries, although there is a smaller market for fittings in the routine maintenance of these facilities. The demand for fittings is, therefore, heavily influenced by new construction of facilities in the above-mentioned industries. The majority of domestic producers and importers responding to questionnaires indicated stable or reduced demand for the subject fittings during the period for which data were collected in these investigations, some citing slow activity in the construction of new refineries or a slowdown in the overall U.S. economy. One importer *** reports that overseas demand has picked up recently.¹²⁴

¹²⁴ Staff conversation with ***, Jan. 20, 1995.

The common practice among U.S. producers of carbon steel butt-weld pipe fittings is to maintain price lists over long periods of time, with actual transaction prices determined by (fractional) multipliers, which are changed as market circumstances dictate.¹²⁵ The price lists of one or two manufacturers tend to be used in quoting prices at all levels of the distribution chain. The major U.S. producers publish price lists, sometimes based on another producer's list, and some importers use similar price lists. The Hackney and Weldbend price lists are apparently the current dominant price lists. Price lists establish relative prices of different sizes and shapes of fittings since a common multiplier is generally applied to all fittings on a list.¹²⁶ Shipments from domestic producers to distributors typically consist of a variety of fitting sizes and types, sometimes including flanges. These tie-in sales mean that, when the same multiplier is applied to all fittings, a one-to-one correspondence between quoted prices and actual costs of individual fittings may not exist. Although it is less common than with domestic producers, some importers also quote prices to distributors based on multipliers and on one of the two dominant price lists. End users often buy a piping system--pipes, fittings, flanges, and valves--from a single fabricator or distributor. Fittings generally constitute a small part of the total cost of a system for an end user.¹²⁷

Domestic producers usually quote a net f.o.b. price, based on their current multiplier and list price, and will pay for delivery to distributors on large orders, typically based on a minimum dollar value or on minimum weight.¹²⁸ The minimum dollar values generally are in the range of \$5,000 to \$8,000. Pricing practices are more varied for importers. Minimum order size is typically one 20,000 lb. or 40,000 lb. container load. Some importers will quote a net f.o.b. or net delivered price, while others will quote prices based on one of the dominant domestic producer price lists. Importers are less likely to arrange and pay for delivery than are domestic producers.

Product Comparisons

There appear to be two main "quality" tiers to the market depending on the pressure of fluids the fittings must withstand and the consequences of the failure of a fitting.¹²⁹ "Quality" is judged in terms of the likelihood that a fitting may rupture or fail under pressure. While all of the subject fittings are said to meet ASTM A-234 standards, this certification is self-declared by producers--

¹²⁵ For example, Weldbend's list price for 4-inch long radius 90° standard elbows is \$17.52 per unit. Its current multiplier for purchases over \$20,000 list price is 0.3825, giving a current price of \$6.70 per unit on large orders. Weldbend's "prices are based on orders of approximately equal amounts of fittings and flanges," and freight is allowed on orders of 2,000 lbs. or more. Weldbend has maintained the same price list and multipliers since 1987, in contrast to other producers, such as ***, who have reduced their multipliers several times over the period of investigation. Weldbend's List Price Sheet No. 693, effective June 15, 1993; Weldbend Distributor Discount attachment for Price Sheet No. 693; and staff conference call with James Coulas, Sr., Dec. 14, 1994.

¹²⁶ Hackney has had two multipliers since late May 1994--***. Staff conversation with ***, Jan. 17, 1994.

¹²⁷ End user purchasers reported that fittings cost from less than 5 percent of the cost of final product to 15 percent maximum.

¹²⁸ *** estimates that less than 5 percent of its sales revenue comes from f.o.b. sales. Conversation with ***, Jan. 17, 1995.

¹²⁹ *** characterized it as two markets for fittings--the petrochemical market and the mechanical market, with firms on the Exxon and other refinery/petrochemical company AMLs selling mainly to the former market and Weldbend and some imports selling mainly to the latter market. Staff conversation with ***, Jan. 17, 1995.

there is no independent certification process.¹³⁰ Therefore, end-users that require a greater certainty that fittings will not fail have AMLs that are compiled as a result of manufacturing facility inspections. These inspections result in certified mill test reports that are supplied to distributors that sell to companies with AMLs. The Exxon AML is probably the best-known in the refinery and petrochemical industries. Some smaller end users will use the AML of a larger company, such as Exxon, in making their own purchases.¹³¹ Fittings whose manufacturers appear on major company AMLs make up the one tier of the market and may command a higher price than product of manufacturers that appears on few or no AMLs.^{132 133} Low- or no-pressure, non-critical applications, such as water systems and railing, can use pipe fittings that are not certified for high-pressure, critical applications. Imports from India, Israel, Malaysia, and perhaps Korea and Venezuela are more likely to be used in low-pressure systems than in the refinery and chemical industries.¹³⁴ These fittings make up the lower tiers of the fittings market.¹³⁵ The placement of fittings from certain manufacturers in a "lower tier" may have as much to do with the lack of producer track record as with end-user knowledge of a higher likelihood of product defects. While fittings from manufacturers on AMLs can be and are used in the "mechanical" market, fittings from manufacturers that are not on AMLs are generally not used by end users that use AMLs.

The 11 distributors that returned the Commission's purchaser questionnaire¹³⁶ tended to specialize in either "approved" or "nonapproved" fittings. Some distributors specialized further, stocking only product from U.S. producers. Of these 11 distributors, 3 stocked U.S. product only; these distributors reported selling to "major oil companies," "for use in oil and gas exploration and production," and to "industrial accounts." Four of the 11 distributors stocked fittings mainly from

¹³⁰ Hearing TR, pp. 96-97.

¹³¹ The major U.S. producers, with the exception of Weldbend, are all included on the October 1994 Exxon AML. Subject importers included on the Exxon AML were Awaji (AST) (elbows dated 5/93 or later) (Thailand), BKL (United Kingdom), and Vallourec/Interfit (France). Weldbend reportedly has not actively sought a place on AMLs. Staff conversation with ***, Jan. 17, 1995.

¹³² Natural gas transmission companies require higher standards than the refinery industry because of the potential for disastrous explosions in populated areas in the event of the failure of fittings in high-pressure gas pipelines. This may constitute a higher tier of the market. On the other hand, these higher standards can be met with thicker walled fittings. Two major gas transmission companies, *** and ***, have approved vendor lists. ***. Staff conversations with ***, Dec. 6, 1994.

¹³³ Seven of 12 responding importers reported that there is a difference in the price they receive for products that meet "approval" standards and those that do not. Five of these importers reported the approximate premium for products that meet "approval" standards. Reported premiums were in the range of 10 to 20 percent. Of the 5 that responded that there was no difference in the price they receive for products that meet "approval" standards and those that do not, 4 kept imports from different countries in a common inventory, and 1 was a U.S. producer that imported unfinished fittings.

Six domestic producers responded to a similar question. All reported that there was no difference in the price they received for fittings that meet "approval" standards and those that do not.

¹³⁴ Staff conversation with ***, Jan. 13, 1995.

¹³⁵ One importer, ***, addressed the interchangeability of the subject imports in its questionnaire response as follows: France, England, and Thailand were characterized as being equivalent. Relative quality levels for products that were characterized as being below the quality levels of the previously mentioned three countries were assigned relative quality levels as follows: Israel-10, Malaysia-5, and India-0. Another importer, ***, reported that "pipe fittings manufactured in India are of generally lesser quality. Examples--inconsistent wall thicknesses, surface preparation, and beveled ends."

¹³⁶ Besides these 11 distributors, other responding purchasers included master distributors, end users, and fabricators.

the United States, France, and Thailand (AST), all of which appear frequently on AMLs. These distributors reported selling to oil and gas producers, refineries, petrochemical plants, and pipeline companies, among others. Two of these distributors also reported selling to mechanical contractors. Four of the 11 distributors stocked fittings from a variety of countries, including all of the subject countries, except Korea, as well as non-subject countries.¹³⁷ These distributors reported sales mainly to mechanical contractors, among others.¹³⁸

Products are also differentiated by factors other than product characteristics. These include order lead times, minimum order sizes, and the variety of product line. Purchasers will pay a premium for short order lead times and the availability of a full range of product types, sizes, and wall thicknesses. While discounts are usually larger for larger orders, distributors incur higher working capital and inventory storage costs for larger purchase sizes (relative to sales rates). While some U.S. producers do not produce a full range of fittings (for example, Weldbend does not manufacture fittings larger than 24 inches, and Mills Iron Works produces only reducers), they generally produce a wider range of fittings than are available from importers (for example, Vallourec (France) imports only elbows and reducers, and only fittings 4 inches and under have been available from Malaysia).¹³⁹ In general, imports have been concentrated in sizes under 14 inches in inside diameter and in standard wall thicknesses. Most imports are available to distributors in full container loads as a minimum purchase size. As one importer stated, "Domestic manufacturers sell products as well as many attentive services. Foreign manufacturers sell primarily products alone."¹⁴⁰

Order lead times reported on questionnaire responses by domestic producers ranged from 1 or 2 days to 4 weeks, presumably depending on order size. Smaller orders can be filled from inventories in a short time. Larger orders must wait for fittings to be produced.¹⁴¹ Order lead times reported on questionnaire responses by importers ranged from under a week for orders from inventory to 4 weeks and even 10 months for orders from overseas suppliers.

Fourteen importers reported the geographic areas in the United States where they sold imported fittings. Six reported that they sold imports in 48 or 50 states, three reported that they sold imports in western states, three reported that they sold in the South and Southeast, one reported it sold in the Midwest, and one sold mostly along the Gulf coast and the East coast.

Six domestic producers responded when asked what percent of the total cost of certain carbon steel butt-weld pipe fittings is accounted for by carbon steel pipe. Reported estimates ranged from 19 percent to 75 percent, with a median of about 50 percent. Three domestic producers reported prices for carbon steel pipe over the period of investigation. Prices of pipe under 16 inches in nominal diameter reported by *** were roughly 15 to 20 percent lower in 1994 than in the beginning of 1991, as illustrated in figure 3. The major drop in the reported price of carbon steel pipe occurred in 1992, coinciding with the beginning of price decreases for certain carbon steel butt-weld pipe fittings.

¹³⁷ For the most part, these distributors did not directly report the country of origin of fittings purchased. Countries of origin have been inferred from the names of companies that the distributors reported as the source of fittings purchases. Only 1 of the 4 in this group reported purchases from U.S. producers (Hackney, Tube-Line, and Weldbend).

¹³⁸ *** said that wholesaler customers know which fittings distributors carry domestic product and which distributors carry a mix of imported fittings. Staff conversation with ***, Nov. 6, 1994.

¹³⁹ Staff conversation with ***, Jan. 23, 1995.

¹⁴⁰ ***'s importer questionnaire response.

¹⁴¹ Weldbend appears to carry larger inventories than other producers and appears to fill a larger proportion of orders from inventories.

Figure 3
Carbon steel pipe prices, Jan. 1991-Sept. 1994

* * * * *

U.S. Purchasers

The Commission received purchaser questionnaire responses from 19 purchasers of certain carbon steel butt-weld pipe fittings, 13 of which classified themselves as distributors, importer/distributors, master distributors, or brokers. The remaining purchasers were end users or fabricators.

It was unanimous among the 19 reporting purchasers that the lowest price offered for certain carbon steel butt-weld pipe fittings would not always win a contract or sale. Other factors that were cited included availability, AMLs, quality, and order lead times, among others. One purchaser noted that "most carbon weld fittings are purchased on the same bill of material as pipe and valves--pipe pricing usually determines the low bidder." Another noted that "depending on project schedule, availability may outweigh pricing." Payment terms are similar for both U.S. producers and importers--typically net payment due 30 days after purchase, although there is greater propensity for domestic producers to offer discounts of 1 or 2 percent for early payment.¹⁴² A majority of reporting purchasers rated U.S. producers superior to subject imports with respect to availability, delivery time, delivery terms, packaging, and technical support, while subject imports were rated superior by a majority of reporting purchasers only in terms of the lowest price. The range of products available from U.S. producers is greater than the range available from importers.

Fifteen responding purchasers reported that subject imports are employed in the same range of uses as the domestically produced product; 4 purchasers did not answer the question. The following tabulation shows the responses of purchasers of domestic product concerning the quality of the subject country product as being comparable or inferior to that of the domestic product:¹⁴³

	<u>Comparable</u>	<u>Inferior</u>
France.	6	1
India	2	2
Israel.	2	1
Malaysia.	4	1
Korea	3	2
Thailand (AST). . . .	6	1
United Kingdom. . . .	4	1
Venezuela	2	1

When purchasers of imported product were asked whether the quality of the domestic product was comparable, superior, or inferior to that of the subject country product, all of them indicated that the quality was comparable.

¹⁴² These discounts may not be completely reflected in prices reported on the following pages.

¹⁴³ The questionnaire noted that "quality refers to all of the physical and performance characteristics relevant to your use of the product."

When purchasers were asked whether imported fittings from the subject countries were used in the same applications, all 15 of the purchasers responding to the question answered "yes." When asked whether the quality of the fittings imported from the subject countries was the same, 9 answered "yes," 3 answered "no" and 1 gave a qualified yes answer.¹⁴⁴ When asked whether non-price differences among fittings imported from the subject countries were a significant factor in purchases from one or more of the subject countries, 5 answered "yes" and 7 answered "no."

When purchasers were asked whether imports of fittings from non-subject countries were used in the same applications as domestic fittings, 12 purchasers answered "yes," and 1 purchaser responded "UK, AST, France same as Hackney, Ladish, TFA (Tube Forgings). Venezuela, Malaysia, India, Israel, Korea same as Weldbend." In a similar question regarding a comparison of uses of fittings from non-subject and subject countries, 12 purchasers answered yes. Purchasers generally regarded the quality of fittings from non-subject countries to be comparable to that of the domestic product and to product imported from subject countries. Non-subject countries contain a diverse group of producers, including China, whose fittings are frequently cited as being of unreliable quality, as well as of producers from Germany, Austria, and Japan, which are frequently included on AMLs, and Romania and Mexico, which are relative newcomers to the U.S. market.

Eight responding purchasers reported that they always know the country of origin of fittings they purchase, two reported that they usually know, and eight reported that they sometimes know. Six responding purchasers reported that they always know the manufacturer of fittings they purchase, five reported that they usually know, six reported that they sometimes know, and one reported that it never knows. Thirteen responding purchasers reported that, to their knowledge, their customers are aware of or interested in the country of origin of the goods they supply to them; six reported "no." Among purchasers who responded that their customers are aware of and/or interested in the country of origin of fittings, their customers were made aware of the country of origin in a number of ways. These include AMLs, brand names marked on fittings, mill test reports, and the common knowledge that some distributors only stock domestic fittings, among others.

Eleven responding purchasers reported that there is no significant difference among the products they buy from the various suppliers of fittings; 5 reported that there is a significant difference. An end user reporting that there is a significant difference reported that "it appears that some foreign sources of this material are capable of producing to meet our specification, we have not yet, however, found it economic to bear the expense of approving a foreign source." Another purchaser responded that U.S. product generally exceeds ASTM requirements.

When asked whether certain grades/types/sizes of fittings were available from U.S. producers that were not available from producers in the subject countries, 14 responding purchasers answered "yes" and 6 reported "no." When asked whether certain grades/types/sizes of fittings were available from producers in the subject countries and not from U.S. producers, all 16 responding purchasers answered "no."

¹⁴⁴ ***, which only stocks fittings on major AMLs, reported "yes," "of the products we have distributed."

Questionnaire Price Data

The Commission requested price and quantity information from U.S. producers and importers for their largest quarterly and total quarterly sales of five types of subject carbon steel butt-weld pipe fittings during the period January 1991-September 1994.¹⁴⁵ The five products are described below:¹⁴⁶

Product 1: Elbows: Carbon steel butt-weld pipe fitting, 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 pipe fitting, 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 pipe fitting, finished, 4-inch nominal diameter, 45°, long radius, standard weight, meeting ASTM A-234, grade WPB or equivalent specifications.

Product 4: Elbows: Carbon steel butt-weld pipe fitting, finished, 12-inch nominal diameter, 90°, long radius, standard weight, meeting ASTM A-234, grade WPB or equivalent specifications.

Product 5: Tees: Carbon steel butt-weld pipe fitting, 4-inch nominal diameter, standard weight, meeting ASTM A-234, grade WPB or equivalent specifications.

Usable price data were received from four U.S. producers and nine U.S. importers of the subject fittings.¹⁴⁷ Prices reported by U.S. producers and importers are presented in tables 22-26.¹⁴⁸

¹⁴⁵ Prices discussed in this section are average net f.o.b. prices computed from quarterly total sales and quantity data.

¹⁴⁶ These products were selected after discussion with U.S. producers and importers of certain carbon steel butt-weld pipe fittings. These five products represent standard items known to be produced in high volume in the United States and believed to be imported from the subject countries.

¹⁴⁷ In cases where U.S. producers or importers reported only delivered values, they were asked to approximate average shipping costs as a percentage of delivered value. F.o.b. values were estimated by reducing delivered values by these estimated shipping costs.

One importer, ***, reported that it sold all its imports at the same price from a common inventory. It reported that it sold imported fittings from five of the subject countries and from five non-subject countries. It reported sales values and quantities of the five products for all its import sales. Quantities were allocated by country in proportion to ***'s reported annual total imports.

One importer that was included in the data in the prehearing report, ***, was dropped from the data in this final report because it was not representative of importers of the bulk of fittings. *** is a small distributor selling mostly small quantities to other small distributors and contractors.

¹⁴⁸ Prices and quantities reported by U.S. producers could include finished fittings made from imported unfinished fittings.

Table 22

Finished certain carbon steel butt-weld pipe fittings: Weighted-average net f.o.b. prices and quantities for sales to distributors of product 1 reported by U.S. producers and importers, and number of firms reporting, by quarters, Jan. 1991-Sept. 1994

* * * * *

Table 23

Finished certain carbon steel butt-weld pipe fittings: Weighted-average net f.o.b. prices and quantities for sales to distributors of product 2 reported by U.S. producers and importers, and number of firms reporting, by quarters, Jan. 1991-Sept. 1994

* * * * *

Table 24

Finished certain carbon steel butt-weld pipe fittings: Weighted-average net f.o.b. prices and quantities for sales to distributors of product 3 reported by U.S. producers and importers, and number of firms reporting, by quarters, Jan. 1991-Sept. 1994

* * * * *

Table 25

Finished certain carbon steel butt-weld pipe fittings: Weighted-average net f.o.b. prices and quantities for sales to distributors of product 4 reported by U.S. producers and importers, and number of firms reporting, by quarters, Jan. 1991-Sept. 1994

* * * * *

Table 26

Finished certain carbon steel butt-weld pipe fittings: Weighted-average net f.o.b. prices and quantities for sales to distributors of product 5 reported by U.S. producers and importers, and number of firms reporting, by quarters, Jan. 1991-Sept. 1994

* * * * *

In addition, the Commission requested purchasers to provide delivered prices for purchases of certain carbon steel butt-weld pipe fittings. Pricing data for purchases of U.S. product were provided by nine purchasers, but pricing data reported for subject imports was much more sparse. Prices reported by purchasers are presented in tables 27-31.

Table 27

Finished certain carbon steel butt-weld pipe fittings: Weighted-average net delivered prices for purchases by distributors and end users, quantities of product 1 reported by U.S. purchasers, and number of firms reporting, by quarters, Jan. 1991-Sept. 1994

* * * * *

Table 28

Finished certain carbon steel butt-weld pipe fittings: Weighted-average net delivered prices for purchases by distributors and end users, quantities of product 2 reported by U.S. purchasers, and number of firms reporting, by quarters, Jan. 1991-Sept. 1994

* * * * *

Table 29

Finished certain carbon steel butt-weld pipe fittings: Weighted-average net delivered prices for purchase by distributors, end users, and quantities of product 3 reported by U.S. purchasers, and number of firms reporting, by quarters, Jan. 1991-Sept. 1994

* * * * *

Table 30

Finished certain carbon steel butt-weld pipe fittings: weighted-average net delivered prices for purchases by distributors and end users, quantities of product 4 reported by U.S. purchasers, and number of firms reporting, by quarters, Jan. 1991-Sept. 1994

* * * * *

Table 31

Finished certain carbon steel butt-weld pipe fittings: Weighted-average net delivered prices for purchases by distributors and end users, quantities of product 5 reported by U.S. purchasers, and number of firms reporting, by quarters, Jan. 1991-Sept. 1994

* * * * *

U.S. price trends

Average f.o.b. prices generally fell over the period for which data were collected in the investigations, with the largest decreases occurring in late 1991 and early 1992 and in late 1993 and early 1994, as shown for products 1 through 5 in tables 22 through 26 and illustrated in figure 4. Prices in the third quarter of 1994, compared with the first quarter of 1991, were about 18 percent lower for products 1 and 2, about 20 percent lower for product 3, about 13 percent lower for product 4, and 14 percent lower for product 5.

Figure 4

Finished certain carbon steel butt-weld pipe fittings: Price comparisons and trends for products 1-5, Jan. 1991-Sept. 1994

* * * * *

French price trends

Average f.o.b. prices generally *** over the period for which data were collected in the investigations, although ***, as shown in tables 22 through 25 and illustrated in figure 4.¹⁴⁹ Prices of all four products were about *** percent *** in the second quarter of 1994 (the last quarter for which French data were reported) than in the first quarter of 1991.

Indian price trends

Prices of fittings from India were reported for a limited period of time, mainly from the fourth quarter of 1992 onward. Average f.o.b. prices *** over the reporting period, as shown in tables 22 through 26 and illustrated in figure 4. Prices in the third quarter of 1994 were from *** percent to *** percent *** than in the first period reported.

Israeli price trends

Prices of fittings from Israel were reported for a limited period of time, mainly from the fourth quarter of 1992 onward. Average f.o.b. prices ***, as shown in tables 22 through 26 and illustrated in figure 4. Prices in the third quarter of 1994 were from *** percent *** to *** percent *** than in the first period reported, depending on the specific product.

Korean price trends

Trends in Korean prices are difficult to discern because of the limited data reported.¹⁵⁰

Malaysian price trends

Prices of fittings from Malaysia were reported for a limited period of time, mainly from 1992 onward. Average f.o.b. prices ***, as shown in tables 22 through 26 and illustrated in figure 4. Prices in the third quarter of 1994 were from *** percent *** to *** percent *** than in the first period reported, depending on the specific product.

Thai price trends

Average f.o.b. prices *** over the reporting period as shown in tables 22 through 26 and illustrated in figure 4. Prices in the third quarter of 1994 were from *** percent *** to *** percent *** than in the first period reported, depending on the specific product.

British price trends

Average f.o.b. prices *** over the reporting period as shown in tables 22 through 26 and illustrated in figure 4. Prices in the third quarter of 1994 were from *** percent *** to *** percent *** than in the first period reported, depending on the specific product.

¹⁴⁹ Vallourec, the sole importer of subject fittings from France, does not import tees, only elbows and reducers.

¹⁵⁰ Prices reported by the importer of Korean-produced fittings, ***, were *** than prices reported for other imports in most instances. *** says that total value and total quantity data reported by *** included all wall thicknesses for a given diameter, not just standard weight. Staff conversation with ***, Mar. 10, 1995.

Venezuelan price trends

Prices of fittings from Venezuela were reported from the second quarter of 1993 to the third quarter of 1994 only for ***. Average f.o.b. prices *** and illustrated in figure 4. Prices in *** were *** percent *** than in the ***.¹⁵¹

Price comparisons

There were 301 instances where price comparisons between the domestic and imported products were possible (table 32). In 212 of these instances, imports were priced below the U.S. product, with margins ranging up to 36 percent. Three other instances had margins indistinguishable from zero. In the remaining 86 instances, imports were priced above the U.S. product, with margins ranging up to 378 percent when *** is included and up to 21 percent when *** is excluded.

Table 32

Finished certain carbon steel butt-weld pipe fittings: Margins of under(over)selling compared with U.S. producers' prices, based on weighted-average net f.o.b. sales prices of products, by quarters, Jan. 1991-Sept. 1994

* * * * *

For France there were *** instances of underselling and *** instances of overselling, with margins ranging from underselling of *** percent to overselling of *** percent.

For India there were *** instances of underselling and *** instances of overselling, with margins ranging from underselling of *** percent to overselling of *** percent.

For Israel there were *** instances of underselling and *** instances of overselling, with margins ranging from underselling of *** percent to overselling of *** percent.

For Malaysia there were *** instances of underselling and *** instances of overselling, with margins ranging from underselling of *** percent to overselling of *** percent.

For Korea there were *** instances of underselling and *** instances of overselling, with margins ranging from underselling of *** percent to overselling of *** percent.

For Thailand there were *** instances of underselling and *** instances of overselling, with margins ranging from underselling of *** percent to overselling of *** percent.

For the United Kingdom there were *** instances of underselling and *** instances of overselling, with margins ranging from underselling of *** percent to overselling of *** percent.

For Venezuela there was *** of underselling and *** instances of overselling, with margins ranging from underselling of *** percent to overselling of *** percent.

¹⁵¹ ***.

Lost Sales and Lost Revenues

Although five out of seven reporting domestic producers reported that they lost sales to imported fittings from the subject countries and or reduced prices to avoid losing sales, only one was able to provide information on specific allegations. *** was the only U.S. producer with specific information pertaining to its alleged lost sales. *** alleges that its quotation of \$*** for an order of fittings was turned down by *** in favor of a quotation of \$*** from *** in ***. A spokesman for *** gave the following account. ***¹⁵²

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that both nominal and real exchange rates of the countries involved in these investigations exhibited independent and varied fluctuations over the period January-March 1991 through July-September 1994.¹⁵³ The Korean won and the Thai baht exhibited the most stable real and nominal exchange rates, depreciating less than 10 percent over the period. Similarly, the Malaysian ringgit and the French franc exhibited fairly stable and parallel fluctuations in their nominal and real exchange rates. The nominal value of the French franc ended the period quite close to its original valuation, while the nominal and real value of the Malaysian ringgit appreciated by the end of the period.

The remaining countries exhibited more significant exchange rate variations over the period. Nominal rates for the British pound, Indian rupee, and Israeli sheqel depreciated to less than 80 percent of their original values by the end of the period. However, the real exchange rates for these countries depreciated by less. The real value of the British pound fell approximately 20 percent from the third quarter of 1992 to the first quarter of 1993, following the withdrawal of the pound from the European Monetary System (EMS). The Venezuelan bolivar depreciated by almost 70 percent of its 1991 value. However, because the rate of inflation was less than the rate of nominal exchange rate depreciation, the real exchange rate actually increased slightly above its original value. The graphs are presented in figure 5.

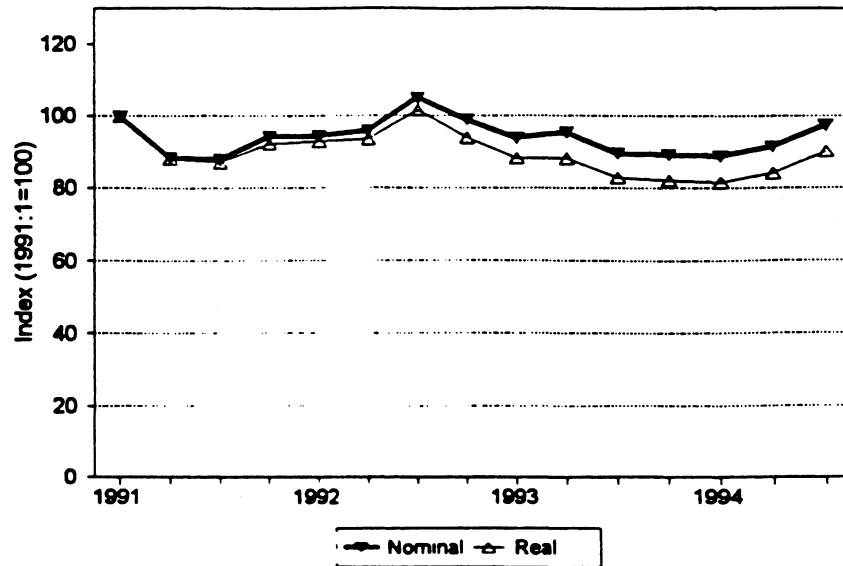
¹⁵² Staff conversation with ***, Jan. 31, 1995.

¹⁵³ International Financial Statistics, January 1995. All exchange rates are expressed in dollars per unit of foreign currency.

Figure 5

Exchange rates: Indexes of nominal and real exchange rates (in dollars per unit of foreign currency) of the French Franc, the Indian Rupee, the Israeli Sheqel, the Korean Won, the Malaysian Ringgit, the Thai Baht, the British Pound, and the Venezuelan Bolivar, by quarters, Jan. 1991-Sept. 1994

French Franc



Indian Rupee

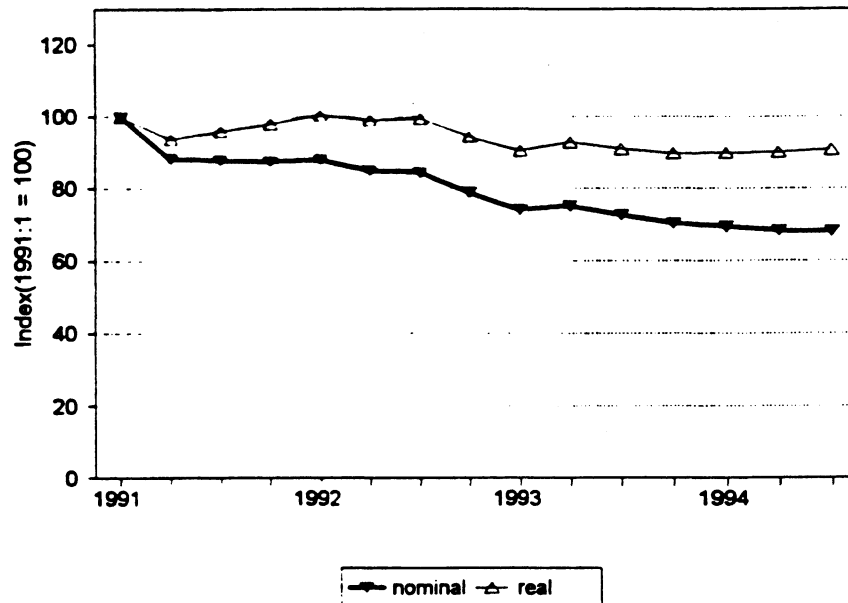
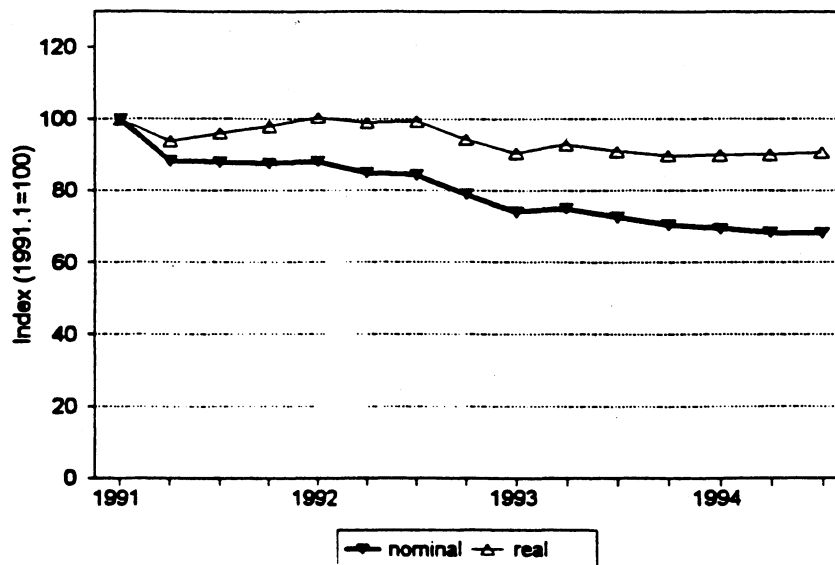


Figure 5 --Continued

Exchange rates: Indexes of nominal and real exchange rates (in dollars per unit of foreign currency) of the French Franc, the Indian Rupee, the Israeli Sheqel, the Korean Won, the Malaysian Ringgit, the Thai Baht, the British Pound, and the Venezuelan Bolivar, by quarters, Jan. 1991-Sept. 1994

Israeli Sheqel



Korean Won

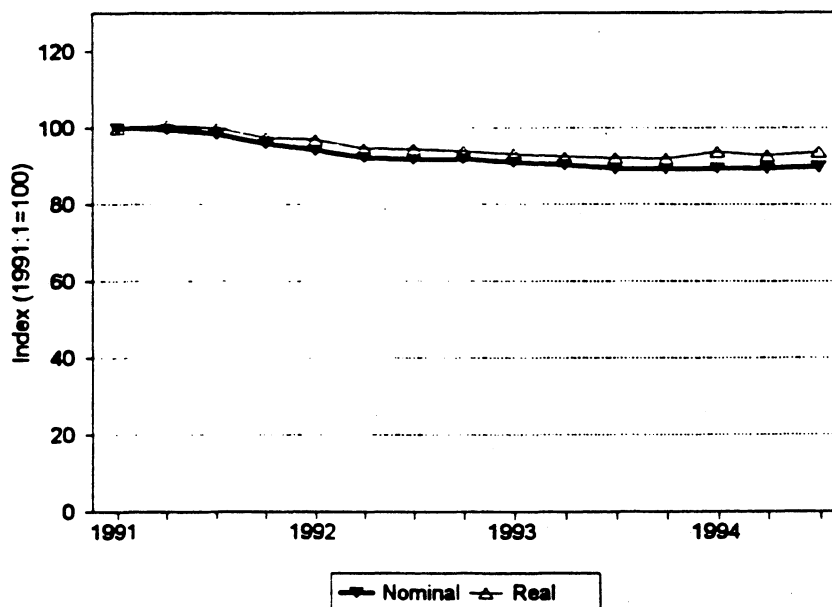
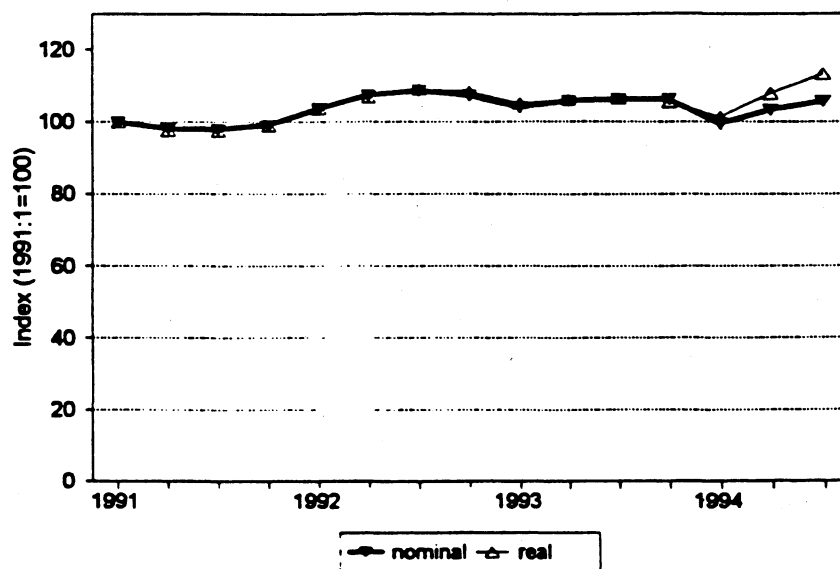


Figure 5--Continued

Exchange rates: Indexes of nominal and real exchange rates (in dollars per unit of foreign currency) of the French Franc, the Indian Rupee, the Israeli Sheqel, the Korean Won, the Malaysian Ringgit, the Thai Baht, the British Pound, and the Venezuelan Bolivar, by quarters, Jan. 1991-Sept. 1994

Malaysian Ringgit



Thai Baht

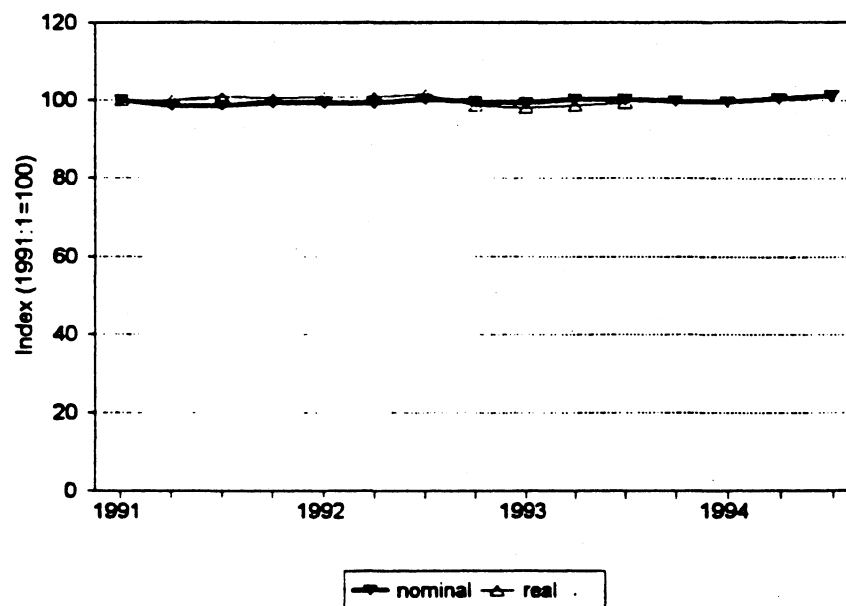
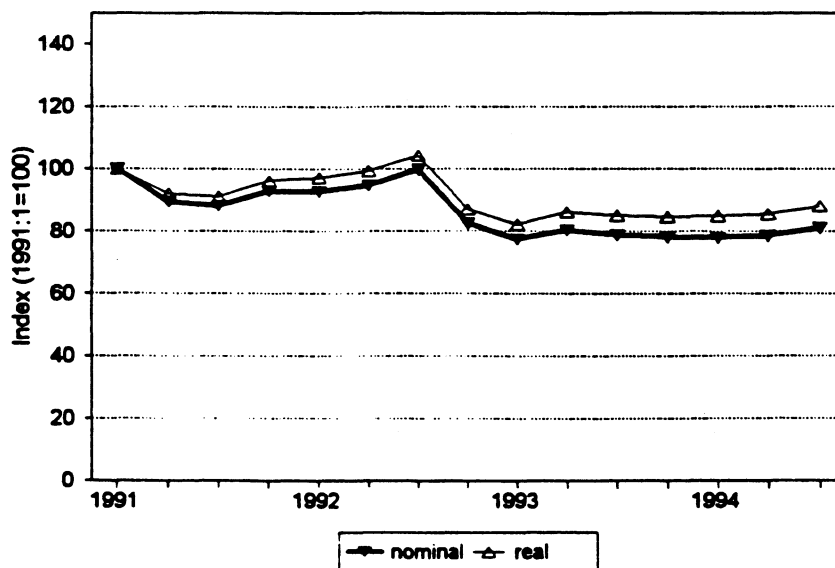


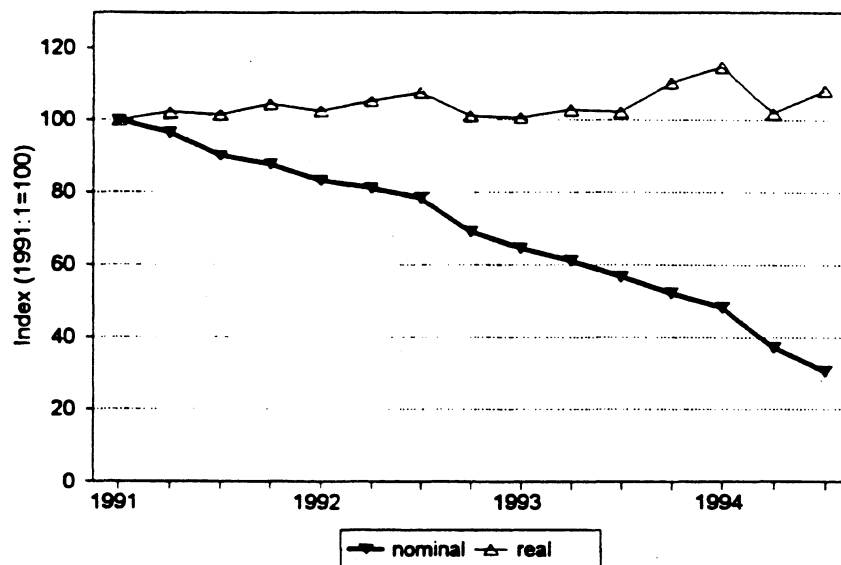
Figure 5 --Continued

Exchange rates: Indexes of nominal and real exchange rates (in dollars per unit of foreign currency) of the French Franc, the Indian Rupee, the Israeli Sheqel, the Korean Won, the Malaysian Ringgit, the Thai Baht, the British Pound, and the Venezuelan Bolivar, by quarters, Jan. 1991-Sept. 1994

British Pound



Venezuelan Bolivar



Source: International Monetary Fund, *International Financial Statistics*, Jan. 1995.

APPENDIX A
SUMMARY DATA

Table A-1

Certain carbon steel butt-weld pipe fittings: Summary data concerning the U.S. market, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

(Quantity=1,000 pounds; value=1,000 dollars; unit values and unit labor costs are per pound; period changes=percent, except where noted)

Item	Reported data					Period changes			
	1991	1992	1993	Jan.-Sept. 1993	1994	1991-93	1991-92	1992-93	Jan.-Sept. 1993-94
U.S. consumption quantity:									
Amount	91,827	73,553	73,562	55,692	63,307	-19.9	-19.9	(1)	+13.7
Producers' share ²	47.4	67.1	67.2	68.6	66.5	+19.9	+19.7	+0.2	-2.1
Importers' share: ²									
France	0.7	0.7	2.6	2.6	1.5	+1.9	(3)	+1.9	-1.1
India	.9	1.7	1.0	.9	.7	+0.1	+0.8	-0.7	-0.2
Israel	.3	1.1	1.6	1.5	1.4	+1.3	+0.8	+0.5	-0.1
Malaysia	.2	2.1	1.9	2.0	2.2	+1.7	+1.9	-0.2	+0.2
Republic of Korea	(4)	.6	.8	.9	(4)	+0.8	+0.6	+0.2	-0.9
Thailand (AST)	6.2	9.9	11.1	11.3	8.8	+4.9	+3.7	+1.2	-2.5
United Kingdom	2.9	5.3	3.2	3.2	5.0	+0.3	+2.4	-2.1	+1.7
Venezuela	1.2	1.6	.9	.9	0	-0.3	+0.4	-0.7	-0.9
Subtotal	12.5	23.0	23.0	23.4	19.6	+10.5	+10.6	(3)	-3.8
Thailand (nonAST)	5.4	0	0	0	.6	-5.4	-5.4	0	+0.6
China	29.5	.2	.2	.2	.1	-29.4	-29.4	(5)	-0.1
Other sources	5.3	9.7	9.6	7.9	13.2	+4.3	+4.5	-0.1	+5.4
Total	52.6	32.9	32.8	31.4	33.5	-19.9	-19.7	-0.2	+2.1
U.S. consumption value:									
Amount	78,775	65,675	63,917	48,801	53,905	-18.9	-16.6	-2.7	+10.5
Producers' share ²	57.5	72.3	73.1	74.0	69.9	+15.6	+14.8	+0.9	-4.0
Importers' share: ²									
France	0.6	0.5	2.0	2.0	1.2	+1.4	(3)	+1.4	-0.8
India	.8	1.1	.7	.7	.5	-0.1	+0.3	-0.4	-0.2
Israel	.2	.7	1.0	.9	.9	+0.8	+0.5	+0.3	-0.1
Malaysia	.2	1.6	1.4	1.5	1.6	+1.2	+1.4	-0.3	+0.2
Republic of Korea	(4)	.6	.8	.9	.1	+0.7	+0.5	+0.2	-0.9
Thailand (AST)	4.8	7.1	7.5	7.6	6.2	+2.7	+2.4	+0.4	-1.4
United Kingdom	3.2	4.8	2.9	3.0	4.3	-0.3	+1.6	-1.9	+1.3
Venezuela	.7	.9	.5	.5	0	-0.2	+0.2	-0.4	-0.5
Subtotal	10.5	17.4	16.7	17.1	14.7	+6.2	+6.9	-0.7	-2.3
Thailand (nonAST)	5.3	0	0	0	.7	-5.3	-5.3	0	+0.7
China	18.2	.1	.1	.1	.1	-18.1	-18.2	(5)	(3)
Other sources	8.4	10.2	10.1	8.9	14.5	+1.7	+1.8	-0.2	+5.7
Total	42.5	27.7	26.9	26.0	30.1	-15.6	-14.8	-0.9	+4.0
U.S. importers' imports from—									
France:									
Imports quantity	636	509	1,887	1,430	953	+196.7	-20.0	+270.7	-33.4
Imports value	448	353	1,249	955	620	+178.8	-21.2	+253.8	-35.1
Unit value	\$0.70	\$0.69	\$0.66	\$0.67	\$0.65	-6.0	-1.4	-4.6	-2.6
Ending inventory quantity	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)
India:									
Imports quantity	847	1,231	743	519	443	-12.3	+45.3	-39.6	-14.6
Imports value	639	724	448	319	252	-29.9	+13.3	-38.1	-21.0
Unit value	\$0.75	\$0.59	\$0.60	\$0.62	\$0.57	-19.9	-22.0	+2.6	-7.8
Ending inventory quantity	***	***	***	***	***	(7)	***	(7)	***
Israel:									
Imports quantity	295	834	1,186	846	898	+302.0	+182.7	+42.2	+6.1
Imports value	164	472	632	452	472	+285.4	+187.8	+33.9	+4.4
Unit value	\$0.56	\$0.57	\$0.53	\$0.53	\$0.53	-4.3	+1.6	-5.8	-1.5
Ending inventory quantity	(6)	(6)	(6)	-	-	(6)	(6)	(6)	-
Malaysia:									
Imports quantity	209	1,580	1,413	1,120	1,388	+576.1	+656.0	-10.6	+23.9
Imports value	158	1,076	884	720	880	+459.5	+581.0	-17.8	+22.2
Unit value	\$0.76	\$0.68	\$0.63	\$0.64	\$0.63	-17.4	-10.1	-8.1	-1.3
Ending inventory quantity	***	***	***	***	***	(7)	***	(7)	(7)]
Republic of Korea:									
Imports quantity	8	449	568	524	30	(8)	(8)	+26.5	-94.3
Imports value	34	370	501	462	48	(8)	+988.2	+35.4	-89.6
Unit value	\$4.25	\$0.82	\$0.88	\$0.88	\$1.59	-79.3	-80.6	+7.1	+80.4
Ending inventory quantity	-	-	-	-	-	-	-	-	-

Footnotes appear at end of table.

Table A-1--Continued

Certain carbon steel butt-weld pipe fittings: Summary data concerning the U.S. market, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

(Quantity=1,000 pounds; value=1,000 dollars; unit values and unit labor costs are per pound; period changes=percent, except where noted)									
Item	Reported data					Period changes			
	1991	1992	1993	Jan.-Sept.--		1991-93	1991-92	1992-93	Jan.-Sept. 1993-94
				1993	1994				
U.S. importers' imports from--									
Thailand (AST):									
Imports quantity	5,697	7,271	8,140	6,286	5,558	+42.9	+27.6	+12.0	-11.6
Imports value	3,746	4,675	4,784	3,704	3,342	+27.7	+24.8	+2.3	-9.8
Unit value	\$0.66	\$0.64	\$0.59	\$0.59	\$0.60	-10.6	-2.2	-8.6	+2.1
Ending inventory quantity	***	***	***	***	***	***	***	***	***
United Kingdom:									
Imports quantity	2,661	3,889	2,319	1,804	3,139	-12.9	+46.1	-40.4	+74.0
Imports value	2,526	3,148	1,839	1,462	2,311	-27.2	+24.6	-41.6	+58.1
Unit value	\$0.95	\$0.81	\$0.79	\$0.81	\$0.74	-16.5	-14.7	-2.1	-9.2
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Venezuela:									
Imports quantity	1,092	1,179	673	488	0	-38.4	+8.0	-42.9	-100.0
Imports value	572	623	345	248	0	-39.7	+8.9	-44.6	-100.0
Unit value	\$0.52	\$0.53	\$0.51	\$0.51	(7)	-2.1	+0.9	-3.0	(7)
Ending inventory quantity	0	0	0	0	0	0	0	0	0
Subject sources:									
Imports quantity	11,445	16,942	16,928	13,016	12,410	+47.9	+48.0	-0.1	-4.7
Imports value	8,287	11,441	10,683	8,321	7,925	+28.9	+38.1	-6.6	-4.8
Unit value	\$0.72	\$0.68	\$0.63	\$0.64	\$0.64	-12.9	-6.7	-6.6	-0.1
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Thailand (nonAST):									
Imports quantity	4,945	0	0	0	369	-100.0	-100.0	0	(7)
Imports value	4,200	0	0	0	383	-100.0	-100.0	0	(7)
Unit value	\$0.85	(7)	(7)	(7)	\$1.04	(7)	(7)	(7)	(7)
Ending inventory quantity	0	0	0	0	0	0	0	0	0
China:									
Imports quantity	27,110	113	117	117	91	-99.6	-99.6	+3.5	-22.2
Imports value	14,367	52	61	61	64	-99.6	-99.6	+17.3	+4.9
Unit value	\$0.53	\$0.46	\$0.52	\$0.52	\$0.71	-1.1	-13.4	+14.2	+34.9
Other sources:									
Imports quantity	4,828	7,169	7,063	4,374	8,364	+46.3	+48.5	-1.5	+91.2
Imports value	6,628	6,722	6,439	4,329	7,841	-2.9	+1.4	-4.2	+81.1
Unit value	\$1.37	\$0.94	\$0.91	\$0.99	\$0.94	-33.6	-31.7	-2.8	-5.3
All sources:									
Imports quantity	48,327	24,224	24,108	17,507	21,234	-50.1	-49.9	-0.5	+21.3
Imports value	33,483	18,215	17,183	12,711	16,213	-48.7	-45.6	-5.7	+27.6
Unit value	\$0.69	\$0.75	\$0.71	\$0.73	\$0.76	+2.9	+8.5	-5.2	+5.2
U.S. producers'--									
Average capacity quantity	87,894	87,552	87,544	65,781	65,781	-0.4	-0.4	(9)	0
Production quantity	44,949	50,720	49,577	38,525	43,726	+10.3	+12.8	-2.3	+13.5
Capacity utilization ²	51.1	57.9	56.6	58.5	66.4	+5.5	+6.8	-1.3	+7.9
U.S. shipments:									
Quantity	43,500	49,329	49,454	38,185	42,073	+13.7	+13.4	+0.3	+10.2
Value	45,292	47,460	46,734	36,090	37,692	+3.2	+4.8	-1.5	+4.4
Unit value	\$1.04	\$0.96	\$0.94	\$0.95	\$0.90	-9.2	-7.6	-1.8	-5.2
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Exports/shipments ²	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	5,340	6,642	6,622	6,909	8,113	+24.0	+24.4	-0.3	+17.4
Inventory/shipments ²	20.0	23.5	23.3	23.5	25.4	+3.3	+3.5	-0.1	+1.9
Production workers	277	308	287	248	248	+3.6	+11.2	-6.8	0
Hours worked (1,000s)	583	638	589	385	398	+1.0	+9.4	-7.7	+3.4
Total compensation (\$1,000)	6,781	7,665	7,432	5,818	6,284	+9.6	+13.0	-3.0	+8.0
Hourly total compensation	\$13.14	\$14.17	\$14.83	\$15.11	\$15.79	+12.9	+7.8	+4.7	+4.5
Productivity (pounds/hour)	77.2	79.5	84.2	80.5	87.2	+9.0	+2.9	+5.9	+8.3
Unit labor costs	\$0.17	\$0.18	\$0.19	\$0.19	\$0.18	+12.8	+6.6	+5.8	-3.5

Footnotes appear at end of table.

Table A-1--Continued

Certain carbon steel butt-weld pipe fittings: Summary data concerning the U.S. market, 1991-93, Jan.-Sept. 1993, and Jan.-Sept. 1994

(Quantity=1,000 pounds; value=1,000 dollars; unit values and unit labor costs are per pound; period changes=percent, except where noted)

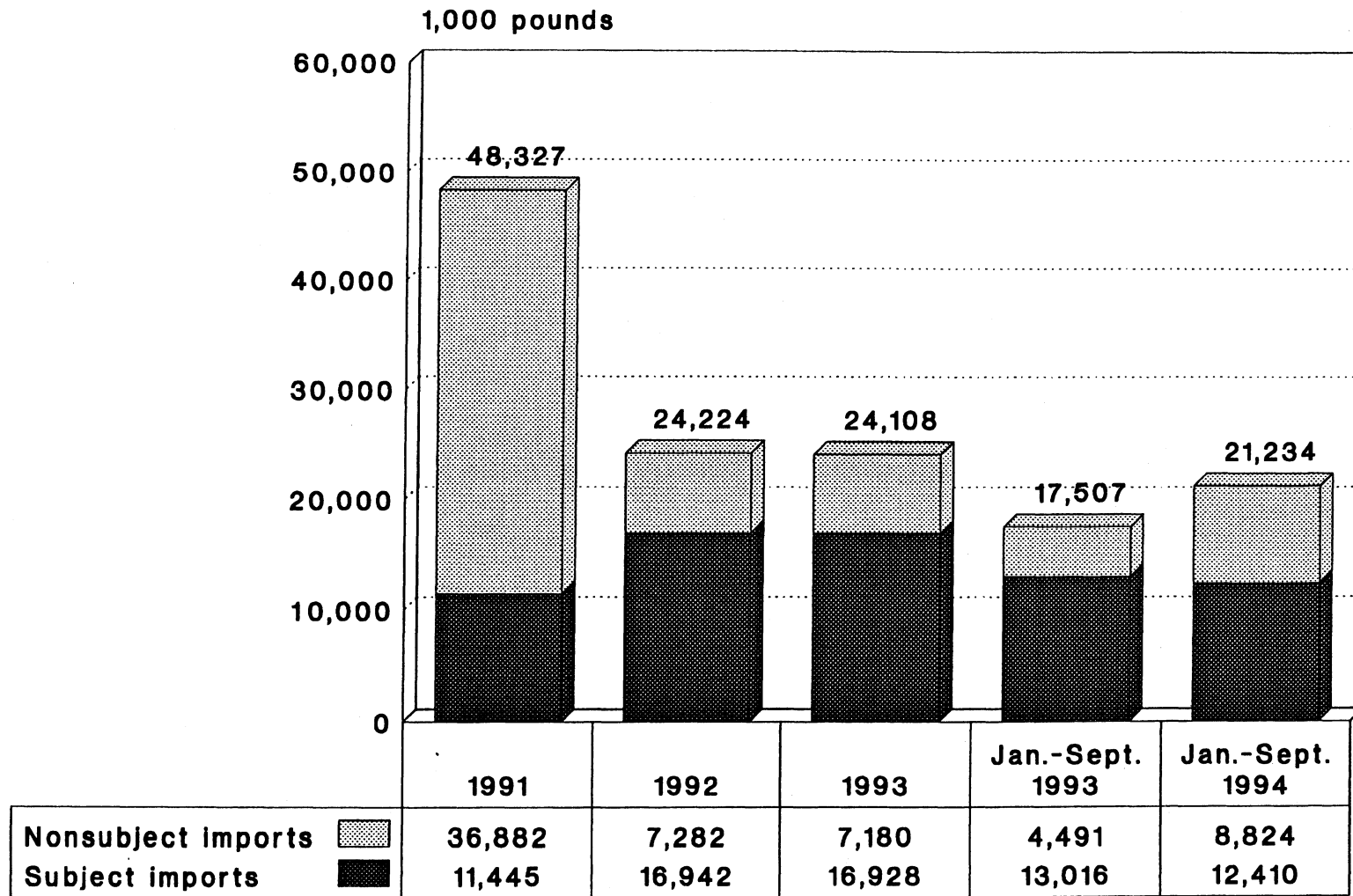
Item	Reported data					Period changes			
	1991	1992	1993	Jan.-Sept.--		1991-93	1991-92	1992-93	Jan.-Sept. 1993-94
				1993	1994				
U.S. producers'--									
Net sales--									
Quantity	44,945	50,950	52,350	40,215	43,983	+16.5	+13.4	+2.7	+9.4
Value	46,393	48,758	49,149	37,766	39,309	+5.9	+5.1	+0.8	+4.1
Unit sales value	\$1.03	\$0.96	\$0.94	\$0.94	\$0.89	-9.0	-7.3	-1.9	-4.8
Cost of goods sold (COGS)	39,146	43,351	43,304	33,065	34,014	+10.6	+10.7	-0.1	+2.9
Gross profit (loss)	7,247	5,407	5,845	4,701	5,295	-19.3	-25.4	+8.1	+12.6
SG&A expenses	5,082	5,950	5,980	4,756	5,074	+17.7	+17.1	+0.5	+6.7
Operating income (loss)	2,165	(543)	(135)	(55)	221	-106.2	-125.1	+75.1	+501.8
Capital expenditures	778	890	977	735	697	+25.6	+14.4	+9.8	-5.2
Unit COGS	\$0.87	\$0.85	\$0.83	\$0.82	\$0.77	-5.0	-2.3	-2.8	-5.9
Unit SG&A expenses	\$0.11	\$0.12	\$0.11	\$0.12	\$0.12	+1.0	+3.3	-2.2	-2.5
Unit operating income (loss)	\$0.05	(\$0.01)	(10)	(10)	\$0.01	-105.4	-122.1	+75.8	+467.4
COGS/sales ¹	84.4	88.9	88.1	87.6	86.5	+3.7	+4.5	-0.8	-1.0
Operating income (loss)/sales ²	4.7	(1.1)	(0.3)	(0.1)	0.6	-4.9	-5.8	+0.8	+0.7

¹ An increase of less than 0.05 percent.² "Reported data" are in percent and "period changes" are in percentage points.³ A decrease of less than 0.05 percentage points.⁴ Positive figure, but less than significant digits displayed.⁵ An increase of less than 0.05 percentage points.⁶ Not available.⁷ Not applicable.⁸ An increase of 1,000 percent or more.⁹ A decrease of less than 0.05 percent.¹⁰ Negative figure, but less than significant digits displayed.

Note.--Period changes are derived from the unrounded data. Period changes involving negative period data are positive if the amount of the negativity decreases and negative if the amount of the negativity increases. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated from the unrounded figures, using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

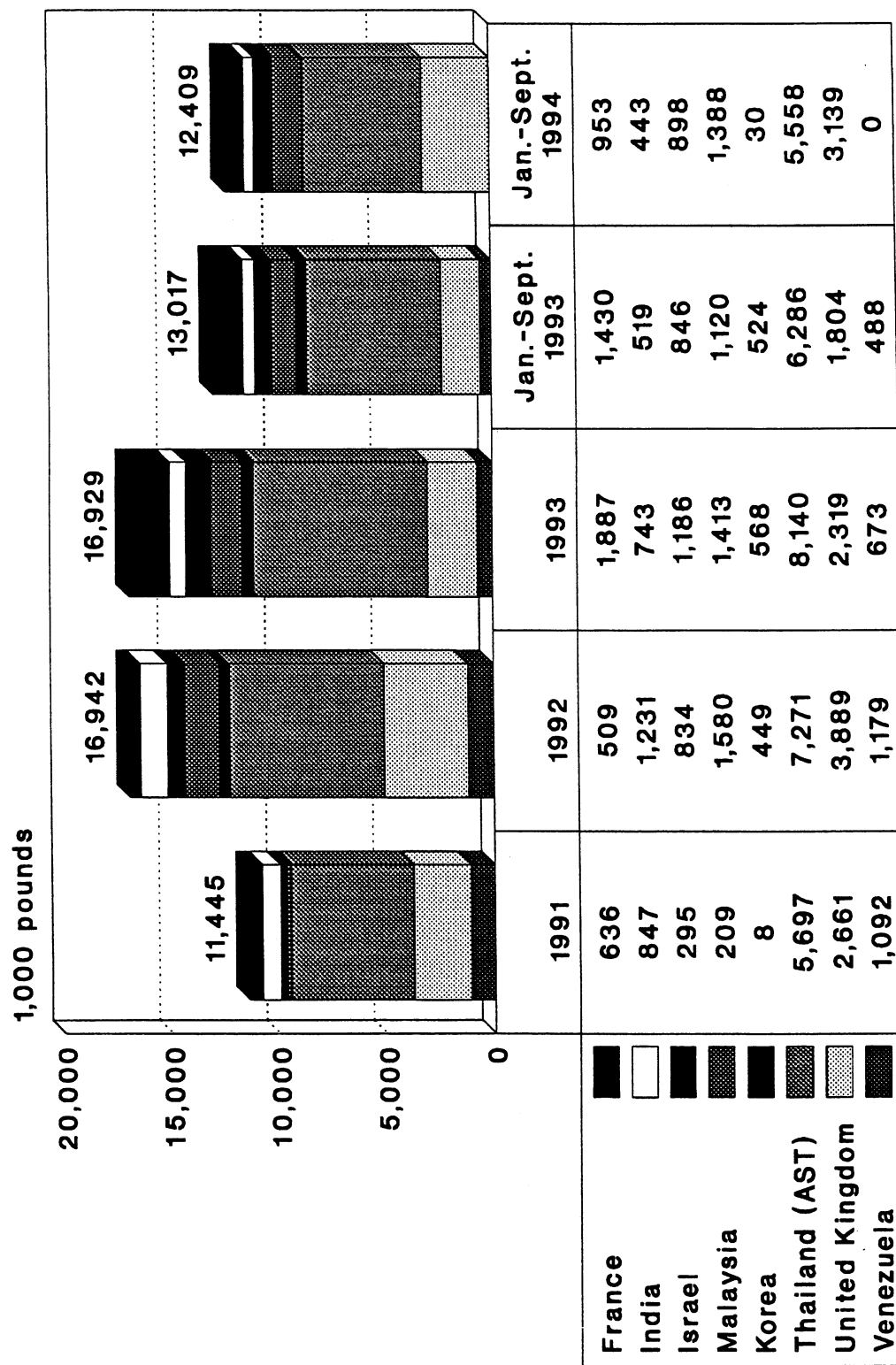
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce and, where necessary, from data submitted by foreign producers. (See table 20 for a complete itemization of the source of data used for each subject country.) Data for U.S. producers' shipments exclude data for *** and Weldbend).

Figure A-1
Certain carbon steel butt-weld pipe fittings: U.S. imports,
subject and nonsubject, 1991-93, Jan.-Sept. 1993, and
Jan.-Sept. 1994



Source: Table A-1.

Figure A-2
Certain carbon steel butt-weld pipe fittings: U.S. imports,
by subject countries, 1991-93, Jan.-Sept. 1993, and Jan.-
Sept. 1994



Source: Table A-1.

APPENDIX B
FEDERAL REGISTER NOTICES

provided for in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States.

Pursuant to a request from petitioner under section 705(a)(1) of the Act (19 U.S.C. § 1671d(a)(1)), Commerce has extended the date for its final determinations to coincide with those to be made in the ongoing antidumping investigations on certain carbon steel butt-weld pipe fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigations until Commerce makes preliminary determinations in the antidumping investigations (currently scheduled for August 8, 1994).

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: June 1, 1994.

FOR FURTHER INFORMATION CONTACT: George Deyman (202-205-3197), 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. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202-205-1895 (N.B.1).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that certain

weld pipe fittings having an inside diameter of less than 14 inches (355 millimeters), imported in either finished or unfinished condition. Such pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). The subject pipe fittings come in a variety of shapes which include "elbows", "tees", "caps", and "reducers". The edges of the finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe.

benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. § 1671b) are being provided to manufacturers, producers, or exporters in India and Israel of certain carbon steel butt-weld pipe fittings. The investigations were requested in a petition filed on February 28, 1994, by the U.S. Fittings Group, Washington, DC, an ad hoc trade association consisting of five domestic firms: Hackney, Inc., Dallas, TX; Ladish Co., Inc., Cudahy, WI; Mills Iron Works, Inc., Gardena, CA; Steel Forgings, Inc., Shreveport, LA; and Tube Forgings of America, Inc., Portland, OR.

Participation 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 section 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.

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.

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

Issued: July 14, 1994.

By order of the Commission.

Donna R. Kechnake,
Secretary.

[FR Doc. 94-17647 Filed 7-19-94; 8:45 am]

BILLING CODE 7030-02-P

Investigations Nos. 701-TA-360 and 361 (Final)

Certain Carbon Steel Butt-Weld Pipe Fittings from India and Israel

AGENCY: United States International Trade Commission.

ACTION: Institution of final countervailing duty investigations.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigations Nos. 701-TA-360 and 361 (Final) under section 705(b) of the Tariff Act of 1930, as amended (19 U.S.C. § 1671d(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 India and Israel of certain carbon steel butt-weld pipe fittings.¹

¹ The imported products covered by the scope of these investigations consist of carbon steel butt-

**INTERNATIONAL TRADE
COMMISSION**

[Investigations Nos. 701-TA-360 and 361
(Final) and 731-TA-688 through 695 (Final)]

**Certain Carbon Steel Butt-Weld Pipe
Fittings From France, India, Israel,
Malaysia, the Republic of Korea,
Thailand, the United Kingdom, and
Venezuela**

AGENCY: United States International
Trade Commission.

ACTION: Institution and scheduling of
final antidumping investigations and
scheduling of the ongoing
countervailing duty investigations.

SUMMARY: The Commission hereby gives
notice of the institution of final
antidumping investigations Nos. 731-
TA-688 through 695 (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 France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela of certain carbon steel butt-weld pipe fittings,¹ provided for in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States. The Commission also gives notice of the schedule to be followed in these antidumping investigations and the ongoing countervailing duty investigations regarding imports of certain carbon steel butt-weld pipe fittings from India and Israel (Invs. Nos. 701-TA-360 and 361 (Final)), which the Commission instituted effective May 31, 1994 (59 F.R. 37054, July 20, 1994). The schedules for the subject investigations will be identical, pursuant to Commerce's alignment of its final subsidy and dumping determinations (59 F.R. 32955, June 27, 1994).

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: October 3, 1994.

FOR FURTHER INFORMATION CONTACT:

Debra Baker (202-205-3180), 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. Information can also be obtained by

calling the Office of Investigations' remote bulletin board system for personal computers at 202-205-1895 (N.8,1).

SUPPLEMENTARY INFORMATION:

Background

The subject antidumping 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 France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela 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 Commission instituted the subject countervailing duty investigations on May 31, 1994 (59 F.R. 37054, July 20, 1994). Both investigations were requested in a petition filed on February 28, 1994, by the U.S. Fittings Group, Washington, DC, an ad hoc trade association consisting of five domestic firms: Hackney, Inc., Dallas, TX; Ladiash Co., Inc., Cudahy, WI; Mills Iron Works, Inc., Gardena, CA; Steel Forgings, Inc., Shreveport, LA; and Tube Forgings of America, Inc., Portland, OR.

Participation in the Investigations and Public Service List

Any person having already filed an entry of appearance in the countervailing duty investigations is considered a party in the antidumping investigations. Any other persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 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 the investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 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 December 5, 1994, and a public version will be issued thereafter, pursuant to section 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 December 16, 1994, 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 December 9, 1994. 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 December 13, 1994, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is December 12, 1994. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. Witness testimony must be filed no later than three (3) days before the hearing. The deadline for filing posthearing briefs is December 23, 1994. 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 5 investigations on or before December 23, 1994. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6,

¹ The imported products covered by the scope of these investigations consist of certain carbon steel butt-weld pipe fittings having an inside diameter of less than 14 inches (355 millimeters), imported in either finished or unfinished condition. Such pipe fittings are formed or forged carbon steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). The subject pipe fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of the finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe.

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 the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

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

Issued: October 14, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94-25913 Filed 10-18-94; 8:45 am]

BILLING CODE 7020-02-P

(Investigations Nos. 701-TA-380 and 381 (Final) and 731-TA-688 through 695 (Final))

Certain Carbon Steel Butt-Weld Pipe Fittings From France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject countervailing and antidumping duty investigations.

EFFECTIVE DATE: November 21, 1994.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202-205-3180), 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. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202-205-1895 (N.B.1).

SUPPLEMENTARY INFORMATION: On May 31, 1994, the Commission instituted the subject countervailing duty investigations and, on October 3, 1994, instituted the subject antidumping duty investigations and established a schedule for the conduct of all investigations (59 FR 52806, October 19, 1994). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations from December 12, 1994 to February 16, 1995 (59 FR 56461, November 14, 1994). The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: Requests to appear at the hearing must be filed with the Secretary to the Commission not later than February 21, 1995; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on February 23, 1995; the prehearing staff report will be placed in the nonpublic record on February 14, 1995; the

deadline for filing prehearing briefs is February 22, 1995; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on February 28, 1995; and the deadline for filing posthearing briefs is March 8, 1995.

For further information concerning these investigations see the Commission's notice of investigation cited above and 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).

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

By order of the Commission.

Issued: November 25, 1994.

Donna R. Koehnke,
Secretary.

[FR Doc. 94-29492 Filed 11-29-94; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration
[A-427-813]

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

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Penelope Naas or Gary Bettger, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephones (202) 482-3534 or 482-2239, respectively.

Final Determination

We determine that certain carbon steel butt-weld pipe fittings from France are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the "Act"). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the preliminary determination in the Federal Register on October 4, 1994 (59 FR 50565), the following events have occurred:

On October 5, 1994, pursuant to § 353.20(b)(1) of the Department's regulations, Interfit, S.A. ("Interfit"), requested that the final determination in this case be postponed. On November 14, 1994, the Department published in the Federal Register a notice postponing the publication of the final determination in this case no later than February 16, 1995 (59 FR 56461).

From October 10 through October 14, 1994, we verified the responses of Interfit at its offices in Maubeuge, France and Starval in Marly La Ville, France, respectively. On October 17, 1994, we conducted a verification of related party and certain other issues at Vallourec Group Headquarters in Boulogne-Bilancourt, France. During the period of December 20 to 21, 1994, we verified the responses of Interfit, Starval and Vallourec Inc. in Houston, Texas. From December 12 to December 16, 1994, we verified Interfit's cost of production data at its offices in Maubeuge.

On January 23, 1995, and on January 30, 1995, petitioner and respondent submitted case and rebuttal briefs to the

Department. On February 1, 1995, the Department held a public hearing in this investigation.

Scope of the Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 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 this investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is September 1, 1993, through February 28, 1994.

Fair Value Comparisons

To determine whether Interfit's sales for export 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.

Regarding level of trade, Interfit reported that it sells only to distributors in the United States and the home market.

We made revisions to Interfit's reported data, where appropriate, based on findings at verification.

United States Price

Because Interfit's U.S. sales of certain carbon steel butt-weld pipe fittings were made to an unrelated distributor in the United States prior to importation, and the exporter's sales price methodology was not indicated by other circumstances, we based USP on the purchase price ("PP") sales

methodology in accordance with section 772(b) of the Act.

We calculated Interfit's USP sales based on packed, c.i.f., duty paid, landed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage, marine insurance, ocean freight, U.S. brokerage, U.S. duties, and rebates. Reported U.S. duties were adjusted based on information collected at verification.

We made an adjustment to USP for value-added tax ("VAT") assessed on comparison sales in France in accordance with our practice, pursuant to the Court of International Trade ("CIT") decision in *Federal-Mogul, et al. v. United States*, 834 F. Supp. 1391. See, *Preliminary Antidumping Duty Determination: Color Negative Photographic Paper and Chemical Components from Japan* (59 FR 16177, 16179, April 6, 1994), for an explanation of this tax methodology.

Foreign Market Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of subject merchandise to the volume of third country sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act. On this basis, we determined that the home market was viable.

In its May 13, 1994, response, Interfit reported that all home market sales were made to distributors, three of which were related to Interfit. Based on information verified in this investigation, we do not consider Interfit's indirect minority interest in Hardy-Tortaux ("H-T") and Trouvay & Cauvin ("T&C") to be a sufficient basis to determine that the parties are "related," as defined in section 771(13) of the Act and 19 CFR 353.45(b). See, the Department's concurrence memorandum from the preliminary determination (September 26, 1994, at page 3). However, with respect to the third related distributor, Starval, we determined that its relationship to Interfit (e.g., 100 percent common ownership) satisfies the definition of a related party.

Therefore, we compared Interfit's prices to Starval with Interfit's prices to unrelated parties using the arm's length test as set forth in Appendix II to *Final Determination of Sales at Less than Fair Value: Certain Cold-rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062 (July 9, 1994), and determined that the sales made to Starval were not at arm's length. Accordingly, we requested and received Starval's sales to

unrelated customers in the home market. While verifying Starval's sales response, we found that several sales had been reported a number of times. This rendered Starval's home market database unusable for purposes of the final determination. Thus, we have disregarded a small portion of Interfit's home market sales and used sales made by Interfit directly to unrelated parties.

Cost of Production

Petitioner alleged that Interfit made home market sales during the POI at prices below the cost of production ("COP"). Based on petitioner's allegation, we concluded that we had reasonable grounds to believe or suspect that sales were made below COP. In the course of this investigation, we gathered and verified data on production costs.

For purposes of the preliminary determination, because Interfit's cost data was incomplete and submitted too late for consideration, as best information available ("BIA"), we made an adverse assumption that all home market sales were below the COP and based foreign market value on constructed value ("CV"). We then calculated the CV using Vallourec's transfer prices. We stated that we would verify whether those prices were at arm's length.

For the final determination, however, we have reviewed and analyzed respondents COP data. In accordance with our standard practice, we asked Interfit to provide cost data for inputs produced by related parties. Interfit failed to provide data on the cost of pipe, a major input, produced by its related supplier, Vallourec. Therefore, we have valued the input on the basis of BIA and used the resulting COP to test home market sale prices. As BIA we adjusted the transfer prices for the input upward by the average difference between petitioner's acquisition cost of pipe, as reported in the petition, and the transfer price Interfit pays to its supplier.

In order to determine whether home market prices were below the COP within the meaning of section 773(b) of the Act, we performed a product-specific cost test, in which we examined whether each product sold in the home market during the POI was priced below the COP of that product. We calculated COP based on the sum of Interfit's cost of materials, fabrication, general expenses, and packing, in accordance with 19 CFR 353.51(c). For each product, we compared this sum to the home market unit price, net of movement expenses, rebates and selling expenses. We made changes, where appropriate, to submitted COP data, as

discussed above and in the *Interested Party Comments* section of this notice, below.

In accordance with section 773(b) of the Act, we also examined whether the home market sales of each product were made at prices below their COP in substantial quantities over an extended period of time, and whether such sales were made at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade.

For each product where less than ten percent, by quantity, of the home market sales during the POI were made at prices below the COP, we included all sales of that model for the computation of FMV. For each product where ten percent or more, but less than 90 percent, of the home market sales during the POI were priced below the COP, we disregarded from the calculation of FMV those home market sales which were priced below the COP, provided that the below-cost sales of that product were made over an extended period of time. 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 of that product.

In order to determine whether below-cost sales had been made over an extended period of time, in accordance with section 773(b)(1) of the Act, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POI in which that product was sold. If a product was sold in three or more months of the POI, we did not exclude below-cost sales unless there were below-cost sales in at least three months during the POI. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time; i.e., where sales of a product were made in only two months, the extended period of time was two months, where sales of a product were made in only one month, the extended period of time was one month. (See *Preliminary Results and Partial Termination of Antidumping Duty Administrative Reviews: Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan* (58 FR 69336, 69338, December 10, 1993).

Interfit provided no indication that its below cost sales were at prices that would permit recovery of all costs within a reasonable period of time and in the normal course of trade. (See, section 773(b)(2); 19 U.S.C. 1677b(b)(2)).

Constructed Value

Where all home market sales of a product were disregarded, we based FMV on CV. We calculated CV based on the sum of the adjusted cost of materials, fabrication, general expenses, U.S. packing costs and profit. We adjusted the cost of materials as discussed in the *Interested Party Comments* section of this notice, below. In accordance with section 773(e)(1)(B) (i) and (ii) of the Act, we (1) included the greater of Interfit's reported general expenses or the statutory minimum of ten percent of the cost of manufacture ("COM"), as appropriate, and (2) for profit, we used the statutory minimum of eight percent of the sum of COM and general expenses.

Price-to-Price Comparisons

For price-to-price comparisons, we calculated FMV based on ex-factory or delivered prices, inclusive of packing to home market customers. We deducted rebates, where appropriate. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(1) of the Act.

In light of the Court of Appeals for the Federal Circuit's decision in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States*, 13 F. 3d 398 (Fed. Cir., January 5, 1994), the Department can no longer deduct home market movement charges from FMV pursuant to the Department's inherent power to fill in gaps in the antidumping statute. Instead, we adjust for direct movement expenses under the circumstance-of-sale provision of 19 CFR 353.56(a). Accordingly, in the present case, we deducted post-sale home market movement charges from the FMV under the circumstance-of-sale provision of 19 CFR 353.56(a). This adjustment included home market inland freight and insurance.

For both price-to-price comparisons and comparisons to CV, we made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses, pursuant to 19 CFR 353.56(a)(2). In calculating U.S. credit expense, we used the respondent's cost of borrowing in U.S. dollars during the POI. In instances where Interfit had not reported a shipment and/or payment date, we recalculated Interfit's reported credit expense.

We have not made a deduction for direct selling expenses reported by respondent because we determined that these expenses (product liability and inventory carrying costs) are, in fact, indirect selling expenses. However, we have deducted indirect selling expenses,

capped by the commissions paid to Vallourec Inc., a related party in the U.S. market. For the preliminary determination, we did not recognize these commissions because we did not have an appropriate benchmark against which to test whether the commission arrangement was at arm's length. However, we verified that Interfit pays the same commissions to both related and unrelated parties, with the exception of a single unrelated party that receives a higher rate. In *LMI-La Metalli Industriale, S.p.A. v. United States*, 912 F.2d 455, 459 (Fed. Cir. 1990) (*LM*), the CAFC indicated that related party commissions can and should be adjusted for if the commissions are at arm's length and are directly related to the sales under review. Because the vast majority of commissions to related and unrelated parties are at a single rate, we find these conditions are met in this case. Therefore, we deducted indirect expenses incurred for home market sales up to the amount of the U.S. commission. We then added the U.S. commission to the FMV or CV, as appropriate.

We adjusted for VAT in the home market in accordance with our practice. (See the *United States Price* section of this notice, above.)

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. See 19 CFR 353.60.

Final Negative Determination of Critical Circumstances

Petitioner alleged that critical circumstances exist with respect to imports of pipe fittings from France. In our preliminary determination, pursuant to section 773(e)(1) of the Act and 19 CFR 353.16, we analyzed the allegation using the Department's standard methodology. Because no additional information has been submitted since the preliminary determination, the Department performed the same analysis as explained in its preliminary finding. Based on this analysis, the Department determines, in accordance with section 773(a)(3) of the Act, that critical circumstances do not exist with respect to imports of certain carbon steel butt-weld pipe fittings from France.

Verification

As provided in section 776(b) of the Act, we verified information provided by the respondent using standard verification procedures, including the

examination of relevant sales, cost and financial records, and selection of original source documentation. The public versions of the January 10, 1995, verification reports are available in the Central Unit located in room B-99 of the Department's main building, the Herbert C. Hoover building.

Interested Party Comments

Comment 1

Petitioner contends that Interfit willfully refused, on four separate occasions, to provide from its related party, Vallourec Industries ("Vallourec"), the actual cost of producing carbon steel pipe, a major input in the production of the subject merchandise. Petitioner argues that by repeatedly refusing to respond to the Department's requests for this information, Interfit has not allowed the Department to properly conduct this investigation. Therefore, the Department should apply adverse best information available ("BIA") in the final determination. Petitioner notes that the BIA approach employed at the preliminary determination (i.e., the assumption that all home market sales are below COP) rewards Interfit for its failure to cooperate. Accordingly, as BIA, the Department should use the margin reported for France in the petition or, in the alternative, the highest non-aberrational margin calculated for Interfit in the preliminary determination.

Interfit argues that it informed the Department that it was willing to accept the consequences of not supplying the cost information, as this task would have required Interfit to provide cost information from four separate related manufacturing units. Thus, Interfit is prepared to accept a BIA finding that all home market sales were below COP.

DOC Position

In light of Interfit's cooperation in this investigation, we disagree with petitioner's argument that the Department should use total BIA in the form of the margin reported for France in the petition, or the highest non-aberrant margin calculated for Interfit in the preliminary determination. Our use of partial BIA is adequate because it allows us to draw an adverse assumption only with respect to the information that Interfit failed to provide. Because we were able to perform a BIA cost test, we have adequately ensured that Interfit does not benefit from its failure to provide information. Therefore, total BIA is unnecessary.

Comment 2

Regarding the constructed value, petitioner contends that the prices from Vallourec to Interfit for carbon steel pipe do not satisfy the statutory requirements outlined in section 773(e)(2). According to petitioner, section 773(e)(2) requires Interfit to demonstrate that: (1) It has sales to unrelated customers in the market under consideration (i.e., France); (2) the prices to those unrelated customers are for pipe that was "identical or demonstrably comparable to the pipe used by Interfit;" and (3) the prices that Interfit pays Vallourec are at arm's length. By its own admission, Interfit cannot satisfy the first two elements of the statute, because it concedes that "Vallourec sells no similar pipe to unrelated customers in France." With respect to the third element, according to petitioner, the Department's verification of the prices charged by Vallourec to Interfit and to other unrelated customers demonstrate that the prices to Interfit are preferential.

Thus, petitioner argues that the Department should disregard the transfer prices and use the actual cost of producing the input supplied by Vallourec (carbon steel pipe). However, because Interfit repeatedly refused to provide Vallourec's actual cost of producing carbon steel pipe, the Department is prevented from determining CV and conducting a complete investigation. Therefore, the Department should apply best information available ("BIA") in the final determination. In particular, the Department should use the margin reported for France in the petition or, in the alternative, the highest non-aberrational margin calculated for Interfit in the preliminary determination.

Lastly, Petitioner argues that even if the Department determines that transfer prices between Vallourec and Interfit are at arm's length, the Department has "reasonable grounds to believe or suspect" that the transfer price of the carbon steel pipe is less than the cost of producing the pipe. Petitioner contends that several factors in this investigation provide the Department with "reasonable grounds to believe or suspect" that Interfit purchased the pipe from Vallourec at less than the COP. Most notably, petitioner claims Interfit did not provide evidence that Vallourec's price for the pipe was above the cost of producing such pipe, even though the information was requested by the Department numerous times.

Petitioner thus argues that, because the Department has "reasonable grounds

to believe or suspect" that pipe is being sold at less than COP, even if the transfer prices are accepted under section 773(e)(2), those prices cannot be used in determining CV. Rather, the Department should apply adverse BIA in the final determination, as detailed above.

Interfit claims that the prices it pays to Vallourec reflect the market value (i.e., they are arm's length prices) and therefore, in accordance with section 773(e)(2), should be used for purposes of calculating constructed value. To substantiate its claim that the transfer prices between Vallourec and Interfit are arm's length, Interfit has provided the Department with prices of similar pipe sold to unrelated customers in the European Union ("E.U."). Interfit argues that, because "the E.U. is a fully integrated market, with no barriers to trade between its members," these sales are, in fact, in the same market (i.e., the market under consideration). Interfit also contends that the term "merchandise under consideration" includes both similar and identical merchandise, not only identical merchandise. With respect to the arm's length nature of these sales, Interfit argues that information submitted in this investigation demonstrates that the prices Vallourec charges Interfit are comparable to the prices charged to unrelated customers for almost identical pipe. Moreover, the pipe sold to Vallourec's unrelated customers includes additional processing costs which are not included in the pipe sold to Interfit. These additional costs would more than account for the difference in price. Thus, pursuant to section 773(e)(2), Interfit claims that the Department should use the transfer prices in calculating CV.

With respect to section 773(e)(3), Interfit claims that this section contains a presumption that transfer prices are valid for purposes of calculating CV unless the Department has "reasonable grounds to believe or suspect" that they are below COP. To support its claim, Interfit cites *Al Tech Specialty Steel Corporation v. United States*, 575 F.Supp. 1277, 1282 (C.I.T. 1983); *FMC Corp. v. United States*, 3 F.3d 424 (CAFC 1993); and *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany*, 54 FR 18992, 19020, Comment 4 (1989). Therefore, where constructed value is concerned, petitioner, not respondent, must first provide evidence that the transfer prices are below COP; a simple allegation by petitioner is not sufficient. Interfit also argues that its failure to provide evidence that the transfer prices were

above COP does not imply that they were below cost.

Interfit claims that the concurrence memorandum from the preliminary determination (September 26, 1994, at page 3) and a November 15, 1994 letter from the Department to the counsel for Interfit, led the company to believe that the transfer prices would be used so long as they were determined to be at arm's length. Interfit assumed that if the Department had at that time "reasonable grounds" to believe that the pipe was sold to Interfit at less than the COP, the Department would have stated that cost was an issue.

DOC Position

The fact that Interfit failed to provide evidence that Vallourec's price for the input pipe was above the cost of producing the pipe, despite numerous requests from the Department for this information, provides the Department with "reasonable grounds to believe or suspect" that the transfer prices paid by Interfit were less than Vallourec's cost of production. Therefore, in computing the CV, we have valued the pipe on the basis of the BIA used to calculate COP for the home market sales below cost test. Because the transfer prices have been disregarded in accordance with section 773(e)(3) of the Act, we do not need to address the issue of whether the transfer prices satisfy the criteria under section 773(e)(2). The Department's preliminary determination expressly noted that whether the transfer prices were at arm's length would be examined at verification. In addition, the Department continued to pursue data that would confirm that the transfer prices are above COP. See, Supplemental/Deficiency Section D Questionnaire (November 15, 1994), Section D Verification Agenda (December 5, 1994), Fax to Counsel for Interfit (December 8, 1994), and Section D Verification Report (January 12, 1995). Therefore, contrary to Interfit's claims, the question of cost remained an issue.

Suspension of Liquidation

In accordance with section 735(c)(4) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of butt-weld pipe fittings from France, as defined in the "Scope of Investigation" section of this notice, that are produced and sold by Interfit and that are entered, or withdrawn from warehouse, for consumption on or after October 4, 1994.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market

value of the subject merchandise 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	Margin (percent)
Interfit, S.A.	32.58
All Others	32.58

ITC Notification

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

Notice 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 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1671(d)).

Dated: February 16, 1995.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 95-4724 Filed 2-24-95; 8:45 am]
BILLING CODE 2510-02-P

[A-806-807]

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

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Yeske or Gary Bettger, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0189 and 482-2239, respectively.

Final Determination

We determine that certain carbon steel butt-weld pipe fittings from Israel are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the "Act"). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the preliminary determination in the Federal Register on October 4, 1994 (59 FR 50568), the following events have occurred:

On October 5, 1994, pursuant to section 353.20(b)(1) of the Department's regulations (19 CFR 353.20(b)(1)(1994)), Pipe Fittings Carmiel, Inc. ("Carmiel") requested that the final determination in this case be postponed. On November 14, 1994, the Department published in the Federal Register a notice postponing the publication of the final determination in this case until not later than February 16, 1995 (59 FR 56461).

On October 20, 1994, Carmiel filed a second supplemental/deficiency response, which included a revised home market sales listing. On November 27, November 28, and December 4, 1994, we verified Carmiel's sales information at its offices in Tel Aviv, Israel. On January 23, 1995, and on January 30, 1995, petitioner and respondent submitted case and rebuttal briefs to the Department.

Scope of the Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 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 this investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is September 1, 1993, through February 28, 1994.

Product Comparisons

Carmiel sold identical products in both Israel and the United States during the POI. Therefore, in making our fair value comparisons, we compared sales of merchandise identical in all respects.

Fair Value Comparisons

To determine whether Carmiel's sales for export 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. In accordance with 19 CFR 353.58, we made comparisons at the same level of trade.

We made revisions to Carmiel's reported data, where appropriate, based on verification findings.

United States Price

Because Carmiel's U.S. sales were made to unrelated purchasers in the United States prior to importation, and because the exporter's sales price methodology was not indicated by other circumstances, we based USP on the purchase price ("PP") sales methodology in accordance with section 772(b) of the Act.

We calculated Carmiel's USP based on packed C.I.F. prices to unrelated customers in the United States. We made deductions, where appropriate, for marine insurance, ocean freight, foreign inland freight, port fees, and customs agents fees and expenses.

We made an adjustment to U.S. price for the value-added tax ("VAT") paid on the comparison sales in Israel, in accordance with our practice, pursuant to the Court of International Trade (CIT) decision in *Federal-Mogul, et al v. United States*, Slip Op. 93-194 (CIT October 7, 1993). (See *Final Determination of Sales at Less Than Fair Value: Calcium Aluminate Cement, Cement Clinker and Flux from France*, 59 FR 14136, March 25, 1994).

Foreign Market Value

In order to determine whether the sales in the home market are an adequate basis for the FMV, the Department generally compares the quantity of such or similar merchandise sold in the home market during the POI to the quantity sold for exportation to third countries. In this case, Carmiel made sales only to the United States and Israel during the POI. Based on the substantial quantity of home market sales in relation to its U.S. sales, we determined that the home market was viable.

In our preliminary determination, we stated that the appropriate date of sale is the date of the first written document which sets the price and quantity for the sale (see *Certain Stainless Steel Butt-Weld Pipe and Tube Fittings From Japan; Final Results of Antidumping Duty Administrative Review* (59 FR 12240, 12241; March 16, 1994) and *Antifriction Bearings (Other Than Tapered Rolling Bearings) and Parts Thereof From France, et al.*, (58 FR 39729, 39783; July 26, 1993)). Accordingly, on October 20, 1994, respondent submitted a new home market sales listing using the invoice date as the date of sale. We confirmed at verification that the invoice date is the first written document setting the terms of sale in the home market and is, thus, the appropriate date of sale.

We have calculated FMV using the delivered prices reported by Carmiel in its October 20, 1994 home market sales listing. We adjusted the prices for certain discounts offered to home market customers. Also, in light of the decision of the Court of Appeals for the Federal Circuit in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States*, 134 F.3d 398 (Fed. Cir., 1994), we adjusted for post-sale home market movement charges under the circumstances-of-sale provision of the Act (Section 773(a)(4)(B)). This adjustment included home market inland freight.

We also made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses, pursuant to 19 CFR 353.56(a)(2). In calculating U.S. credit expense, we used the interest rate paid by Carmiel for short-term New Israeli Shekel ("NIS") loans linked to the dollar. In calculating the home market credit expense, we used Carmiel's borrowing rate for unlinked short-term NIS loans.

We adjusted for VAT in accordance with our standard practice. (See the United States Price section of this notice, above.)

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales, as published in the International Monetary Fund's International Financial Statistics (see 19 CFR 353.60).

Final Negative Determination of Critical Circumstances

Petitioner alleged that critical circumstances exist with respect to imports of pipe fittings from Israel. In our preliminary determination, pursuant to section 733(e)(1) of the Act

and 19 CFR 353.16, we analyzed the allegation using the Department's standard methodology. Because the information on which our analysis was based has not changed, we have performed the same analysis as explained in the preliminary finding. Based on this analysis, the Department determines, in accordance with section 735(a)(3) of the Act, that critical circumstances do not exist with respect to imports of certain carbon steel butt-weld pipe fittings from Israel.

Verification

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

Interested Party Comments

Comment 1

Carmiel argues that U.S. sales relating to the September 22, 1993, invoice are outside the period of investigation. The company claims that the terms of these sales were set in the purchase order, which is dated March 25, 1993. Carmiel argues that while the actual quantity shipped changed slightly before the shipment date, this change was very small and resulted from limitations imposed by the size of the shipping containers.

DOC Position

We agree with respondent. Carmiel appropriately excluded these sales from its U.S. sales listing because the terms of the sales were set well before the POI. We agree that the change in quantity was minor and does not constitute a change in the basic terms of the sale.

Comment 2

At verification, Carmiel officials notified the Department that they had not reported an additional home market discount which was given to customers who made prompt payments. The information pertaining to these discounts was submitted to the Department after the verification was completed, and the Department returned the information as untimely. Carmiel argues that the Department should accept the information and make an adjustment for this discount. According to Carmiel, these discounts were inadvertently omitted from the company's response because the response was prepared by an outside consultant using data that was not computerized. Furthermore, Carmiel argues that the information should be considered verified, regardless of when

it was submitted, because the team verified the actual prices paid on home market sales.

Petitioner argues that the Department should deny Carmiel the adjustment because the information was submitted after the deadline for submission of factual information. Petitioner notes that Carmiel chose not to report this information on a timely basis.

DOC Position

We agree with petitioner. Section 353.31(a)(i) of the Department's regulations states that the last date factual information can be submitted for consideration in a final determination is "seven days before the scheduled date on which the verification is to commence." This information was not submitted prior to the start of verification and, therefore, it is untimely. It also is unclear that the information was "inadvertently" omitted as Carmiel claims. At verification, Carmiel officials stated that they had chosen not to report this discount because the value of the discount was insignificant compared to the amount of work involved. Thus, even if the Department were to consider inadvertency as an excuse, it has not been established in this instance. Finally, while the Department's verifiers did examine several home market sales, they saw no documentation regarding these discounts and thus, there is no basis for considering these discounts to have been verified.

Comment 3

Carmiel argues that the Department should calculate the home market credit expense using a higher interest rate than that used for the preliminary determination. Carmiel points out that, at verification, the team saw evidence of company borrowing at a much higher interest rate, indicating that the company's home market credit costs were actually higher than reported. Using the lower rate to make the credit adjustment would understate the company's expenses. Therefore, the Department should use either the higher rate, or an average of the reported rate and the higher rate.

Petitioner claims that there is no verified information indicating the extent of Carmiel's borrowing which is taken out at the higher interest rate. While officials stated that the majority of Carmiel's short-term financing was at the higher rate, this claim was not substantiated. Additionally, petitioner argues, rational economic behavior suggests that the majority of Carmiel's financing would be at the lower rates. Moreover, the Department does not

possess enough verified information to appropriately weight the two rates in order to calculate an average. Finally, petitioner points out that Carmiel chose to report the lower, more conservative rate.

DOC Position

Carmiel reported the lower rate in its response, and we verified this rate. While we also verified that Carmiel received some financing at the higher rate, we do not have verified information regarding the total amount of Carmiel's borrowings at this rate. We agree with petitioner that without knowing what portion of Carmiel's short-term financing is at the higher rate, it is not possible to calculate a relevant average of the two rates. Therefore, we have used the lower interest rate reported by respondents in making the home market credit adjustment.

Comment 4

Carmiel states that the Department's adjustments for VAT in this case are a misapplication of the statute because Carmiel reported its home market sales "net" of VAT. Carmiel recognizes that this adjustment was made as a result of the CIT decision in *Federal-Mogul Corp v. United States*, 15 ITRD 1127 (CIT 1993); however, Carmiel argues that the court also misinterpreted the statute. According to Carmiel, the statute only requires the Department to adjust for VAT when it is included in or added to the home market prices reported. Thus, when the tax is not included in or added to the prices reported, the Department should not then add the tax to FMV. Carmiel claims that adding VAT to both FMV and USP, as was done in the preliminary determination, resulted in significant distortions to Carmiel's margin.

Petitioner argues that the Department appropriately adjusted for VAT by adding the tax to both FMV and USP and that this adjustment did not distort Carmiel's margins. Petitioner cites *Calcium Aluminate Coment, Cement Clinker and Flux from France*, 59 FR 14136, 14138 25, 1994) in support of the argument that the Department must include an adjustment for VAT in the USP to account for VAT in the home market. Because respondent has reported home market sales values excluding VAT, the Department should add VAT to the net FMV and USP.

DOC Position

The statute provides for dumping determinations to be made on a tax inclusive basis. Section 772(d)(1)(c) of the Act provides for an offsetting

adjustment to U.S. price, based on the presumption that home market prices include VAT. Accordingly, the Department has insisted that HM prices be reported on a VAT inclusive basis (see *Final Determination of Sales at Less than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from The Federal Republic of Germany*, 54 FR 18992, May 3, 1989). Allowing respondents to choose whether to report HM prices net of taxes would allow them to partially determine their own dumping margins. Because respondent reported its home market sales net of VAT, we have added the VAT back onto the home market price and adjusted the USP accordingly.

Comment 5

Petitioner argues that two companies, Keshta Ltd. ("Keshta") and Keshet Steel Import/Export Company ("Keshet"), are so closely related to Carmiel that the three companies should be treated as one for the purposes of the final determination.

Carmiel states that since it reported the sales of both Keshet and Keshta, the companies are essentially being treated as one company. Furthermore, since Carmiel is the only exporter, Keshet and Keshta would be subject to the all others rate (Carmiel's rate) if they did begin to export to the United States.

DOC Position

We verified that neither Keshet nor Keshta made sales to the United States during the POI. Moreover, we verified that the sales of both Keshet and Keshta were included in Carmiel's home market sales response. Therefore, the three companies have been treated as one company for purposes of this determination.

Comment 6

Petitioner argues that certain of Carmiel's movement expenses are most likely incurred by value and, thus, should have been allocated by value rather than by weight.

Carmiel argues that the results of allocating by value versus allocating by weight will be virtually the same given the small amounts in question and the fact that the price and weight of the elbows in question rise proportionately. Furthermore, Carmiel states that the costs were allocated according to the Department's instructions. Therefore, the Department should continue to use the costs as allocated by Carmiel and as verified by the Department.

DOC Position

We agree with petitioner that marine insurance and agents fees should have

been allocated by value, rather than weight. In response to Carmiel's assertion that it followed the Department's instructions, we note that the Department's August 3, 1994 deficiency questionnaire, at page 4, instructed respondent to allocate expenses on the basis that they are incurred. Since these expenses are incurred by value, they should be allocated on such basis. Accordingly, we have reallocated marine insurance and agents fees by value.

Comment 7

Petitioner states that the payment date for one home market invoice should be corrected based on findings at verification.

Carmiel notes that, while several payment dates were found to be incorrect at verification, the payment date problems were minor and resulted from the fact that its records are not computerized. Therefore, correcting the payment dates will not have a significant effect. Nonetheless, respondent states that all of the verified payment dates should be corrected.

DOC Position

We agree with both petitioner and respondent. It would be inappropriate to use payment dates which we know to be incorrect for the final determination. Therefore, we have corrected the misreported payment dates on the verified sales. We have used these corrected payment dates to calculate the home market credit adjustment.

Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of butt-weld pipe fittings from Israel, as defined in the "Scope of Investigation" section of this notice, that are produced and sold by Carmiel and that are entered, or withdrawn from warehouse, for consumption on or after October 4, 1994.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the subject merchandise 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	Margin (percent)
Pipe Fittings Carmiel, Inc.	8.84
All Others	8.84

Adjustment of Deposit Rate for Countervailing Duties

Article VI, paragraph 5 of the General Agreement on Tariffs and Trade provides that "[no] product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation for dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act. Since antidumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no basis to require a cash deposit or bond for that amount.

Accordingly, the level of export subsidies as determined in the final affirmative determination in the concurrent countervailing duty investigation of certain carbon steel butt-weld pipe fittings from Israel, which was 2.26 percent, will be subtracted from the margin for cash deposit or bonding purposes. This results in a deposit rate of 6.58 percent for Carmiel and a deposit rate of 6.58 percent for all others.

ITC Notification

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

Notice 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 353.35(d). Failure to comply is a violation of the APO.

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

Dated: February 16, 1995.
Barbara R. Stafford,
Acting Assistant Secretary for Import Administration.
[FR Doc. 95-4725 Filed 2-24-95; 8:45 am]
BILLING CODE 3510-0-P

(A-633-811)

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

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Sue Strumbell, Office of Countervailing Investigations, Import Administration,

International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-1442.

Final Determination

We determine that certain carbon steel butt-weld pipe fittings from India are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the "Act"). The estimated margins shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the preliminary determination in the Federal Register on October 4, 1994 (59 FR 50562), the following events have occurred:

On October 5, 1994, Sivanandha Pipe Fittings Ltd. (Sivanandha) and Karmen Steels of India (Karmen), requested that the final determination in this case be postponed. On November 14, 1994, the Department published in the Federal Register a notice postponing the publication of the final determination in this case until February 16, 1995 (59 FR 56461).

From October 31 to November 5, 1994, we verified Sivanandha's and Karmen's sales information in Madras, India.

We received case and rebuttal briefs on January 23 and January 30, 1995, respectively, from petitioner and respondents.

Scope of the Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 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 this investigation is dispositive.

Karmen's Exports of Refurbished Pipe Fittings

Karmen reported that it has an arrangement with a Singaporean company, under which the Singaporean company supplies Karmen with rusty pipe fittings. Karmen reconditions and refurbishes these pipe fittings and sends them to the Singaporean company's U.S. customer. Petitioner and Karmen agree with the Department's preliminary determination that these "sales" of refurbished pipe fittings are not subject to this investigation.

For purposes of this final determination, we are continuing to treat these "sales" as outside the scope of our investigation and, hence, not subject to any potential antidumping order on butt-weld pipe fittings from India. Karmen essentially performs a tolling service for its Singaporean customer. Moreover, Karmen does not "substantially transform" these pipe fittings.

Substantial transformation generally refers to a degree of processing or manufacturing resulting in a new and different article. Through that transformation, the new article becomes a product of the country in which it was processed or manufactured. See *Cold-Rolled Steel from Argentina*, 58 FR 37062, 37065 (1993) (Appendix II). Commerce makes these determinations on a case-by-case basis. See, e.g., *Certain Fresh Cut Flowers from Colombia*, 55 FR 20291, 20299 (1990); *Limousines from Canada*, 55 FR 11036, 11040 (1990).

In determining whether Karmen substantially transformed these pipe fittings, we examined whether the degree of processing or manufacturing resulted in a new and different article. Karmen receives rusty pipe fittings from Singapore, it removes the rust, paints the fitting, and forwards it to the Singaporean company's customer. We do not consider this refurbishing process as substantially transforming the subject merchandise because it remains a pipe fitting after refurbishment. Therefore, because Karmen does not substantially transform the merchandise, we do not consider it as falling within the scope of this proceeding.

Period of Investigation

The period of investigation (POI) is September 1, 1993 through February 28, 1994, for Sivanandha and August 1, 1993 through February 28, 1994, for Karmen. The preliminary determination

in this investigation provides an explanation regarding the different POIs for each company.

Such or Similar Comparisons

For Sivanandha, in making our fair value comparisons, we first compared merchandise identical in all respects in accordance with the Department's standard methodology. If no identical merchandise was sold, we compared the most similar merchandise, as determined by the model-matching criteria contained in Appendix V of the questionnaire (Appendix V) (on file in Room B-099 of the main building of the Department of Commerce (Public File)). For the U.S. sales compared to sales of similar merchandise, we made an adjustment, pursuant to 19 CFR 353.57, for physical differences in merchandise.

Karmen did not make home market or third country sales of the subject merchandise. Therefore, we based foreign market value (FMV) on constructed value (CV), in accordance with section 773(a)(2) of the Act.

Fair Value Comparisons

To determine whether Sivanandha's and Karmen's sales for export to the United States were made at less than fair value, we compared the United States price (USP) to the FMV, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

We made revisions to Sivanandha's and Karmen's reported data, where appropriate, based on verification findings.

United States Price

Because Sivanandha's and Karmen's U.S. sales of subject merchandise were made to unrelated purchasers prior to importation into the United States, and exporter's sales price methodology was not indicated by other circumstances, we based USP on the purchase price (PP) sales methodology in accordance with section 772(b) of the Act.

We calculated Sivanandha's USP based on packed, CIF prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, containerization, ocean freight, and marine insurance.

We recalculated Sivanandha's marine insurance expense, so it is allocated on a value basis instead of a weight basis.

For Sivanandha, in accordance with Section 772(d)(1)(B) of the Act, we added the amount of import duties imposed on inputs which were subsequently rebated upon exportation of the finished merchandise to the United States.

We also made an adjustment for taxes paid on the comparison sales in India, in accordance with our practice, pursuant to the Court of International Trade (CIT) decision in *Federal-Mogul, et al v. United States*, 834 F. Supp. 1993. See, *Color Negative Photographic Paper and Chemical Components Thereof from Japan*, 59 FR 16177, 16179, April 6, 1994 for an explanation of this tax methodology.

We calculated Karmen's USP based on packed, CIF prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, containerization, ocean freight, and marine insurance. We recalculated Karmen's marine insurance expense, so it is allocated on a value basis instead of a weight basis.

Foreign Market Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating Sivanandha's FMV, we compared the volume of home market sales of subject merchandise to the volume of third country sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Based on this comparison, we determined that Sivanandha's home market was viable.

For Sivanandha, we calculated FMV based on delivered prices, inclusive of packing to home market customers. From these prices, we deducted commission, where appropriate.

In light of the Court of Appeals for the Federal Circuit's decision in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States*, 13 F. 3d 398 (Fed. Cir., January 5, 1994), the Department no longer can deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we adjust for those expenses under the circumstance-of-sale (COS) provision of 19 CFR 353.56(a). Accordingly, in the present case, we adjusted for post-sale home market movement charges under the COS provision of 19 CFR 353.56(a). This adjustment included home market inland freight.

For Sivanandha, we also made COS adjustments for differences in quality inspection charges, and credit. In accordance with 19 CFR 353.56(b)(1), we added U.S. indirect selling expenses as an offset to the home market commission, but capped this addition by the amount of the home market commission. Finally, we deducted home market packing expenses and added U.S. packing expenses to Sivanandha's

FMV, in accordance with section 773(a)(1) of the Act.

For Karmen, because it sells the subject merchandise only in the United States, we used CV, pursuant to section 773(e) of the Act. We calculated CV as the sum of the cost of materials, fabrication, general expenses, U.S. packing costs, and profit. We relied upon the submitted CV data but made the following changes where we determined costs were not appropriately quantified or valued: (1) We adjusted the cost of manufacturing to include the cost of excluded electricity expenses; (2) we recalculated finance expense on an annual basis as a percentage of cost of goods sold; (3) we increased SG&A expenses for excluded partner's salary, audit fees and bank charges and recalculated SG&A expense on an annual basis as a percentage of fabrication cost of goods sold; (4) we reduced the manufactured fittings per unit of fabrication cost for amounts that relate to the refurbished fittings; and (5) we reduced the submitted indirect selling expense for the verified overstated amounts. In accordance with section 773(e)(1)(B)(i) and (ii) of the Act, we: (1) Included the greater of either Karmen's reported general expenses or the statutory minimum of ten percent of the cost of manufacture (COM), as appropriate; and (2) used the statutory minimum of eight percent of the sum of COM and general expenses for profit because actual profit was less than eight percent.

In our preliminary determination, we were unable to properly allocate labor and variable manufacturing overhead costs between refurbished pipe fittings and new pipe fittings. However, based on verified information, we are now able to allocate the labor and variable manufacturing overhead costs between refurbished and new pipe fittings. Therefore, for purposes of this final determination, Karmen's CV includes only those costs allocable to new pipe fittings.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. See 19 CFR 353.60.

Verification

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

Interested Party Comments

Comment 1: Karmen and Sivanandha argue that they are not related parties for purposes of this antidumping duty investigation. They contend that, although one individual has a common interest in both companies, in all other respects the two companies are separate.

Petitioner disagrees with respondents' argument. It states that, although the Department verified that Karmen and Sivanandha are separate legal entities, the relationship between the two companies satisfies many of the criteria considered by the Department when deciding whether to "collapse" companies.

DOC's Position: We agree with respondents. In general, Commerce will not consider parties related where the ownership interest is less than five percent. See, e.g., *Certain Forged Steel Crankshafts from Japan*, 52 FR 36984 (1987). This is consistent with Commerce's "general practice not to collapse related parties except in certain relatively unusual situations, where the type and degree of relationship is so significant that we find there is a strong possibility of price manipulation." *Antifriction Bearings (Other Than Tapered Roller Bearings: and Parts Thereof from Germany*, 54 FR 18992, 19089 (1989). Based on Karmen's supplemental response and our analysis at verification, we confirmed that the ownership between Karmen and Sivanandha is insignificant and that no other factors suggested a strong possibility of price manipulation. (See the February 16, 1995, Memorandum from Team to Barbara Stafford for a full discussion of our analysis of this subject.)

Comment 2: Karmen argues that it should be allowed to reduce its cost of manufacturing for the POI to account for the advance import license it purchased from the Indian government. Karmen notes that it originally purchased the license in order to import steel pipe for pipe fittings at duty-free prices. Karmen maintains that it did not use the import license but, instead, produced and exported the subject merchandise using higher-priced domestic pipe inputs. Because it can still import duty-free pipe under the license, Karmen argues that it should be allowed to reduce its production costs by an amount representing the estimated future savings on imported pipe used to manufacture pipe fittings.

Petitioner argues that we should not reduce Karmen's production costs by the potential savings on future duty free imports. Petitioner states that in calculating constructed value, the

Department uses the cost of materials incurred at a time preceding the date of exportation of the subject merchandise. Also, the Department's CV questionnaire clearly states that the respondent is to report costs incurred during the POI for purposes of constructed value. Petitioner further claims that the advance license held by Karmen was not used during the POI and, therefore, the future potential savings, if they are realized, will affect costs after the date of exportation of the subject merchandise. Finally, petitioner argues that if the license is used in the future, the effect of the license on Karmen's costs of manufacturing would be taken into account in a future administrative review.

DOC's Position: We believe that the advance import license provides a benefit to Karmen which accrued to the company during the POI due to the fact that it met its export commitment under the license through the use of domestically-purchased pipe inputs. In this case, the benefit from the license relates directly to production and sale of the subject fittings during the POI. Thus, in order to achieve an appropriate matching of production costs and sales revenues for the subject merchandise, we have offset material costs by an amount representing the benefit obtained from the unused import license.

Comment 3: Petitioner argues that the Department should not adjust Karmen's material costs by the income generated by sales of scrap, because subcontractors to Karmen retain the scrap and presumably lower their prices to Karmen to reflect the value of the scrap.

DOC's Position: The Department verified that Karmen permits its subcontractors to keep all scrap generated from the production processes they perform. Hence, Karmen did not sell any scrap during the POI and is not entitled to the scrap adjustment it claimed. We agree with petitioner that the value of the scrap is likely accounted for in the price the subcontractors charge Karmen. Therefore, allowing the adjustment claimed by Karmen would double count the value of scrap.

Comment 4: Regarding the salary of its director, Karmen argues that since the director is an owner, his income is a partner's draw and should not be included in Karmen's total salary expense. Respondent also contends that if the Department determines that the draw must be included in SG&A costs, the Department should only include the amount of the draw that would be comparable to a reasonable salary for management.

Petitioner argues that the director's entire salary should be included as a cost because it is treated as a cost by Karmen in its financial statements and in calculating taxable income. Also, petitioner contends that there is no factual basis by which the Department can establish an amount that would be reasonable salary for management.

DOC's Position: We agree with petitioner. During verification, we discovered that Karmen did not include its director's salary in its reported costs. Karmen's director is not a passive investor; he takes an active role in the company's management. Moreover, the payments made to him during the POL were classified as salary in Karmen's books and records. There is no evidence on the record to indicate that these payments were for anything other than salary. Accordingly, we included the full amount paid to the director in SGA costs for purposes of the final determination.

Comment 5: Karmen argues that the Department should use verified information to allocate Karmen's labor and variable overhead costs between the pipe fittings it refurbishes and the pipe fittings it manufactures. Respondent further contends that the Department should allocate certain other costs, such as grinding and painting, to both types of fittings since these costs were incurred on both types of pipe fittings.

Petitioner agrees that allocation of a portion of verified costs to refurbished fittings may be appropriate. However, petitioner disagrees that the Department should allocate any expenses for grinding to refurbished pipe fittings because Karmen has not previously indicated that any grinding is involved in the refurbishing process. Petitioner contends that grinding is associated with the beveling process, which is a production step performed before Karmen acquires the rusty pipe fittings.

DOC's Position: The Department verified that shotblasting, punching, painting and grinding costs were incurred by Karmen to refurbish certain of its pipe fittings. Therefore, the Department has allocated a portion of these expenses to the cost of the refurbished fittings.

Comment 6: Karmen argues that SGA should be allocated to refurbished and manufactured pipe fittings on the basis of weight. Since there are no material costs associated with the refurbished pipe, an allocation based on cost of goods sold would assign too great an amount to manufactured pipe fittings.

Petitioner argues that the Department should deny Karmen's request to allocate SGA costs by weight instead

of cost. Petitioner contends that it is the Department's practice to calculate SGA costs as a percentage of cost of sales. Petitioner further contends that with respect to the refurbished fittings, Karmen does not manufacture or "sell" these fittings. Because Karmen contributes so little value to the refurbished fittings, using product weight to allocate SGA is plainly distorting.

DOC's Position: We have determined that SGA expenses should be allocated based on cost of sales rather than on the weight of finished pipe fittings. However, since there are no material costs associated with the refurbished fittings and hence, no material costs were reflected in these "sales", we removed material costs related to the manufactured fittings from cost of sales in order to establish an equitable allocation.

Comment 7: Karmen claims that, although not mentioned in the CV verification report, company officials demonstrated at verification that certain indirect selling expenses had been overstated in the CV calculations. Correct amounts were provided and verified.

Petitioner claims that there is no evidence of this on record, and that the original amount should be used.

DOC's Position: Although we did not address this issue in our verification report, respondent is correct in stating that we verified Karmen's actual amount of indirect selling expenses for the POL. Additionally, there is information on the record of this investigation which supports Karmen's verified indirect selling expenses. The source document supporting this expense is in Exhibit 10 of the CV verification report.

Comment 8: Petitioner argues that the Department should use the verified pecking cost information for Karmen instead of the reported amount for the final determination. Petitioner also argues that the Department should use the best information available (BIA) for Karmen's foreign inland freight expense, since Karmen did not provide the supporting documentation requested by the Department.

Karmen argues that although it did not produce supporting documentation for its foreign inland freight expense, the Department should not resort to BIA. Respondent contends that, because the general accuracy of Karmen's responses was established at verification, the Department should use the data ascertained at verification.

DOC's Position: As stated in the Fair Value Comparisons section of this notice, we made revisions to Karmen's data, where appropriate, based on

verification findings. Therefore, we have adjusted Karmen's data for pecking costs based on verification.

Because Karmen did not provide source documentation for its foreign inland freight expense, we have used as BIA, the highest Indian truck freight rates as provided in a cable from the U.S. embassy in Bombay dated August 3, 1993.

Comment 9: Petitioner claims that we should apply total BIA to Sivamandha because the Department's verification revealed numerous discrepancies in Sivamandha's responses. (The specific discrepancies raised by petitioner are addressed in comments 10 through 17, below.)

Sivamandha refutes each of the discrepancies listed by petitioner and argues that total BIA is inappropriate. (See, comments 10 through 17 for Sivamandha's counter arguments.)

DOC's Position: We have determined to accept Sivamandha's verified information because the discrepancies discovered were minor in nature. Overall, Sivamandha's responses were accurate and presented a true picture of its manufacturing and selling processes.

Comment 10: Petitioner argues that certain home market sales reported by Sivamandha as subject merchandise (*i.e.*, seamless carbon steel butt-weld pipe fittings), were sales of welded pipe fittings, which are outside of the scope of this investigation. Petitioner contends that sales of welded pipe fittings that were actually filled with pipe fittings made of seamless pipe cannot be considered as occurring in the ordinary course of trade.

Sivamandha argues that these sales were within the ordinary course of trade and that it correctly reported all sales of the subject merchandise.

DOC's Position: We verified that all of Sivamandha's home market sales were produced using seamless carbon steel. Therefore, we agree with Sivamandha that these sales are properly included in the home market database. Although customers requested welded pipe, the orders were filled with seamless pipe. Since we are investigating sales of seamless pipe to the United States, the home market sales in question should be included for comparison purposes. While we are authorized to exclude sales not in the ordinary course of trade (*e.g.*, trial sales or sales of samples), there is no basis for treating Sivamandha's seamless pipe sales as outside the ordinary course of trade.

Comment 11: Petitioner claims that the product weights were not verified because Sivamandha used standard weights instead of actual weights. Petitioner argues that the standard

weights were not acceptable because the correlation between standard and actual weights was no better than 93 percent.

Sivanandha argues that it was appropriate to use standard weights because most invoices did not list actual weights. According to Sivanandha the 93 percent correlation between actual and standard weights derived at verification supports, rather than undermines, the use of standard weights.

DOC's Position: We disagree with petitioner that Sivanandha's use of standard weights was unreasonable. The 93 percent correlation between actual and standard weights demonstrates the reasonableness. Moreover, even if we were to adjust for the seven percent "discrepancy" it would have no effect on the amounts allocated to each size of pipe fitting because Sivanandha used the same methodology for both its home market and U.S. sales.

Comment 12: Petitioner states that Sivanandha did not provide documentation for the cost of gunny bags. Therefore, petitioner argues that packing was not verified. Petitioner also states that Sivanandha did not report any labor costs for packing pipe fittings sold in the home market.

Sivanandha claims that the cost of gunny bags was verified. It also contends that the failure to report the cost of labor for packing home market sales is to its detriment. As a practical matter, Sivanandha points out that there is virtually no labor cost for home market packing since there is no crating on home market sales.

DOC's Position: Normally, the Department applies BIA whenever respondents are unable to support at verification the information provided in their responses. Although Sivanandha failed to provide at verification documentation supporting the cost of gunny bags, the Department is not compelled to apply BIA because the company's overall responses were accurate and verified, and the plausible cost of such bags is very low. Absent alternative publicly available information with respect to the cost of gunny bags, the Department has used the price reported by Sivanandha.

Comment 13: Petitioner lists the following problems with the difference in merchandise adjustment submitted by Sivanandha: incorrect product codes, standard versus actual weight of steel, average price for steel versus price for specific grades of steel, discrepancies in the manner in which Sivanandha reported its labor and variable overhead expenses. Petitioner argues that these problems led the Department to request

that Sivanandha resubmit its home market and U.S. sales databases.

Sivanandha admits that it originally did not understand the Department's methodology regarding this adjustment. However, Sivanandha argues that the information was corrected at verification. Therefore, Sivanandha argues that the Department should accept these new verified databases.

DOC's Position: At verification, we discovered that the Sivanandha had not understood the Department's adjustment for differences in merchandise. However, the information required to correct Sivanandha's adjustment was readily available and we verified it. Sivanandha submitted new section B and C databases after verification, and we confirmed that they were identical to the information verified. Therefore, we are accepting Sivanandha's corrected databases.

Comment 14: Petitioner describes other discrepancies pertaining to adjustments for inland freight, credit, bank guarantees, ocean freight, marine insurance, foreign inland freight, and containerization.

Sivanandha claims that many of the costs were estimated because Sivanandha had not yet exported the merchandise to the United States. Also, certain of the discrepancies listed by petitioner were minute fractions of a cent, due to rounding errors. Sivanandha argues that company officials made every effort to supply the verification team with accurate information.

DOC's Position: We view the discrepancies described by petitioner as minor and are using the verified information. We agree with Sivanandha that the company cooperated fully with the Department's investigation and verification.

Comment 15: Petitioner claims that the sum of material, labor, and variable overhead is incorrect in Sivanandha's database, and is concerned that there are additional problems with the November 29, 1994 databases. Therefore, petitioner argues that these databases should not be used and that the Department should use BIA.

DOC's Position: The Department noted that the data was correct, but the program was missing one formula. The Department entered the correct formula, and the spreadsheet is accurate. The Department is accepting these databases for the final determination because we have checked that they match the data we verified.

Comment 16: The petitioner claims that by using the new submission the difference in merchandise adjustment for several sales exceed the 20 percent

rule. Hence, for these sales, constructed value should be used.

Sivanandha believes that the petitioner's claim is incorrect. Moreover, according to Sivanandha, petitioner's allegation that the Department should use CV in these sales is untimely.

DOC's Position: Using the November 29, 1994 databases, we have determined that no difference in merchandise adjustments exceeded 20 percent. This issue is therefore moot.

Comment 17: Petitioner claims that the circumstance of sale adjustment for advertising in the home market should not be allowed because the advertising is aimed at Sivanandha's customers, not the customers' customer. Petitioner also argues that the adjustment for quality inspections should not be allowed because, even though the charge appears on the invoice, it is separate from the cost of the merchandise and, therefore, not embedded in the price.

Sivanandha claims that it would be inappropriate to ignore these adjustments because these costs were incurred solely on the home market sales and, therefore, increased the price of the home market sales. Additionally, Sivanandha claims that the quality inspections are performed only if the customer requests the services. The price charged is higher because the cost of the inspection is included in the price reported by Sivanandha.

DOC's Position: We agree with the petitioner that we should not adjust Sivanandha's home market sales for advertising expenses because the costs were not directed to the customers' customer. However, we agree with Sivanandha that we should make an adjustment to its home market prices for technical services when the inspection was performed by a third party because we verified that these costs were included in Sivanandha's price.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of butt-weld pipe fittings from India, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after October 4, 1994.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market values of the subject merchandise exceed the United States prices 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	Margin (percent)	Deposit (percent)
Karmen Steels of India -----	1.89	1.89
Sivanandha Pipe Fittings, Ltd. ---	13.99	10.83
All Other -----	7.84	6.26

Adjustment of Deposit Rate for Countervailing Duties

Article VI, paragraph 5 of the General Agreement on Tariffs and Trade provides that "[no] product * * * shall be subject to both antidumping and countervailing duties to compensate for the same situation for dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act. Since antidumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no basis to require a cash deposit or bond for that amount.

Accordingly in this investigation, because Sivanandha's FMV is based on home market sales, the antidumping margin must be adjusted. In the concurrent Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Butt-Weld Pipe Fittings from India, we determined that Sivanandha's export subsidy was 3.16 percent *ad valorem*, which will be subtracted from the margins for cash deposit or bonding purposes. This results in a deposit rate of 10.83 percent for Sivanandha. Since Karmen only has U.S. sales, its FMV is based on CV which reflects export subsidies. Because the export subsidies were reflected in both USP and FMV, the subsidies did not affect the margin calculations using CV.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated preliminary dumping margins, as shown above. The suspension of liquidation will remain in effect until further notice.

ITC Notification

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

Notice 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 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1671(d)).

Dated: February 16, 1995.
Barbara R. Stafford,
Deputy Assistant Secretary for Investigations.
(FR Doc. 95-4723 Filed 2-24-95; 8:45 am)
BILLING CODE 3510-06-P

(A-657-808)

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

AGENCY: Import Administration, International Trade Administration, Department of Commerce.
EFFECTIVE DATE: February 27, 1995.
FOR FURTHER INFORMATION CONTACT: Thomas McGinty, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-5055.

Final Determination

The Department of Commerce (the Department) determines that certain carbon steel butt-weld pipe fittings ("pipe fittings") from Malaysia are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Scope of Investigation

The merchandise covered by this investigation are certain carbon steel butt-weld pipe fittings ("pipe fittings") having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.83.3000 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 this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is September 1, 1994, through February 28, 1994.

Case History

Since the announcement of the preliminary determination on September 27, 1994, the following events have occurred.

On October 4, 1994, we published the notice of preliminary determination in the Federal Register (59 FR 50560). On October 20, 1994, White & Case submitted a notice of appearance on behalf of the Government of Malaysia.

On November 14, 1994, we published the postponement of final determination in the Federal Register (59 FR 58461).

Petitioner was the only interested party to file a case brief in this investigation. Petitioner did so on January 23, 1995.

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 Malaysia Mining Corporation Pipe & Fitting Sdn Bhd (MMCPNF), the Malaysian company identified by both petitioner and the U.S. Embassy in Malaysia (by cable to the Department) as the primary exporter of the subject merchandise to the U.S. during the POI. Given that MMCPNF did not respond to the Department's questionnaire, we find the company has not cooperated in this investigation.

Our BIA methodology for uncooperative respondents is to assign the higher of the highest margin alleged in the petition or the highest rate calculated for another respondent. Accordingly, as BIA, we are assigning the highest margin among the margins alleged in the petition, adjusted for methodological errors as explained in the Department's initiation notice. See *Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany* (54 FR 18992, 19033, May 3, 1989). The Department's methodology for assigning BIA has been upheld by the U.S. Court of Appeals of the Federal Circuit. (See *Allied Signal Aerospace Co. v. United States*, 996 F.2d 1185 (Fed. Cir. 1993)); see also *Krupp Stahl AG et al. v. United States*, 822 F. Supp. 789 (CIT 1993)).

Critical Circumstances

Petitioner has alleged that critical circumstances exist with respect to imports of the subject merchandise from Malaysia. Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if:

(A)(i) There is a history of dumping in the U.S. or elsewhere of the class or kind of merchandise which is the subject of this 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 this investigation over a relatively short period.

Since MMCPNF did not respond to our August 12, 1994, letter requesting export shipment information, we determine, as BIA, pursuant to section 776(c) of the Act, that critical circumstances exist with respect to imports of pipe fittings from Malaysia.

Suspension of Liquidation

In accordance with section 735(d)(1) of the Act (19 U.S.C. 1673b(d)(1)), we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of pipe fittings from Malaysia, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after July 6, 1994, (i.e., 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 posting of a bond equal to the estimated amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/Producer/Exporter	Weighted average margin percent
All Companies	194.70

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry within 45 days.

If the ITC determines that material injury or threat of material injury does not exist, the proceedings will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on pipe fittings from Malaysia entered or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering 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 (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: February 16, 1995.

Barbara R. Stafford

Acting Assistant Secretary for Import Administration.

[FR Doc. 95-4720 Filed 2-24-95; 8:45 am]

BILLING CODE 3510-02-P

DEPARTMENT OF COMMERCE

International Trade Administration
(A-680-824)

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

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Wilknie, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-0588.

Final Determination

The Department of Commerce (the Department) determines that certain carbon steel butt-weld pipe fittings ("pipe fittings") from South Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act

of 1930, as amended (the Act) (19 U.S.C. 1673d). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Scope of Investigation

The merchandise covered by this investigation are certain carbon steel butt-weld pipe fittings ("pipe fittings") having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-Weld fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 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 this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is September 1, 1994, through February 28, 1994.

Case History

Since the announcement of the preliminary determination on September 27, 1994, the following events have occurred.

On October 4, 1994, we published the notice of preliminary determination in the Federal Register (59 FR 50560).

On October 13, 1994, pursuant to section 353.20(b)(1) of the Department's regulations, the Embassy of the Republic of Korea, on behalf of the South Korean producers and exporters of pipe fittings, requested that the final determination in this case be postponed. On November 14, 1994, we published the postponement of final determination in the Federal Register (59 FR 56461).

Petitioner was the only interested party to file a case brief in this investigation. Petitioner did so on January 23, 1995.

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 Taekwang Bend Ind. Co., Inc. (Taekwang), the South Korean company which accounts for more than 60 percent of all exports of the subject merchandise to the U.S. during the POI. Because Taekwang did not respond to the Department's questionnaire, we find that it did not cooperate in this investigation.

Our BIA methodology for uncooperative respondents is to assign the higher of the highest margin alleged in the petition or the highest rate calculated for another respondent. Accordingly, as BIA, we are assigning the highest margin among the margins alleged in the petition and subsequent amendments to the petition, adjusted for methodological errors as explained in the Department's initiation notice. See *Final Determination of Sales At Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany* (54 FR 18992, 19033, May 3, 1989). The Department's methodology for assigning BIA has been upheld by the U.S. Court of Appeals of the Federal Circuit. (see *Allied Signal Aerospace Co. v. United States*, 996 F.2d 1185 (Fed. Cir. 1993)); see also *Krupp Stahl, AG et al. v. United States*, 822 F. Supp. 789 (CIT 1993)). The assigned BIA margin is the same margin that was assigned for the preliminary determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, (19 U.S.C. 1673b(d)(1)), we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of pipe fittings from South Korea, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/Producer/Exporter	Weighted average margin percent
All Companies	207.89

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry within 45 days.

If the ITC determines that material injury or threat of material injury does not exist, the proceedings will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on pipe fittings from South Korea entered or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering 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 (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: February 16, 1995.

Barbara E. Stafford,

Acting Assistant Secretary for Import Administration

[FR Doc. 95-4719 Filed 2-24-95; 8:45 am]

STILLING CODE 2010-00-0

[A-649-000]

Notice of 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: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Julie Anne Osgood, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-2815 or 482-0167, respectively.

Final Determination

We determine that certain carbon steel butt-weld pipe fittings exported by Awaji Sangyo (Thailand) Co., Ltd. (AST), from Thailand are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the "Act"). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the preliminary determination in the Federal Register on October 4, 1994 (59 FR 50588), the following events have occurred:

On November 14, 1994, we published in the Federal Register a notice postponing the publication of the final determination in this case until February 16, 1995 (59 FR 56461). From October 20 to October 26, 1994, we verified the sales information of AST at its offices in Samutprakarn, Thailand. From December 2 to December 6, 1994, we verified AST's cost of production and constructed value data. On January 23 and January 30, 1995, petitioner and respondent submitted case and rebuttal briefs to the Department. A public hearing in this investigation was held on February 6, 1995.

We note that all other producers and exporters of the subject merchandise in Thailand, which export to the United States, are subject to an antidumping duty order currently in effect for this merchandise. (See 57 FR 29702, July 6, 1992.) AST was excluded from this order because in the previous investigation, the Department found its margin of sales at less than fair value at that time to be *de minimis*.

Scope of the Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed of forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of

the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 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 this investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is September 1, 1993, through February 28, 1994.

Such or Similar Comparisons

In making our fair value comparisons, in accordance with the Department's standard methodology and section 771(16) of the Act, we first compared sales of merchandise identical in all respects. If no identical merchandise was sold, we compared sales of the most similar merchandise, as determined by the model-matching criteria contained in Appendix V of the questionnaire ("Appendix V") (on file in Room B-099 of the main building of the Department of Commerce ("Public File")).

Fair Value Comparisons

To determine whether AST's sales for export 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. For those U.S. sales compared to sales of similar merchandise, we made an adjustment, pursuant to 19 CFR 353.57 (1994), for physical differences in the merchandise. Regarding level of trade, AST reported that it sells to an importer/distributor in the United States and directly to distributors, end users, and a commissionaire agent in Thailand. AST negotiates prices on a sale-by-sale basis and states that it is unable to discern any correlation between selling prices and customer categories. Further, AST states that its selling expenses do not vary by customer category. We examined this issue at verification and found no evidence that AST's prices or conditions of sale differed on the basis of level of trade. Therefore, in keeping with established practice (see, e.g., *Final Results of Administrative Review: Antifriction Bearings and Parts Thereof from the Federal Republic of Germany, et al.* (56 FR 31692, 31709-11; July 11, 1991) and Import Administration Policy Bulletin 92/1, Matching at Levels of Trade, issued on July 29, 1992), and in accordance with 19 CFR 353.58, we

have compared AST's U.S. sales to its home market sales to all customers.

We made revisions to AST's reported data, where appropriate, based on findings at verification.

United States Price

Because AST's U.S. sales of certain carbon steel butt-weld pipe fittings were made to an unrelated distributor in the United States prior to importation, and the exporter's sales price methodology was not indicated by other circumstances, we based USP on the purchase price ("PP") sales methodology in accordance with section 772(b) of the Act.

We calculated PP based on packed, c.i.f. import prices to an unrelated customer in the United States. We made deductions from the U.S. price for foreign brokerage, foreign inland freight, ocean freight and marine insurance.

We made an adjustment to U.S. price for the consumption tax paid on the comparison sales in Thailand, in accordance with our practice, pursuant to the Court of International Trade (CIT) decision in *Federal-Mogul, et al v. United States*, 834 F. Supp. 1391. See *Preliminary Antidumping Duty Determination and Postponement of Final Determination; Color Negative Photographic Paper and Chemical Components Thereof from Japan*, 59 FR 16177, 16179, April 6, 1994, for an explanation of this tax methodology. In accordance with section 772(d)(1)(B) of the Act, we made an addition to the U.S. price for the amount of import duties imposed on inputs which were subsequently rebated upon exportation of the finished merchandise to the United States. (See Comment 2, below.)

Upon exportation of finished pipe fittings, AST receives a drawback of import duties, which is greater than the import duties that would have been assessed had the fittings been sold for home consumption. In our calculation of USP, we limited the addition for drawback to the amount of duties that would have been assessed had the goods been sold in the home market. This approach is consistent with section 772(d)(1)(B) of the Act, which provides that the USP shall be increased by the drawback of any import duties "imposed in the country of exportation which have been rebated or not collected by reason of exportation of the merchandise to the United States." Therefore, we have capped the amount added to USP at the level of the import duties imposed in the country of exportation.

For U.S. sales which had not been shipped and for which payment had not been received, we based AST's credit

expense on the average number of days outstanding between shipment and payment for AST's U.S. sales with reported shipment and payment dates. For a discussion of the Department's treatment of the appropriate interest rate to use in the calculation of credit in this investigation, see *Memorandum from Barbara R. Stafford to Susan G. Esserman* (September 26, 1994) on file in room B-099 of the U.S. Department of Commerce.

Foreign Market Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of subject merchandise to the volume of third country sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act. On this basis, we determined that the home market was viable.

For purposes of calculating FMV, we used AST's sales to its home market customers and constructed value (CV), as described below.

Cost of Production

Petitioner alleged that AST made home market sales during the POI at prices below the cost of production (COP). Based on petitioner's allegation and other information on the record, we concluded that we had the requisite reasonable grounds to believe or suspect that sales were made below COP. Thus, in accordance with section 773(b), we initiated a cost investigation.

In order to determine whether home market prices were below COP within the meaning of section 773(b) of the Act, we performed a product-specific cost test, in which we examined whether each product sold in the home market during the POI was priced below the COP of that product. We calculated COP based on the sum of AST's cost of materials, direct labor, variable and fixed factory overhead, general expenses, and packing, in accordance with 19 CFR 353.51(c). For each product, we compared this sum to the home market unit price, net of movement expenses and commissions.

With the following exceptions, we relied on submitted and verified COP information. Material costs were modified to reflect only the cost of seamless pipe used in manufacturing the subject merchandise, rather than a pipe cost which included not only seamless pipe for fittings within the scope, but also for fittings outside the scope, and for welded pipe fittings. Also, we used an interest cost based on the combined interest cost of AST and

its parent, ASK, rather than one based on AST's interest costs alone.

Section 773(b) of the Act requires us to examine whether below cost sales were made in substantial quantities over an extended period of time, and whether such sales were made at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade.

For each product where less than ten percent, by quantity, of the home market sales during the POI were made at prices below COP, we included all sales of that model for the computation of FMV. For each product where ten percent or more, but less than 90 percent, of the home market sales during the POI were priced below COP, we disregarded those home market sales which were priced below COP for purposes of calculating FMV, provided that the below-cost sales of that product were made over an extended period of time. Where we found that more than 90 percent of respondent's sales were at prices below COP, and such sales were over an extended period of time, we disregarded all sales of that product for purposes of calculating FMV.

In order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POI in which that product was sold. If a product was sold in fewer than three months during the POI, we did not exclude sales unless there were below cost sales in each month of sale. If a product was sold in three or more months, we did not exclude the below-cost sales unless there were below-cost sales in at least three months during the POI.

If sales below cost occurred in three or more months of the POI, they are considered to be made over an extended period of time. When items are sold in just two or three months of the POI, we would consider below cost sales of these items to be over an extended period of time, if they occurred in at least two months of the three months. When items are sold in just one month of the POI, we would consider any below cost sales of these items to be over an extended period of time. (See *Final Determination of Sales at Less Than Fair Value: Sacchann from Korea* (59 FR 58826, November 15, 1994); and *Preliminary Results and Partial Termination of Antidumping Administrative Review: Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof* (58 FR 69336, 69338, December 10, 1993)). AST provided no evidence that the

disregarded sales were at prices that would permit recovery of all costs within a reasonable period of time and in the normal course of trade. (See, Section 773(b)(2).

Constructed Value

In accordance with section 773(e), we calculated CV based on the sum of the cost of materials (with adjustments as described in the "Cost of Production" section of this notice), fabrication, general expenses, U.S. packing costs and profit. The cost of materials included import duties paid on imported seamless pipe used to produce the pipe fittings. The amount of import duties included in CV was equivalent to the duties that would have been imposed had the fittings been sold for home consumption. In accordance with section 773(e)(1)(B)(i) and (ii) of the Act we: 1) included the greater of AST's reported general expenses or the statutory minimum of ten percent of the cost of manufacture (COM), as appropriate; and 2) for profit, we used the statutory minimum of eight percent of the sum of COM and general expenses because actual profit was less than the statutory minimum.

Price-to-Price Comparisons

For price-to-price comparisons, we calculated FMV based on packed, ex-factory or delivered prices to home market customers. From these prices, we deducted commission, where appropriate. We deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(1) of the Act. We also made adjustments, where appropriate, for differences in the physical characteristics of the merchandise in accordance with section 773(a)(1) of the Act.

In light of the Court of Appeals for the Federal Circuit's decision in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement V. United States*, 13 F.3d 398 (Fed. Cir., January 5, 1994), the Department no longer can deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we adjust for those expenses under the circumstance-of-sale provision of 19 CFR 353.56(a) and the exporter's sales price offset provision of 19 CFR 353.56(b)(2), as appropriate. Accordingly, in the present case, we deducted post-sale home market movement charges from the FMV under the circumstance-of-sale provision of 19 CFR 353.56(a). This adjustment included home market inland freight.

For both price-to-price comparisons and comparisons to CV, we also made

circumstance-of-sale adjustments, where appropriate, for differences in credit expenses, pursuant to 19 CFR 353.56(a)(2). In accordance with 19 CFR 353.56(b)(1), we added U.S. indirect selling expenses as an offset to the home market commission, but capped this addition by the amount of the home market commission.

We adjusted for a consumption tax collected in the Thai home market. (See the United States Price section of this notice, above.)

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. See 19 C.F.R. 353.60.

Verification

As provided in section 776(b) of the Act, we verified information provided by the respondent using standard verification procedures, including the examination of relevant sales, cost and financial records, and selection of original source documentation. The public versions of the November 29, 1994, and the January 1, 1995 verification reports are available for review in the Central Records Unit located in room B-099 of the Department's main building, the Herbert C. Hoover Building.

Interested Party Comments

Comment 1

Petitioner observes that according to AST's response, it did not commence integrated production of tees in Thailand until after the POI. However, tees were shipped during the POI. Petitioner claims that these tees must be of Chinese origin because AST identified certain other tees sold during the POI as being of Chinese origin. Petitioner argues that, because the tees in question could not have been produced by AST, the Department should exclude sales of these tees from the investigation.

AST maintains that it has correctly identified all of the Chinese tees which it sold in the home market during the POI. Moreover, AST points out that it indicated in its response that it began a lengthy testing of its integrated production of tees during the POI. AST claims that a limited quantity of tees was produced from these test runs and was sold in the home market. Therefore, AST argues that it properly included these sales in its home market sales listing.

DOC Position

While there are statements in AST's response that would support petitioner's

conclusion, AST's Section D response does refer to a lengthy testing period commencing during the POI. In addition, AST's July 25, 1994, supplemental response in Exhibit 1 specifically identifies certain tees as Chinese tees and the remaining as tees being produced by AST, including certain tees which were shipped during the POI. Because AST identified the Chinese tees in Exhibit 1 of its July 25 response and because the quantity of tees shipped during the POI is commensurate with production over a prolonged test run, we have accepted these tees as tees produced by AST and have included them in the home market data base.

Comment 2

Petitioner claims that the duty drawback amount added to purchase price was greater than the drawback amount included in the constructed value, because the drawback amount added to purchase price included both import duty and value added tax (VAT) paid on purchases of imported pipe, whereas the drawback added to constructed value included only the import duty.

AST maintains that the Department properly excluded the VAT on component material from the constructed value, because AST received a rebate of this VAT upon exportation of the finished product. Section 773(e)(1)(A) of the Act states, in part, that constructed value shall include the cost of materials exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials were used. Therefore, AST contends that the VAT on component materials was properly excluded in the calculation of CV.

DOC Position

In accordance with the section 773(e)(1)(A) of the Act, our practice is to exclude indirect taxes on component materials from CV, if the taxes are rebated upon export. Once we have excluded the VAT on component materials from the constructed value, we must also exclude it from the USP because section 772(d)(1)(C) the Act requires that we add internal taxes to USP but only to the extent that these taxes are included in the FMV. When FMV is based on CV, no VAT is included in CV and we are, thus, precluded from adding VAT to the USP.

Comment 3

AST states that following the rationale of section 773(e)(1)(A), the Department should also not include the import duties on component materials in constructed value because this duty is also either refunded upon export or an exemption of the duty is granted by reason of exportation of the merchandise.

DOC Position

Section 773(e)(1)(A) directs the Department to exclude from constructed value internal taxes applicable in the country of exportation but rebated upon export. We do not consider import duties to be internal taxes. The courts also have recognized that the term "internal tax" denotes taxes other than import duties. See *Serampore Indus. Pvt. Ltd. v. United States Dep't of Commerce, Int'l Trade Admin.*, 675 F. Supp. 1354, 1357 (CIT 1987). Therefore, in accordance with past practice (see, e.g., *Offshore Platform Jackets and Piles from the Republic of Korea*, 51 FR 11,795, 11,796 (April 7, 1986)), we have included the import duties on component materials as part of the cost of materials in our calculation of constructed value.

Comment 4

AST states that in July 1992, it was excluded from the July 6, 1992 antidumping duty order on pipe fittings from Thailand (57 FR 29702) because its less than fair value margins were *de minimis*. In view of this fact, AST maintains that the Department should have applied a more rigorous standard in determining whether to initiate an investigation in this case and that, had it done so, the case never would have been initiated. Contrary to suggestions in the petition, AST argues that there was no basis to assume that AST's costs had increased by 100 percent in two years, or that U.S. prices showed significant movement during that time. Therefore, the Department should re-examine its initiation and terminate the instant proceeding.

Petitioner maintains that nothing in the statute bars the filing of an antidumping petition against a specific exporter merely because other exporters of the same product from the same country are already subject to an antidumping duty order, nor does the statute impose a higher burden on petitioner in such circumstances. Because the proceeding was lawfully initiated, no basis exists for questioning the Department's decision to initiate.

DOC Position

The fact that a petition on the same merchandise was filed in 1991 and AST was excluded from the subsequent antidumping duty order was not taken into account in our decision to initiate the current case. A finding at one point in time that a company is not dumping does not create a presumption that the company will not dump in the future. Lacking such a presumption, there is no basis for applying a higher initiation threshold for later filed cases on the same merchandise.

Comment 5

AST claims that the Department should apply the sales-below-cost test to all sales of such or similar merchandise on a combined basis, before applying it on a model-specific basis. This was the approach used in the prior investigation of the subject merchandise (*Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand*, 57 FR 21065, 21070, May 18, 1992).

AST points out that the viability test required by section 773(a) of the Act is done on a such or similar category basis. AST maintains that section 773(b) of the Act, in discussing sales below cost, makes reference to section 773(a). Therefore, the test for below cost sales should also be done on a such or similar category basis.

Further, the language in section 773(b) suggests that the cost test be applied on a such or similar category basis rather than on a model-specific basis. Section 773(b) requires the Department to determine whether "sales were made at less than the cost of producing the merchandise." Because the term "merchandise" has a broader connotation than the term "model" or "product, the cost test must be done on a such or similar category basis.

AST claims that the Department's Policy Bulletin 92/3, dated December 15, 1992, on the 10/90/10 test for below cost sales does not provide any basis for performing the cost test solely on a model-specific basis and bypassing the test on a such or similar category basis.

In addition, AST maintains that the legislative history of section 773(b) indicates that Congress intended that the Department consider the rationality of exporter's pricing practices, specifically by giving allowances for model-specific below cost sales at the end of a model year.

Finally, AST points out that it was excluded from the original antidumping duty order on butt-weld pipe fittings from Thailand, because its overall margin of sales at less than fair value

was *de minimis*. During the original investigation, the Department applied the two-tiered cost test and AST has continued to use this test to avoid the possibility of dumping margins. For the Department to apply a new test in this investigation is unfair.

Petitioner asserts that the Department's model-specific cost test is in full accord with the requirements and purpose of Section 773(b) of the Act because this test is the first step to be taken in determining FMV, which is based on sales of particular models or products.

Petitioner adds that the need for a model-specific cost test is particularly evident for a product like pipe fittings. Despite the fact that pipe fittings come in a wide range of sizes, only about 20 percent of the sizes account for about 80 percent of the fittings sold. Below cost sales of low-volume items in the home market might not be screened out by a cost test applied on a such or similar category basis. If these sales happen to be compared to high volume items sold for export to the United States, many less than fair value sales would go undetected. Clearly, the purpose of the cost test would be defeated by such an outcome.

DOC Position

In our final determination, we have adhered to the Department's Policy Bulletin 92/3, which provides that the cost test be done on a model-specific basis. Policy Bulletin 92/3 is in complete accordance with the statute and has been consistently applied by the Department for over two years. The Policy Bulletin states that the cost test is intended to avoid basing FMV on below cost sales. Because FMV is determined on a model-specific basis, the Department has chosen to apply the cost test on a model-specific basis, as well. Otherwise, for certain models, FMV would likely be calculated on below cost sales.

AST claims that because 773(b) of the Act contains a reference to 773(a), the Department is required to conduct the below cost sales test on the same basis as the market viability test. The such or similar viability test is a general test to determine the level of sales activity to determine the efficacy of spending resources in examination of those home market sales. The cost test, on the other hand, is designed to determine which market sales may be used for comparison purposes. Nothing in the statute, the regulations, or the legislative history suggests that tests for general home market activity and for sales below cost must be on the same basis. Because the purposes of the two tests

are different and because the reference in section 773(b) to section 773(a) clearly does not compel the Department to use the same procedure for these tests, we followed Department policy and used the model-specific cost test.

AST's claim that use of the term "merchandise" in section 773(b) requires the Department to apply the cost test broadly is erroneous. The term "merchandise" is used throughout the statute, in some cases with a broad connotation and in others, in a narrower sense. For example, when the statute refers to "the same general class or kind of merchandise," the connotation is broad and includes the entire class or kind of merchandise under investigation. However, when the statute defines "such or similar merchandise," the connotation is narrow, referring to the particular model sold in the home market which is identical, or most similar to, a particular model sold for export to the United States. The fact that section 773(b) of the Act uses the term "merchandise" with respect to the cost test does not require us to apply the cost test on a broad basis.

AST claims that Policy Bulletin 92/3 does not provide any basis for "bypassing" a cost test using such or similar categories. The Department formulated Policy Bulletin 92/3 as a statement of its intent to implement uniformly a cost test methodology. The Policy Bulletin itself states that the Department's practice will be to apply the model-specific cost test in all future investigations and reviews. The Policy Bulletin need not explain "bypassing" the such-or-similar cost test because, to the extent that the such-or-similar test had been used in prior cases, it was no longer Department practice when the Department adopted the model-specific test advocated in the Policy Bulletin.

The Department uniformly has applied the model-specific cost test in both investigations and reviews since the bulletin was released. (See, e.g., *Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Venezuela*, 58 FR 27522, 27533 (May 10, 1993); *Final Results of Antidumping Administrative Review: Sweaters, Wholly or Chiefly of Man Made Fiber, from Korea*, 59 FR 17513, 17515 (April 13, 1994)). Given these circumstances, AST had adequate notice as to Policy Bulletin 92/3's contents and that the Department would apply the model-specific cost test for all future investigations and administrative reviews.

Regarding the legislative history's reference to below-cost end-of-model-year sales, we note that this reference

concerns whether below-cost sales are made over an extended period of time. The end-of-model-year sales are not relevant to a discussion of whether or not the cost test can be applied on a model-specific basis.

Comment 6

When AST imports seamless pipe under bond, it becomes liable for the normal duty of 15 percent, plus an additional surcharge of 3 percent, because the import is made under bond. AST states that it receives a rebate or an exemption upon export of finished pipe fittings of the surcharge, as well as the normal duty. Therefore, AST claims that, in accordance with section 772(d)(1)(B) of the Act, both duty and surcharge should be added to the USP.

Petitioner claims that AST has acknowledged that the three percent surcharge is not imposed on seamless pipe used to produce pipe fittings for home consumption. Section 772(D)(1)(c) provides for an increase in USP for taxes rebated upon export but only to the extent that such taxes are added to or included in the home market price. Because the surcharge is not imposed in the home market, the rebate of the surcharge on export should not be added to USP. In the alternative, if the Department determines that the three percent surcharge is imposed on imported pipe used to produce for home consumption, then it should include the full 18 percent duty in the COP.

DOC Position

During verification, we established that the three percent surcharge was imposed on seamless pipe used in the production of home market fittings, in addition to the normal 15 percent duty. Therefore, because both duty and surcharge are assessed on pipe used for home market production and because both are exempted on pipe used for export production, it is appropriate to include both the duty and the surcharge in the drawback amount added to USP. In addition, because both duty and surcharge are clearly a part of the cost of home market pipe fittings, we included both in our calculation of the cost of production.

Comment 7

AST maintains that the Department should not recompute AST's submitted COP and CV interest expense to account for the financing costs of its Japanese parent, Awaji Sangyo K.K. ("ASK"). According to AST, under Japanese generally accepted accounting principles ("GAAP"), only publicly-held companies are required to prepare consolidated financial statements that

include the operating results of their subsidiaries. Because ASK is a privately-held Japanese company and not required to prepare consolidated financial data under Japanese GAAP, AST argues that the Department should base COP and CV interest solely upon AST's audited (unconsolidated) financial statement information.

AST notes that the Department has a long-standing practice of accepting home-country GAAP for purposes of computing COP and CV, unless it can be shown that those practices distort production costs. In this case, AST maintains that use of a consolidated interest calculation would violate ASK's normal GAAP and produce distorted results since AST receives no loans from ASK and did not receive any new investment from its parent during the POI.

AST further asserts that despite ASK's ownership interest in AST, the parent company does not exert "control" over its subsidiary's operations. Instead, AST maintains that it operates independently from its parent and does not rely on ASK for its production, sales (other than export sales), engineering, financing, research and development, or management activities.

Lastly, AST argues that the premise underlying the Department's policy of using consolidated interest expense in computing COP and CV (i.e., the fungible nature of invested capital) does not apply in this case. AST asserts that the presumption of easy transfer (fungibility) of money between parent and related affiliate is vitiated by the fact that ASK and AST are located in different countries, whose currency regulation requirements significantly impede the free flow of money between countries.

Petitioner alleges that AST has understated its COP and CV by excluding ASK's financing expense. Petitioner states that, because capital is fungible, the Department requires consolidated interest expense when the parent company maintains control over the subsidiary. ASK maintained control over AST's operations and, for this reason, the financing expenses of ASK and AST were combined in the Department's prior antidumping investigation involving AST. (*Final Determination of Sales at LTFV: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand*, 57 F.R. 21065-69 May 18, 1992) Petitioner asserts that there is no reason for the Department to deviate from its approach in the previous determination.

DOC Position

We agree with petitioner and have based our calculation of AST's interest expense for COP and CV on the consolidated operations of AST and ASK. This methodology is consistent with our long-standing practice for computing interest expense in cases involving parent-subsidiary corporate relationships. This methodology has been upheld by the CIT in *Camargo Correa Metals, S.A. v. U.S.*, Consol. Ct. No. 91-09-00641, Slip Op. 93-163, at 14 (CIT August 13, 1993).

As petitioner has pointed out, AST has not provided us with any additional information that would lead us to change our determination, from the 1992 LTFV investigation of *Butt-Weld Pipe Fittings from Thailand*, that the company's interest should be computed based on the consolidated operations of AST and its parent, ASK. AST's argument that ASK is not required under Japanese GAAP to prepare consolidated financial statements ignores the fact that, as a privately-held corporation, ASK is not subject to the same set of accounting principles as publicly-held entities in Japan. As in most countries, one of the major objectives of Japanese GAAP is to ensure consistency in the accounting principles practiced by publicly-held corporations so that investors may make informed decisions as to how they invest their capital. There is no such objective under the Japanese Commercial Code which governs the accounting practices of privately-held companies like ASK. It should be noted, however, that were ASK a public company, certain information submitted by AST indicates that ASK would be required under Japanese GAAP to consolidate the operations of AST in its financial statements.

ASK's ownership interest in AST places the parent in a position to influence AST's financial borrowing and overall capital structure. We note that, contrary to AST's assertions that AST is an independent company and not "controlled" by its parent, the two companies share common directors and other corporate officials. In fact, according to AST, the two companies share the same managing director. ASK also acts as the selling agent for AST's export sales and provided the technology, equipment, training, engineers, and capital to establish AST. Based on this information, it is difficult to see how AST's operations are independent of its parent to such an extent that we should ignore our normal practice of computing interest expense

on the basis of the consolidated parent and subsidiary.

Regarding AST's claim that it received no intercompany loans or additional capital investment from its parent during the POI, we note that this argument fails to take into consideration any borrowing costs associated with ASK's initial capital investment in the company. AST maintains that all interest expense incurred by ASK pertains solely to the parent's operations. Under this principle, AST would have us accept that its parent funds its own operations largely through borrowing while, at the same time, funding its initial investment in AST solely through equity capital. Such a principle ignores the fact that ASK's capital structure is comprised of both debt and equity and, as such, it is neither possible nor appropriate in our analysis for the company to pick and choose which portions of its parent's operations should incur the additional interest costs associated with borrowed funds.

Lastly, with regard to AST's claim that transfers between AST and its parent are not "fungible" due to currency fluctuations and restrictions on currency flows between Thailand and Japan, we note that this argument misrepresents the fungibility principle underlying the Department's practice regarding consolidated interest expense for COP and CV. As noted above, ASK has already purchased a controlling capital interest in AST. ASK's capital structure is comprised of both debt and equity. These monies are fungible. That is, one cannot reasonably know which portion of ASK's capital was used for a specific activity. AST would have us believe that ASK's debt-based capital was used to fund the company's production of nonsubject merchandise, while its less costly equity-based capital was used to establish AST's operations. This ignores the fact that the parent company's capital is used to fund all of its operations and cannot be segmented and apportioned to specific operations in any justifiable manner. Thus, it is the fungibility of the controlling parent's capital structure that is at issue and not, as AST argues, the parent's future ability to transfer funds to its subsidiary.

Comment 8

Petitioner contends that all subject fittings sold in the United States and the home market were made from seamless pipe. AST's submitted pipe costs, however, included welded pipe and pipe used to produce pipe fittings outside the scope of the investigation. Petitioner states that for purposes of the final determination, AST's raw material

costs should reflect only those costs attributable to seamless pipe used in manufacturing the subject merchandise.

AST states that its pipe consumption was calculated based on its normal accounting inventory subledgers which do not track welded and seamless pipe separately. Furthermore, the Department verified that welded pipe accounted for a small percentage of total pipe costs and the price of seamless pipe was not always higher than welded pipe. Therefore, AST argues that excluding welded pipe would not materially alter the weighted average cost of pipe used to produce the subject merchandise.

DOC Position

In computing COP and CV, it is the Department's practice to include only those costs incurred in manufacturing the subject merchandise. Therefore, we adjusted AST's reported material costs to exclude the costs incurred for welded pipe and pipe inputs that were used to produce merchandise outside the scope of this investigation.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of butt-weld pipe fittings from Thailand, as defined in the "Scope of Investigation" section of this notice, that are produced and sold by AST and that are entered, or withdrawn from warehouse, for consumption on or after October 4, 1994.

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

Manufacturer/Producer/ Exporter	Margin percent	De- posit percent
Awaji Sangyo (Thailand) Co., Ltd.	38.41	37.57

Adjustment of Deposit Rate for Countervailing Duties

Article VI, paragraph 5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation for dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act. Because antidumping duties

cannot be assessed on the portion of the margin attributable to export subsidies, there is no basis to require a cash deposit or bond for that amount.

Accordingly, the level of export subsidies as determined in the most recent administrative review of the countervailing duty order, *Carbon Steel Butt-Weld Pipe Fittings From Thailand; Final Results of Countervailing Duty Administrative Review* (57 FR 5248, February 13, 1992), which was 0.74 percent, will be subtracted from the margin for cash deposit or bonding purposes. This results in a deposit rate of 37.67 percent for AST. We did not determine an "all others" rate in this investigation, because all other producers and exporters of butt-weld pipe fittings from Thailand are already subject to an antidumping duty order on this merchandise, which was published in the Federal Register on July 6, 1992 (57 FR 29702).

ITC Notification

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

Notice 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 353.35(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 733(d) of the Act (19 U.S.C. 1671(d)).

Dated: February 16, 1995.

Barbara E. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 95-4727 Filed 2-24-95; 8:45 am]
BILLING CODE 2010-02-P

[A-413-010]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From the United Kingdom

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Julie Anne Osgood or Todd Hansen, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230;

telephone (202) 482-0167 or 482-1276, respectively.

Final Determination

We determine that certain carbon steel butt-weld pipe fittings from the United Kingdom are being sold in the United States at less than fair value, as provided in section 735 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 publication of the preliminary determination in the Federal Register on October 4, 1994 (59 FR 50571), the following events have occurred:

On October 3, 1994, pursuant to the Department's regulations (19 CFR 353.20(b)(1) (1994)), BKL Fittings, Ltd. ("BKL"), requested that the final determination in this case be postponed. On November 14, 1994, the Department published in the Federal Register a notice postponing the final determination in this case until February 16, 1995 (59 FR 56461). From November 21 through 23, and November 29 and 30, 1994, we verified the further manufacturing operations and exporter's sales price information of BKL's related entity in Union, New Jersey. From December 12 through 23, 1994, we verified BKL's responses to the Department's antidumping duty questionnaire at company headquarters in Redditch, England. On January 23 and 30, 1995, petitioner and respondent submitted case and rebuttal briefs to the Department. The Department held a public hearing in this investigation on February 2, 1995.

Scope of the Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings ("pipe fittings") having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which includes "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld

which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 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 this investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is September 1, 1993, through February 28, 1994.

Such or Similar Comparisons

In making our fair value comparisons, we first compared sales of merchandise identical in all respects, in accordance with the Department's standard methodology. If no identical merchandise was sold, we compared sales of the most similar merchandise, as determined by the model-matching criteria contained in Appendix V of the questionnaire ("Appendix V") (on file in Room B-099 of the main building of the Department of Commerce ("Public File")).

Fair Value Comparisons

To determine whether BKL's sales for export 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. For those U.S. sales compared to sales of similar merchandise, we made an adjustment, pursuant to 19 CFR 353.57, for physical differences in the merchandise.

We compared U.S. sales, where possible, with sales in the home market at the same level of trade, in accordance with 19 CFR 353.58.

We made revisions to BKL's reported data, where appropriate, based on verification findings.

United States Price

Where BKL's U.S. sales of pipe fittings were made to an unrelated distributor in the United States prior to importation, and the exporter's sales price ("ESP") methodology was not indicated by other circumstances, we based USP on the purchase price sales methodology in accordance with section 772(b) of the Act.

We calculated purchase price based on packed, c.i.f. import prices to an unrelated customer in the United States. We made deductions, where appropriate, for foreign brokerage, foreign inland freight, ocean freight, marine insurance, U.S. brokerage and U.S. duty.

Where sales to the first unrelated purchaser took place after importation of the subject merchandise into the United States, we calculated USP using the ESP methodology, in accordance with section 772(c) of the Act.

For ESP sales, we made deductions, where appropriate, for discounts, foreign brokerage, foreign inland freight, ocean freight, marine insurance, U.S. duty, U.S. inland freight, and U.S. brokerage and handling. In addition, we deducted credit expense, indirect selling expense, inventory carrying costs, and commissions to an unrelated agent.

We made an adjustment to USP for value-added tax ("VAT") assessed on comparison sales in the U.K. in accordance with our practice, pursuant to the Court of International Trade ("CIT") decision in *Federal-Mogul, et al v. United States*, 834 F. Supp. 1391. See *Preliminary Antidumping Duty Determination: Color Negative Photographic Paper and Chemical Components from Japan*, 59 FR 16177, 16179 (April 6, 1994), for an explanation of this methodology.

For pipe fittings that were further manufactured in the United States, we deducted all value added in the United States, pursuant to section 772(e)(3) of the Act. The value added consists of the cost of fabrication and general expenses associated with the further manufacturing operations, as well as a proportional amount of profit or loss attributable to the further manufacture. (See, e.g., *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from France*, 58 FR 37125 (July 9, 1993).) We calculated profit or loss by deducting from the sales price of the further manufactured merchandise the related production costs and selling expense incurred by the company in both the U.K. and the United States. We then allocated total profit or loss proportionately to all components of cost. We included only the profit or loss allocated to the further manufacturing portion of total cost in our calculation of value added. We adjusted BKL's allocation of general and administrative ("G&A") expenses for further manufactured sales to an allocation based on cost of sales rather than weight.

Foreign Market Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis

for calculating FMV, we compared the volume of home market sales of subject merchandise to the volume of third country sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act. BKL's volume of home market sales was greater than five percent of the aggregate volume of third country sales. Therefore, we determined that the home market constituted a viable basis for calculating FMV, in accordance with 19 CFR 353.48(a).

For purposes of calculating FMV, we used BKL's sales to its home market customers and constructed value ("CV"), as described below. We excluded from the home market database any sales of fittings not manufactured by BKL.

Cost of Production

Petitioner alleged that BKL made home market sales during the POI at prices below the cost of production ("COP"). In the course of this investigation, we gathered and verified data on production costs.

In order to determine whether home market prices were below the COP within the meaning of section 773(b) of the Act, we performed a product-specific cost test, in which we examined whether each product sold in the home market during the POI was priced below the COP of that product. We calculated COP based on the sum of BKL's cost of materials, fabrication, general expenses, and packing, in accordance with 19 CFR 353.51(c). For each product, we compared this sum to the home market unit price, net of movement expenses and rebates. We made changes, where appropriate, to submitted COP data, as discussed in the "Interested Party Comments" section of this notice, below.

In accordance with section 773(b) of the Act, we also examined whether the home market sales of each product were made at prices below their COP in substantial quantities over an extended period of time, and whether such sales were made at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade.

For each product where less than ten percent, by quantity, of the home market sales during the POI were made at prices below the COP, we included all sales of that model for the computation of FMV. For each product where ten percent or more, but less than 90 percent, of the home market sales during the POI were priced below the COP, we did not include in the calculation of FMV those home market sales which were priced below the COP, provided that the below-cost sales of

that product were made over an extended period of time. 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, in accordance with section 773(b) of the Act, we disregarded all sales of that product and instead based FMV on CV.

In order to determine whether below-cost sales had been made over an extended period of time, in accordance with section 773(b)(1) of the Act, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POI in which that product was sold. If a product was sold in three or more months of the POI, we did not exclude below-cost sales unless there were below-cost sales in at least three months during the POI. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time; i.e., where sales of a product were made in only two months, the extended period of time was two months, where sales of a product were made in only one month, the extended period of time was one month.

BKL provided no evidence that the disregarded sales were at prices that would permit recovery of all costs within a reasonable period of time and in the normal course of trade. (See Section 773(b)(2); 19 U.S.C. 1677b(b)(2).)

Constructed Value

We calculated CV based on the sum of the cost of materials, fabrication, general expenses, U.S. packing costs and profit. In accordance with section 773(e)(1)(B)(i) and (ii) of the Act we: (1) included the greater of BKL's reported general expenses or the statutory minimum of ten percent of the cost of manufacture ("COM"), as appropriate; and (2) used the greater of BKL's actual profit on sales in the home market or the statutory minimum profit of eight percent of the sum of COM and general expenses.

Price-to-Price Comparisons

For price-to-price comparisons, we calculated FMV based on ex-factory or delivered prices, inclusive of packing to home market customers. We deducted rebates, where appropriate, on home market sales. We deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(1) of the Act. We also made adjustments, where appropriate, for differences in the physical characteristics of the merchandise in

accordance with section 773(a)(1) of the Act.

In light of the Court of Appeals for the Federal Circuit's decision in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States*, 13 F.3d 398 (Fed. Cir., January 5, 1994), the Department can no longer deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we adjust for those expenses under the circumstance-of-sale provision of 19 CFR 353.56(a) and the exporter's sales price offset provision of 19 CFR 353.56(b)(2), as appropriate. Accordingly, in the present case, we deducted post-sale home market movement charges from the FMV under the circumstance-of-sale provision of 19 CFR 353.56(a). This adjustment included home market inland freight.

For both price-to-price comparisons and comparisons to CV, we also made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses, pursuant to 19 CFR 353.56(a)(2).

We adjusted for VAT in the home market in accordance with our practice. (See the "United States Price" section of this notice, above.)

Currency Conversion

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

Final Affirmative Determination of Critical Circumstances

Petitioner alleged that critical circumstances exist with respect to imports of pipe fittings from the U.K. In our preliminary determination, pursuant to section 733(e)(1) of the Act and 19 CFR 353.16, we analyzed the allegations using the Department's standard methodology. Because no additional information has been submitted since the preliminary determination, the Department is using the same analysis as explained in its preliminary determination and finds, in accordance with section 735(a)(3) of the Act, that critical circumstances exist with respect to imports of certain carbon steel butt-weld pipe fittings from the U.K.

Verification

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

verification results are outlined in detail in the public version of the verification report (Public File).

Interested Party Comments

Comment 1: BKL contends that the methodology used for the preliminary determination where sales made below the cost of production were excluded in calculating profit for CV is not in accordance with law. According to BKL, Section 773(e)(1)(B) of the Tariff Act of 1930, as amended, provides that profit will be "equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual commercial quantities and in the ordinary course of trade." BKL claims that the statute neither explicitly nor implicitly authorizes CV profit to be calculated solely upon above-cost sales. Further, BKL cites to *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et al.; Final Results of Antidumping Duty Administrative Reviews*, 57 FR 28360, 28374 (June 24, 1992) ("AFBs from France") where the Department rejected the argument that the calculation of profit should be based only on sales at prices above the cost of production. BKL contends that excluding below-cost sales would be contrary to law because the Department would be excluding a portion of sales "of the same class or kind of merchandise."

Petitioner maintains that the law leaves the decision of whether to include below-cost home market sales in calculating the profit element of CV to the discretion of the Department. While the statute does state that profit is to be calculated based on home market sales of the same general class or kind of merchandise, it also states that such sales must be made "in the ordinary course of trade." According to petitioner, it is entirely consistent with the purpose of the statutory provision to determine that below-cost sales are made outside the ordinary course of trade. Petitioner asserts that this approach advances the statute's purpose by preventing a foreign exporter from indirectly reducing FMV through below cost sales. Finally, petitioner argues that the fact that Commerce has included below-cost sales in the profit calculations in other proceedings does not dictate that the Department must do so in this investigation.

Department's Position: We agree with respondent. The Department's practice has been to calculate profit for constructed value using above- and below-cost home market sales. (See

AFBs from France.) Therefore, we have included below-cost sales in our calculation of profit for constructed value in the final determination, and used the greater of the average profit on both above- and below-cost sales or the statutory eight percent minimum profit.

Comment 2: BKL maintains that sales made below cost in one month of the POI do not constitute sales made below cost over an extended period of time. BKL cites to *Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished, From Japan; Final Results of Antidumping Duty Administrative Review*, 57 FR 4960, 4965 (February 11, 1992) ("TRBs from Japan") where the Department stated: "[W]e use a period of three months to define extended period of time since three months is commonly used to measure corporate, financial, and economic performance." According to BKL, this rationale is inconsistent with defining a single month as an "extended period of time."

In addition, BKL contends that the Department's position that a single month comprises an "extended period of time" is inconsistent with the term "relatively short period" in connection with critical circumstances. BKL argues that for critical circumstances the Department defines the term "relatively short period" as covering at least three months.

BKL also contends that if the frequency of below-cost sales is limited to one month of the period of investigation, then that is *prima facie* evidence of sporadic or possibly seasonal sales. Hence, according to the legislative history of the COP provision, these sales should not be disregarded.

Petitioner maintains that the Department's position is clear that if sales are made in less than three months of the POI, then an extended period is the number of months in which sales occur. In support of this argument, petitioner also cites to *TRBs from Japan*. In addition, petitioner argues that respondent has provided no evidence that the sales that occurred in only one month of the POI involved obsolete products or end-of-year sales.

Department's Position: In determining whether sales below cost were made over an extended period of time in accordance with section 773(b)(1) of the Act, the Department has consistently considered an extended period of time to be the lesser of the number of months during the POI in which sales occur or three months for the reason stated in *TRBs from Japan*: "[T]he use of only a three month time measurement is incomplete since it excludes models

that were only sold in one or two months of the review period."

BKL's contention that the Department is inconsistent in defining a "relatively short period" is misguided. It ignores the Department's rationale of needing to preserve the possibility of disregarding below-cost sales in cases where such sales have occurred in only one or two months. This is not a consideration that applies to critical circumstances.

Comment 3: Petitioner contends that by not reporting a portion of its parent's G&A, BKL has understated its total G&A expense for the subject merchandise. Additionally, petitioner argues that the Department should adjust reported G&A expense for the further manufacturing operations to include the other operating expenses which are related to the activities of the company as a whole.

BKL disagrees that any of the G&A expense of its parent company should be allocated to BKL because BKL's entire manufacturing, sales, and R&D activities are conducted without assistance from its parent. The parent company receives periodic operational reports from BKL only for the purposes of evaluating its investment in its capacity as a shareholder. BKL states that allocating its parent company's G&A to subsidiaries when the books and records are not consolidated is inconsistent with the Department's professed policy of relying upon respondent's cost and financial records in COP investigations.

Department's Position: We agree with petitioner that a portion of the G&A expense of BKL's parent company should be allocated to BKL. It is clear from the information on the record of this case that BKL's parent company's involvement in BKL is more than that of a passive investor. The parent company's Overseas Department monitors the operations of BKL through monthly reports from BKL and provides strategic planning and management services to BKL. Accordingly, we have allocated to BKL a proportionate share of the expenses from the Overseas Department of the parent company based on the cost of sales of its overseas affiliates.

Additionally, we have increased the further manufacturing G&A cost to include other operating expenses incurred that had not been included in the reported costs.

Comment 4: Petitioner maintains that the Department should allocate total G&A for the further manufacturing operations based on cost of sales rather than weight of finished fittings because an allocation of G&A based on weight is contrary to the Department's long-standing practice.

Department's Position: For calculations used in our final determination, we have allocated G&A expense based on cost of sales rather than weight. Allocating the G&A costs of the further manufacturing operations based on weight of finished fittings produces a less representative result than allocating based on cost. The weight of fittings varies markedly for fittings of different thicknesses, but the process of finishing the fittings does not vary proportionately to weight. (See *Final Determination of Sales at Less Than Fair Value: Certain All-Terrain Vehicles from Japan*, 54 FR 4864, 4867 (January 31, 1989).)

Comment 5: Petitioner claims that BKL understated its costs through incorrect reporting of its financing expenses. According to petitioner, the finance expense ratios reported by BKL understate the total cost of subject merchandise because, where BKL combined its interest expense with its parent, it did not reduce the cost of sales for the combined group by the intercompany transactions. As a result, the denominator of the calculation (total cost of sales) was inflated. Similarly, petitioner contends that the Department should adjust respondent's financing costs to include its other borrowing not reported, and that interest expense for the further manufacturing operations should be allocated on the basis of cost of sales rather than weight.

BKL claims it has correctly calculated financing expense by combining BKL's financing expense with that of its parent company and dividing by the combined cost of sales. BKL suggests that for purposes of computing net interest expense for CV, the Department should adjust the parent company's interest expense to account for finished goods inventory and trade accounts receivable.

Department's Position: We agree with petitioner that combining the financing expense and cost of sales of BKL and its parent creates a distorted financial expense ratio unless intercompany transactions are eliminated from the calculation. The Department generally calculates net financing expense from the financial statements of the consolidated entity because of the fungible nature of capital. (See *Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand*, 57 FR 21065, 21069 (May 18, 1992).) In this investigation, however, the parent company and its subsidiaries do not prepare consolidated financial statements. Additionally, we cannot consolidate the financial data of BKL and its parent company because we are unable to quantify all intercompany

transactions. Since the parent company ultimately controls the capital of all affiliates in which it holds a controlling interest, and due to the nature of certain intercompany transactions, we have used the parent company's financing expense rate as a reasonable surrogate for purposes of our final determination.

We have also adjusted the parent company's CV financing expense rate to allow an offset for credit expenses and inventory carrying cost as is our normal practice.

For purposes of our final determination, we have allocated financing expense of the further manufacturing operations based on cost of sales rather than weight. (See *Final Determinations of Sales at Less than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany*, 54 FR 18992, 19076, May 3, 1989.)

Comment 6: Petitioner contends that BKL understated total cost through the incorrect reporting of pension costs. Petitioner argues that BKL excluded certain pension costs in reporting its cost for the subject merchandise, claiming that the pension costs do not reflect the actual costs that will be incurred. According to petitioner, because generally accepted accounting principles ("GAAP") in the U.K. required BKL to include an additional amount for pension costs in its audited financial statements, such costs must be included in the COP and CV of subject merchandise in order to accurately reflect BKL's fully absorbed cost for subject merchandise.

Department's Position: We agree with petitioner, and have adjusted labor costs to reflect pension expense in conformity with U.K. GAAP for purposes of our final determination. To be in conformity with U.K. GAAP, an entity is required to perform an annual recalculation of pension expense to account for fluctuations in investment performance. The purpose of this recalculation is to more accurately reflect an entity's year-end pension liability. Not adjusting the pension liability to conform with U.K. GAAP would result in an understatement of per-unit costs of production. (See *Calculation Memorandum* from Theresa L. Caherty and Peter S. Scholl to Christian B. Marsh, dated February 9, 1995, ("Proprietary Document").)

Comment 7: Petitioner states that the Department may not have properly adjusted FMV to account for VAT for any calculations where FMV is based on CV. As a result, petitioner maintains that USP was overstated and BKL's dumping margin was understated.

Respondent cites to *Federal-Mogul Corp. v. U.S.*, 813 F. Supp 856 (CIT 1993), stating the Department is authorized to "add only the amount of tax actually paid on each home market sale." Respondent states that CV is not associated with an amount of VAT actually paid, because CV is not based on actual sales. Thus, an imputed amount for VAT cannot be included in CV.

Department's Position: In accordance with the statute, our practice is to exclude indirect taxes on component materials from CV if the taxes are rebated upon export. Once we have excluded the VAT on component materials from the constructed value, we cannot add the VAT to USP because section 772(d)(1)(C) of the Act requires that we add internal taxes to USP only to the extent that those taxes are included in the FMV.

Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of butt-weld pipe fittings from the U.K., as defined in the "Scope of Investigation" section of this notice, that are entered or withdrawn from warehouse for consumption on or after July 6, 1994, the date 90 days prior to the date of publication of our preliminary determination, pursuant to section 735(c)(4)(A) of the Act.

The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the subject merchandise exceeds the U.S. price as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Margin (percent)
BKL Industries, Ltd. _____	48.85
All other producers/exporters ...	48.85

ITC Notification

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

Notice 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 (19 U.S.C. 1671(d)).

Dated: February 16, 1995.

Barbara E. Stafford.

Acting Assistant Secretary for Import Administration.

[FR Doc. 95-4726 Filed 2-24-95; 8:45 am]
BILLING CODE 3510-06-P

[A-307-812]

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

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Sue Strumbel, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1442.

Final Determination

The Department of Commerce (the Department) determines that certain carbon steel butt-weld pipe fittings (pipe fittings) are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Scope of the Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 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 this investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is September 1, 1993, through February 28, 1994.

Case History

Since our preliminary determination (50 FR 50561, October 4, 1994) the following events have occurred. On October 14, 1994 the respondents requested a postponement of the final determination. This request was granted (59 FR 56461, November 14, 1994), and the final was postponed by the Department until no later than February 16, 1995. On January 23, 1995, both parties submitted case briefs. On January 23, 1995 petitioner submitted its rebuttal brief.

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 all companies. Given that neither of the two named companies responded to the Department's questionnaire, we find that no respondents have cooperated in this investigation.

The Department's usual practice under these circumstances would be to assign respondents the highest margin alleged in the petition as BIA. See *Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany* (54 FR 19033, May 3, 1989). In this case, however, a fundamental flaw in the petition calculation methodology has led the Department to reject the use of the highest margin alleged in the petition as BIA. Unlike the other Certain Carbon Steel Butt-Weld Pipe Fittings investigations, petitioner was unable to obtain U.S. price quotes for purposes of the initiation. Rather, U.S. price was based upon an average of U.S. Customs import statistics which did not take into account the relationship between the size of the fitting and its value per pound. Moreover, there is no record information which would allow us to make this adjustment to USP. Therefore, we have weight averaged the FMVs of all size fittings in the petition, and compared that average FMV to the average customs U.S. import value in the petition. This yields a single margin for use as BIA of 203.63%. This margin will be assigned to each of the

respondents. (See, Memorandum on File Dated: February 16, 1995).

Suspension of Liquidation

In accordance with section 733(d)(1) (19 U.S.C. 1673b(d)(1)) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of certain carbon butt-weld pipe fittings from Venezuela, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated margin amount by which the foreign market value of the subject merchandise exceeds the United States price as shown below. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted average margin percent
All Companies	203.63

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry within 45 days.

If the ITC determines that material injury or threat of material injury does not exist, the proceedings will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on certain carbon steel butt-weld pipe fittings from Venezuela entered or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in this investigation of their responsibility covering 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 (19

U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: February 16, 1995.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 95-4722 Filed 2-24-95; 8:45 am]

BILLING CODE 3010-06-P

[A-821-807]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Ferrovandium and Nitrided Vanadium From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Louis Apple or David J. Goldberger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C., 20230; telephone (202) 482-1769 or (202) 482-4136.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994. References to Antidumping and Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments, 57 FR 1131 (January 10, 1992) (Proposed Regulations), are provided solely for further explanation of the Department's AD practice with respect to amended preliminary determinations. Although, the Department has withdrawn the particular rulemaking proceeding pursuant to which the Proposed Regulations were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. See 60 FR 80 (January 3, 1995).

Scope of Investigation

This investigation covers ferrovanadium and nitrided vanadium. The scope is fully described in the preliminary determination.

Case History

On December 27, 1994, the Department of Commerce (the Department) made its affirmative

preliminary determination of sales at less than fair value in the above-cited investigation (60 FR 438, January 4, 1995).

On January 11, 1995, the petitioner alleged that the Department made a significant ministerial error in the preliminary determination in the above-mentioned investigation and requested that the Department correct this ministerial error accordingly.

In its submission, the petitioner alleged that the Department made a ministerial error in its calculation of the foreign market value (FMV) for SC Vanadium-Tulachermet (Tulachermet). This FMV was used for comparison to sales made by both Tulachermet and Odermet, Ltd. The petitioner's allegation deals with the valuation of vanadium slag, the principal raw material used to produce the subject merchandise.

On January 19, 1995, the Department received comments from Odermet, Ltd. and Tulachermet in response to the petitioner's January 11, 1995 letter regarding a ministerial error. Odermet submitted additional comments on January 26, 1995. However, standard Department practice with respect to preliminary determinations, does "not permit parties to comment on another party's allegations of significant ministerial errors". (See the Department's Proposed Rules 57 FR 1133 (January 10, 1992). Any party objecting to the Department's amendment, will have the opportunity to present its arguments in its administrative case briefs and at the hearing.

On January 23, 1995, the Department determined that the petitioner's allegation regarding the ministerial error in our calculation of FMV for Tulachermet, requires correction in an amended preliminary determination (See January 23, 1995, Memorandum from Gary Taverman to Barbara R. Stafford).

Amendment of Preliminary Determination

The Department does not normally amend preliminary determinations since these determinations are only estimated margins subject to verification and may change for the final determination. It is, however, the Department's practice to amend preliminary determinations in those instances involving a significant ministerial error. (See Amendment to Preliminary Determination of Sales at Less Than Fair Value: Fresh Cut Roses From Columbia, 59 FR 51554, 51555 (October 12, 1994) (Roses); and Amendment to Preliminary

Determination of Sales at Less Than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Hong Kong, 55 FR 19289-90 (May 9, 1990)).

The Department has defined "significant ministerial errors" as those unintentional errors which result in a change of the estimated margin of at least 5 absolute percentage points but not less than 25 percent of the calculated margin. See *Roses*. In this case, these criteria have been met.

In its questionnaire response, Tulachermet reported its consumption of vanadium slag, the principal input used to produce the intermediate product vanadium pentoxide, on the basis of net vanadium content. The Department used as a surrogate value a price quote for vanadium slag expressed in terms of net vanadium pentoxide content. The petitioner alleges that the Department made a significant ministerial error in not converting the consumption factor or surrogate value to reflect the different basis of the surrogate value to the factor consumed.

The Department agrees with petitioner that the reported factor should have been adjusted to a vanadium pentoxide basis. The Department did not intend to apply a surrogate value to consumption factor expressed in an incompatible unit of measure. Furthermore, correcting this ministerial error will result in a change in the estimated margin of greater than 5 absolute percentage points and greater than 25 percent of the original estimated margin. Therefore, pursuant to the Department's practice, the error constitutes a significant ministerial error and the Department is amending the preliminary determination accordingly. The calculations have been corrected by applying the methodology from the petition for converting the consumption factor for vanadium slag from units of net vanadium content to units of net vanadium pentoxide content. The recalculation affects the margin percentage for Tulachermet, Odermet, and the all others rate for non-Russian exporters.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct the U.S. Customs Service to continue to require cash deposit or posting of bond on all entries of subject merchandise from the Russian Federation at the newly calculated rates, that are entered, or withdrawn from warehouse, for consumption on or after the date of the original preliminary determination publication notice in the *Federal Register* (60 FR 438, January 4, 1995).

The suspension-of-liquidation will remain in effect until further notice.

The revised estimated margins are as follows:

Manufacturer/Producer/Exporter	Weighted average margin percent
All exporters located in Russia including SC Vanadium-Tulachermet	94.92
Galt Alloys, Inc.	40.46
Gesellschaft für Elektrometallurgie m.b.H./Shieldalloy Metallurgical Corporation/Metallurg, Inc.	49.18
Marc Rich Co., AG/Glencore International AG	108.00
Odermet, Ltd.	60.09
Wogan Resources, Ltd.	108.00
All others not located in Russia ...	82.29

ITC Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission (ITC) of the amended preliminary determination. If our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry, before the later of 120 days after the date of the original preliminary determination (December 27, 1995) or 45 days after our final determination.

Public Comment

Public hearings in this proceeding will be held to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The tentative schedule for the case briefs, rebuttal briefs, and hearings for this proceeding is described in the preliminary determination. We will make our final determination by May 19, 1995.

Dated: February 17, 1995.

Susan G. Esserman,
Assistant Secretary for Import Administration.

[FR Doc. 95-4728 Filed 2-24-95; 8:45 am]

BILLING CODE 3510-06-P

[C-633-812]

Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Butt-Weld Pipe Fittings From India

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

EFFECTIVE DATE: February 27, 1995.

FOR FURTHER INFORMATION CONTACT: Susan M. Strumbel, Office of

Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-1442.

Final Determination

The Department of Commerce ("the Department") determines that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in India of certain carbon steel butt-weld pipe fittings. For information on the estimated net subsidies, please see the *Suspension of Liquidation* section of this notice.

Case History

Since the publication of the preliminary determination in the *Federal Register*, 59 FR 28337 (June 1, 1994), the following events have occurred.

On June 27, 1994, at petitioner's request, we extended the final determination in this investigation to coincide with the final determination in the companion antidumping investigation (59 FR 32955).

On June 30, 1994, petitioner requested that the Department postpone its preliminary determination in the antidumping investigation. Therefore, on July 26, 1994, the Department published in the *Federal Register* a notice postponing the preliminary antidumping determination and, therefore, also the final countervailing duty determination (59 FR 37961).

On October 5, 1994, respondents requested that the Department postpone the final antidumping and countervailing duty determinations. Therefore, on November 14, 1994, the Department published in the *Federal Register* a notice postponing the final antidumping and countervailing duty determinations until no later than February 16, 1995 (59 FR 56461).

We conducted verification of the responses submitted on behalf of the Government of India (GOI), Karmen Steels of India (Karmen) and Sivanandha Pipe Fittings Ltd. (Sivanandha) from November 4 through November 7, 1994. We received case briefs on January 24 from petitioner and respondents, and received rebuttal briefs from petitioner on January 31, 1995.

Scope of Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings ("pipe fittings")

having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 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 this proceeding is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994. References to the Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989) (Proposed Regulations), are provided solely for further explanation of the Department's CVD practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the Proposed Regulations were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. See 60 FR 80 (January 3, 1995).

Injury Test

Because India is a "country under the Agreement" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission ("ITC") is required to determine whether imports of pipe fittings from India materially injure, or threaten material injury to, a U.S. industry. On April 20, 1994, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from India of the subject merchandise (59 FR 18825).

Period of Investigation

For purposes of this final determination, the period for which we are measuring subsidies (the period of investigation ("POI")) is the respondents' fiscal year: April 1, 1993 to March 31, 1994.

Non-Responding Company

Since Tata did not respond to our countervailing duty questionnaire, we have used best information available ("BIA") in accordance with section 355.37(a) of the Department's regulations. As BIA, we have used information provided in the petition except where we have calculated a rate for a given program in a previous countervailing duty investigation or administrative review for India which is higher than that provided in the petition. We did not include in the BIA subsidy rate for Tata programs for which we have no basis to calculate a benefit (i.e., programs for which rates are not calculated in the petition, programs not previously investigated, or programs previously found not used). Based on this approach, we calculated a BIA rate for Tata of 61.56 percent *ad valorem*.

Calculation of Country-Wide Rate

In determining the benefits to the subject merchandise from the various programs described below, we used the following calculation methodology. We first calculated a country-wide rate for each program. This rate comprised the *ad valorem* benefit received by each firm weighted by each firm's share of exports of the subject merchandise to the United States. The program rates were then added together to arrive at the country-wide rate.

Pursuant to 19 CFR 355.20(d) of the Department's regulations, we compared the total *ad valorem* benefit received by each firm to the country-wide rate for all programs. The rates for Karmen, Sivanandha and Tata were significantly different from the country-wide rate. Therefore, all three companies received company-specific rates. The country-wide rate will be assigned to all other manufacturers, producers and exporters.

Karmen's Exports of Refurbished Pipe Fittings

Karmen has an arrangement with a Singaporean company, under which the Singaporean company supplies Karmen with rusty pipe fittings. Karmen reconditions and refurbishes these pipe fittings and ships them directly to the Singaporean company's U.S. customer. For purposes of the preliminary determination, we considered this refurbished merchandise to be covered by this proceeding. However, we stated

that we would seek additional information concerning: (1) The nature and extent of the processing operation, and (2) the extent to which the refurbished pipe fittings are being subsidized.

For purposes of this final determination, we are treating the "sales" of Singaporean pipe as outside of the scope of our investigation and, hence, not subject to any potential countervailing duty order on butt-weld pipe fittings from India. Karmen essentially performs a tolling service for its Singaporean customer. Moreover, Karmen does not "substantially transform" these pipe fittings. Substantial transformation generally refers to a degree of processing or manufacturing resulting in a new and different article. Through that transformation, the new article becomes a product of the country in which it was processed or manufactured. See *Cold-Rolled Steel from Argentina*, 58 FR 37062, 37065 (1993) (Appendix I). The Department makes these determinations on a case-by-case basis. See, e.g., *Certain Fresh Cut Flowers from Colombia*, 55 FR 20491, 20299 (1990); *Limousines from Canada*, 55 FR 11036, 11040 (1990).

In determining whether Karmen substantially transformed these pipe fittings, we examined whether the degree of processing or manufacturing resulted in a new and different article. Karmen receives rusty pipe fittings from Singapore, it removes the rust, paints the fitting, and forwards it to the Singaporean company's customer. We do not consider this refurbishing process as substantially transforming the subject merchandise because it remains a pipe fitting after refurbishment. Therefore, because Karmen does not substantially transform the merchandise, we do not consider it as falling within the scope of this investigation.

However, we have also determined that the benefits received by Karmen under two of the countervailable export subsidy programs discussed below (pre-shipment financing and income tax deductions under 80HHC) cannot be limited exclusively to Karmen's export sales of new pipe fittings (i.e., all Karmen's export sales excluding the Singaporean transactions). In neither instance is there any indication that Karmen is precluded from receiving these benefits on its refurbishing operations. Therefore, we have included the fee Karmen receives for refurbishing the Singaporean pipe fittings as part of the denominator for calculating the *ad valorem* subsidy rate. This is consistent with past practice. When we cannot

specifically tie the receipt of an export subsidy to a subset of export sales, such as exports of the subject merchandise, we divide the total value of the export subsidy received by the total value of exports. (See, e.g., *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Castings from India*, 56 FR 52521, (October 21, 1991), *Final Affirmative Countervailing Duty Determination; Certain Electrical Conductor Aluminum Redraw Rod from Venezuela*, 53 FR 24763, 24767 (June 30, 1988) (Redraw Rod)). (For a further discussion of this issue, please refer to the Interested Party Comments section of this notice).

Analysis of Programs

Based upon our analysis of the petition, the responses to our questionnaires, verification and comments made by interested parties, we determine the following:

A. Programs Determined To Be Countervailable

1. Preferential Pre-Shipment Financing

Pre-shipment financing is extended to exporters prior to shipment as working capital for purchasing raw materials, processing, pecking, warehousing, transporting and shipping. Any exporter showing a confirmed export order or a letter of credit is eligible for this program. Generally, the loans are extended for 180 days. We verified that both Karmen and Sivanandha had loans on which interest was paid during the POI under this program.

Because only exporters are eligible for loans under this program, we determine that they are countervailable to the extent they are provided at a preferential interest rate. See, e.g., *Redraw Rod*. As our commercial benchmark interest rate, we used 16.50 percent, which is the rate reported by the GOI as the annual average commercial interest rate on short-term financing during the POI. We compared this benchmark rate to the interest rate charged on pre-shipment loans and found that the interest rate charged was lower than the benchmark rate. Therefore, we determine that loans provided under this program are countervailable.

To calculate the benefit, we followed the short-term loan methodology which has been applied consistently in our past determinations and is described in more detail in the Subsidies Appendix accompanying *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 49 FR 18006 (April 26, 1984); see

also, *Alhambra Foundry v. United States*, 626 F. Supp. 402 (CIT 1985).

We compared the amount of interest paid during the POI to the amount of interest that would have been paid at the benchmark rate. The difference between these two amounts is the benefit. We then divided the benefit by total exports. On this basis, we determine the estimated net subsidy from this program to be 0.47 percent *ad valorem* for Karmen, 0.44 percent *ad valorem* for Sivanandha and 5.27 percent *ad valorem* for Tata.

2. Income Tax Deductions Under Section 80HHC

Income tax benefits are available to exporters in India under Section 80HHC of the Income Tax Act of 1961. This program allows exporters to reduce their taxable income by the profits or export subsidies earned on exports. Both Karmen and Sivanandha claimed deductions under this program on their income tax returns filed in the POI.

Since tax deductions under Section 80HHC are available only to exporters, we determine that this program is countervailable. To calculate the benefit, we multiplied the amount of the deduction claimed by each company by the corporate income tax rate and divided the result by total exports. On this basis, we determine the estimated net subsidy from this program to be 2.10 percent *ad valorem* for Karmen, 2.73 percent *ad valorem* Sivanandha and 15.82 percent *ad valorem* for Tata.

3. International Price Reimbursement Scheme

The International Price Reimbursement Scheme ("IPRS") was established to compensate Indian exporters for the difference between the domestic price of inputs and their world market price. We verified that, as of April 1, 1993, the input product used in the production of pipe fittings (seamless carbon steel pipe), was no longer eligible for IPRS benefits. However, residual benefits could be received after that date and, in fact, Karmen received residual benefits under this program during the POI for exports of pipe fittings shipped prior to the POI.

Respondents maintain that the IPRS program is permissible within the framework of Item (d) of the Illustrative List of Export Subsidies annexed to the Agreement on the Interpretation and Application of Article VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code), (1979). Pursuant to the remand determination in *Final Results of Redetermination Pursuant to Court Remand, Creswell Trading Company, Inc., et al v. United*

States, Slip. Op. 94-65 (Creswell Trading), the IPRS program must be examined in light of item (d).

To conduct the analysis with respect to item (d) of the Illustrative List, we examined whether the IPRS program involves a consistently applied calculation methodology for determining the difference between the higher domestic and lower international price of a product available to exporters and whether the pricing and other data used in this methodology are regularly updated to reflect accurately the price differential at the time of the purchase of the product.

We verified that India's IPRS program utilizes a clearly defined and consistently applied methodology for calculating the difference between the higher domestic and lower international price of seamless carbon steel pipe available to their exporters. We also verified that the price schedules for both domestic and international prices are updated periodically. Therefore, we determine that the basic terms and conditions of the provision of carbon steel pipe under the IPRS program are not "more favourable than those commercially available on world markets" to Indian exporters. However, we have also determined that the IPRS rebate is "excessive," because the government failed to include ocean freight in its calculation of the world market price.

Item (d) is concerned with the government's provision of goods to exporters on terms more favorable than those "commercially available on world markets" to their exporters. Indian exporters who purchase seamless carbon steel pipe on the world market would necessarily also incur the cost of delivering the pipe to India. Therefore, the commercially available alternative is the price of seamless carbon steel pipe itself, from sources outside of India, plus a delivery charge to India.

The international prices used by the GOI in its calculations of IPRS rebates are stated in F.O.B. (port of origination) terms and, thus, do not reflect the delivery of foreign seamless carbon steel pipe to India. Consequently, we added delivery costs to the price of foreign-sourced seamless carbon steel pipe and compared the delivered domestic price to a delivered world market price. On this basis, we determine that the IPRS rebates received by the Indian pipe fittings producers are excessive in the amount of the delivery charges necessary to transport carbon steel pipe to India. The excess amount is a countervailable subsidy because the rebate enabled the pipe fittings exporters to pay a lower price for carbon

steel pipe than that commercially available on world markets.

To calculate Karmen's benefit, we divided the amount of ocean freight necessary to ship seamless carbon steel pipe to India by Karmen's total exports of pipe fittings. We did not include in the denominator the fees Karmen receives for refurbishing Singaporean pipe because refurbished pipe fittings are not eligible for the IPRS. On this basis, we determine the estimated net subsidy from this program to be 7.05-percent *ad valorem* for Karmen, 0.00 percent *ad valorem* for Sivanandha and 32.66 percent *ad valorem* for Tata.

B. Programs Determined not to Provide Benefits During the POI Advance Licenses and Advance Customs Clearance Permits ("ACCP's")

Under the GOI's Duty Exemption Scheme, inputs used in the production of exports may enter the country duty-free. Two mechanisms under the Duty Exemption Scheme are Advance Licenses and Advance Custom Clearance Permits ("ACCP's"). Sivanandha used Advance Licenses to import seamless carbon steel pipes in the POI. Advance Licenses permit the importation of goods duty free provided that the imports are used in the production of merchandise subsequently exported.

Karmen used ACCPs during the POI. ACCPs allow exporters to import merchandise duty free for the purpose of jobbing, restoration, reconditioning and other servicing, provided that such merchandise is re-exported. Karmen used its ACCPs to import the aforementioned pipe fittings from Singapore.

We consider the use of Advance Licenses and ACCP's to be the equivalent of a duty-drawback program (see Final Affirmative Countervailing Duty Determination, Steel Wire Rope from India, 56 FR 46292 (September 11, 1991)). Under § 355.44(i)(4)(1) of the Department's proposed regulations (see Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989)), the non-excessive drawback of import duties is not countervailable if the imported products are physically incorporated into exported products. According to the questionnaire responses and verification, the products imported under Advance Licenses are physically incorporated into pipe fittings which are subsequently re-exported. The products imported under the ACCP's were refurbished and also re-exported. Therefore, we determine that Advance Licenses and ACCP's did

not provide a countervailable benefit in the POI.

C. Programs Determined To Be Not Used

We established at verification that the following programs were not used during the POI.

- A. Preferential Post-Shipment Financing
- B. Additional and Replenishment Licenses
- C. Market Development Assistance
- D. Export Promotion, Capital Goods Scheme
- E. Benefits for 100 Percent Export-Oriented Units
- F. Benefits Provided to Export Processing Zones

Interested Party Comments

Comment 1: Karmen argues that it would be inappropriate to subtract the fees received for its refurbishing operations from the denominator but to leave the subsidies resulting from the refurbishing in the numerator. Karmen argues that the job-working fees received for the Singaporean transactions must be included in the denominator to calculate its subsidy rate. Karmen contends that the benefits from the two subsidies we preliminarily found countervailable, the 80HHC tax program and the pre-shipment export financing, resulted significantly from the transactions involving Singaporean pipe.

Petitioner argues that the transactions involving the refurbished pipe fittings do not constitute a sale for the purposes of this investigation. Furthermore, petitioner disagrees that the refurbished pipe fittings contributed to Karmen's benefits under either of the above-mentioned programs.

DOC's Position: As noted above, we have determined that the benefits from the pre-shipment export financing and 80HHC programs cannot be tied solely to Karmen's export sales, exclusive of the income received for refurbishing Singaporean pipe. During verification, we were told by Karmen officials that they did not use pre-shipment export financing for shipments of refurbished pipe fittings, but based on our analysis of the information submitted regarding this program, there is no reason to believe that Karmen could not have used the financing for these shipments. We do not typically narrow our export subsidy denominator to less than total exports unless the benefits provided can be exclusively linked to a smaller subset of export sales. Therefore, consistent with our past practice, we divided the benefit amount by the value of Karmen's total exports, including the fees it received for refurbishing.

With respect to the 80HHC program, our past practice has been to divide the value of the benefits by total exports in the POL. Pursuant to our general tax methodology, we consider tax benefits to be "received" when a company files the return. Consequently, the benefit used in our calculation usually relates to sales activity in the year prior to the POI. As a result, the sales denominator we use in our subsidy calculation is rarely, if ever, the sales from the same fiscal year covered by the tax return. The only basis to exclude sales from the denominator is to determine that they are incapable of generating the tax benefit in question. The only issue then, in this investigation, is whether the fees Karmen receives for its refurbishing operations can generate 80HHC benefits.

The 80HHC benefits Karmen claimed on the tax return filed during the POI (covering a pre-POI period) were not generated by Karmen's refurbishing operations because Karmen did not refurbish any Singaporean pipe during the fiscal year covered by the tax return. However, we verified that the fees received by Karmen for its refurbishing operations during the POI did generate 80HHC benefits on the tax return which covers the POI. It is clear that the refurbishing fees received by Karmen qualify for 80HHC benefits. The only reason 80HHC benefits generated by the refurbishing operations are not in the 80HHC subsidy calculation in this investigation is the Department's tax methodology which mandates the use of the tax return filed during the POI.

Comment 2: Respondents argue that the benchmark interest rate of 16.5 percent used in the Department's preliminary determination is the appropriate benchmark rate and should also be used in the Department's final determination. They state that this interest rate is the national average commercial rate for comparable loans. They contend that the 18.75 percent interest rate listed in the Department's verification reports is a company-specific rate and therefore should not be used. They further state that the 18.75 percent interest rate is for a loan that has a one year term while pre-shipment financing has a much shorter term. Finally, they argue that pre-shipment export financing is a low risk form of credit because the exporter has to show a purchase order prior to receiving financing.

DOC's Position: We agree that the 18.75 percent interest rate is a company-specific rate. When selecting a short-term interest rate benchmark the Department's first choice is a national average rate rather than a company-specific rate. See, Subsidies Appendix.

The questionnaire response of the GOI stated that the annual average interest rate on short-term financing in India during the POI was 16.5 percent. According to the Reserve Bank of India, the minimum commercial short-term rate on loans above 200,000 rupees in India during the POI was 15.00 percent. Information from the May 1994 edition of International Financial Statistics indicates that the average short- and medium-term interest rate in India during the POI was approximately 15.59 percent. Given the information on the record, we used as our benchmark the rate provided by the GOI.

Comment 3: Respondents argue that the Department should uphold its preliminary finding that the IPRS program is non-countervailable.

DOC's Position: Based on verification and the recent remand determination in Creswell Trading, we have determined that the IPRS program provided a countervailable benefit during the POI.

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, examination of relevant accounting records and examination of original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-99 of the Main Commerce Building).

Suspension of Liquidation

In accordance with our affirmative preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of butt-weld pipe fittings from India, which were entered or withdrawn from warehouse for consumption, on or after June 1, 1994, the date our preliminary determination was published in the Federal Register.

After the preliminary determination, this final countervailing duty determination was aligned with the final antidumping duty determination on certain carbon steel butt-weld pipe fittings from India, pursuant to section 606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act).

Under article 5, paragraph 3 of the Subsidies Code, provisional measures cannot be imposed for more than 120 days without final affirmative determinations of subsidization and injury. Therefore, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject

merchandise on or after September 30, 1994, but to continue the suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise entered between June 1, 1994, and September 29, 1994. We will reinstate the suspension of liquidation, under section 703(d) of the Act, if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties in the amounts indicated below:

Karmen Steels of India: 9.62 percent *ad valorem*
Sivanandha Pipe Fittings Ltd.: 3.16 percent *ad valorem*
Tata Iron & Steel Limited: 61.56 percent *ad valorem*
All-Others: 29.40 percent *ad valorem*

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, pursuant to section 705(c) we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order directing Customs officers to assess countervailing duties on butt-weld pipe fittings from India.

Return of Destruction of Proprietary Information

This notice 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 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act and 19 CFR 355.20(a)(4).

Dated: February 16, 1995.
 Barbara S. Stafford,
Acting Assistant Secretary for Import Administration.
 [FR Doc. 95-4721 Filed 2-24-95; 8:45 am]
 BILLING CODE 3510-06-P

[C-608-808]

Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Butt-Weld Pipe Fittings From Israel

AGENCY: Import Administration, International Trade Administration, Department of Commerce.
 EFFECTIVE DATE: February 27, 1995.
 FOR FURTHER INFORMATION CONTACT: Gary Bettger or Jennifer Yeske, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-2239 or 482-0189, respectively.

Final Determination

The Department of Commerce ("the Department") determines that benefits which constitute subsidies within the meaning of Section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Israel of certain carbon steel butt-weld pipe fittings ("pipe fittings"). For information on the estimated net subsidy, please see the *Suspension of Liquidation* section of this notice.

Case History

Since the publication of the notice of the preliminary determination in the Federal Register (59 FR 28340, June 1, 1994), the following events have occurred.

On June 1, 1994, petitioner requested that the final determination in this investigation be postponed and aligned with the date for the final determination in the companion antidumping investigation of the same subject merchandise from Israel. On June 27, 1994, the Department published in the Federal Register a notice postponing and aligning the publication of the final determination in this investigation (59 FR 32955).

On October 5, 1994, Pipe Fittings Carmiel, Ltd. ("Carmiel"), the sole company respondent, requested that the Department postpone the final antidumping and countervailing duty determinations. Therefore, on November 14, 1994, the Department published in the Federal Register a notice postponing the final antidumping and countervailing duty determinations

until no later than February 16, 1995 (59 FR 56461).

We conducted verification of the responses submitted by the Government of Israel ("GOI") and Carmiel from November 27 through December 4, 1994. Both respondents and petitioner submitted case and rebuttal briefs on January 24 and January 31, 1995, respectively.

Scope of Investigation

The products covered by this investigation are certain carbon steel butt-weld pipe fittings having an inside diameter of less than fourteen inches (355 millimeters), imported in either finished or unfinished condition. Pipe fittings are formed or forged steel products used to join pipe sections in piping systems where conditions require permanent welded connections, as distinguished from fittings based on other methods of fastening (e.g., threaded, grooved, or bolted fittings). Butt-weld fittings come in a variety of shapes which include "elbows," "tees," "caps," and "reducers." The edges of finished pipe fittings are beveled, so that when a fitting is placed against the end of a pipe (the ends of which have also been beveled), a shallow channel is created to accommodate the "bead" of the weld which joins the fitting to the pipe. These pipe fittings are currently classifiable under subheading 7307.93.3000 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 this proceeding is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994. References to the *Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's CVD practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. See 60 FR 80 (January 3, 1995).

Injury Test

Because Israel is a "country under the Agreement" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission ("ITC") must determine whether imports of the subject merchandise from Israel materially injure, or threaten material injury to, a U.S. industry. On April 20, 1994, the ITC published its preliminary determination that there is a reasonable indication that industries in the United States are being materially injured or threatened with material injury by reasons of imports from Israel of the subject merchandise (59 FR 18825).

Period of Investigation

For purposes of this final determination, the period for which we are measuring subsidies (the period of investigation (the "POI")) is calendar year 1993.

Analysis of Programs

Based upon our analysis of the petition, responses to our questionnaires, verifications and comments made by interested parties, we determine the following:

I. Programs Determined To Be Countervailable

A. Grants under the Encouragement of Capital Investments Law of 1959 ("ECIL")

The ECIL program was established to develop the production capacity of the Israeli economy by providing investment grants for industrial projects. In order to be eligible to receive benefits under the ECIL, an applicant first must obtain "Approved Enterprise" status, which is granted by the Investment Center of the Israeli Ministry of Industry and Trade.

Among the benefits provided under ECIL are investment grants. The amount of an investment grant is calculated as a percentage of the total approved investment in fixed assets, and this percentage depends on the geographic location of the enterprise. For purposes of the ECIL program, Israel is divided into three zones—the Central Zone, Development Zone A and Development Zone B. The Central Zone comprises the geographic center of Israel, including its largest and most developed population centers. Companies in the Central Zone could not receive grants under this program at all in 1988, and only at a much lower rate than companies in Development Zones A and B in 1983, with Development Zone A companies receiving a higher level of funding than those in Development Zone B.

In the *Final Affirmative Countervailing Duty Determination: Industrial Phosphoric Acid from Israel ("IPA")* (52 FR 25447; July 7, 1987), the Department found the investment grants program under the ECIL to be *de jure* specific and, therefore, countervailable because the grants are limited to enterprises located in specific regions (i.e., Development Zones A and B). In the course of this proceeding, the GOI provided no new information indicating that the grants are not limited to particular regions. Therefore, we are continuing to find ECIL grants to be *de jure* specific.

Carmiel's production facility is located in Development Zone A. According to the responses and verification, the company received approval, in 1983 and 1988, for grants for two projects related to the production of subject merchandise. These grants were disbursed over the period 1983-1993.

At verification, we noted that for certain of the grant disbursements, the Israeli Ministry of Finance subtracted a small "computer commission." Consistent with section 771(6) of the Act and section 355.46 of *Countervailing Duties: Notice of Proposed Regulations and Request for Public Comments*, 54 FR 23366 (May 31, 1989) ("Proposed Regulations"), we have determined that this commission constitutes an allowable offset. Therefore, we have subtracted the commission in those instances in which Carmiel was able to document that a commission was subtracted from a grant amount.

It is our policy to allocate non-recurring grants over a period equal to the average useful life of assets in the industry, unless the sum of grants provided under a program in a particular year is less than 0.50 percent of a firm's total sales in that year. See Section 355.49(a) of the Department's Proposed Regulations and the General Issues Appendix to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products From Austria*, 58 FR 37217, July 9, 1993. In this instance, Carmiel has not provided sales information for years prior to 1989. Therefore, we have no reason to believe that grants made before 1989 were less than 0.50 percent of sales in the year of receipt for those years and, therefore, have determined that the yearly disbursements should be allocated over time. In 1990, the sum of grants disbursed under the ECIL program accounted for less than 0.5 percent of Carmiel's total sales in that year. Therefore, benefits for 1990 were allocated to that year and are not

included in our calculations. For all other years after 1989, the sum of the grants disbursed under the ECIL program accounted for more than 0.5 percent of Carmiel's total sales each year. Therefore, these benefits were allocated over time.

For ECIL grants allocated over time, we used a twelve year allocation period (the average useful life of assets with respect to the manufacture of fabricated metal products, as determined by the U.S. Internal Revenue Service Asset Depreciation Range System). The formula described in Section 355.49(b)(3) of the Proposed Regulations for allocating grants relies on a fixed discount rate, which is based on the cost of long-term, fixed-rate debt of the firm or generally in the country under investigation. However, we confirmed at verification that no long-term loans with fixed interest rates (or other long-term fixed-rate debt) were available in Israel during the years 1983-1993. Instead, the only long-term loans (or other long-term debt) available to companies in Israel utilized variable interest rates, i.e., a fixed real interest rate added to the Consumer Price Index (CPI) or the dollar/shekel exchange rate.

Therefore, we have determined to adapt the grant allocation method described in our proposed regulations to use variable rather than fixed interest rates as the discount rate, given the absence of long-term fixed interest rates in the years these grants were disbursed. This methodology reflects the actual long-term options open to Israeli firms (i.e., that long-term financing was only available through variable rate loans) and also ensures that the net present value of amounts countervailed in the year of receipt does not exceed the face value of the grant.

In this determination, we have used as the discount rate the rate of return on CPI-indexed commercial bonds (the real rate of return as published in the Bank of Israel Annual Reports, plus the CPI), as no actual borrowing rates for Carmiel were available.

We divided the benefit allocated to 1993 by Carmiel's 1993 total sales. On this basis, we determine the estimated net subsidy for this program to be 2.31 percent *ad valorem* for the POI.

B Long-Term Industrial Development Loans

Prior to July 1985, companies in Israel were eligible to receive long-term industrial development loans funded by the GOI. This program was used in conjunction with ECIL; however, a company was not required to be an Approved Enterprise in order to receive a development loan.

We confirmed, as the GOI reported, that loans under this program were provided to a number of different industries in Israel. However, we also confirmed that the interest rates on these loans varied depending on the location of the borrower. The interest rates on loans to borrowers in Development Zone A were lowest, while those on loans to borrowers in the Central Zone were highest. In previous cases, the Department has found long-term industrial development loans in Israel to be regional subsidies and countervailable to the extent that the applicable interest rates are less than those on loans to companies in the Central Zone (see *IPA*). The GOI has provided no new information to warrant reconsideration of this finding.

Carmiel received loans for a project located in Zone A. These loans were received between the year 1983-1989. Under the terms of the program, the interest rates on these loans have two components—a fixed real interest rate and a variable interest rate, the latter of which is based on either the CPI or the dollar/shekel exchange rate. We confirmed at verification that Carmiel received some loans that were linked to the CPI and others linked to the dollar/shekel exchange rate.

Because the CPI and dollar/shekel exchange rate vary from year-to-year, we cannot calculate *a priori* the payments that will be made over the life of these loans and, hence, we cannot calculate the "grant equivalent" of the loans. Accordingly, we have compared the interest that would have been paid by a company in the Central Zone, as a benchmark, to the amount actually paid by Carmiel during the POI (see Section 355.49(d)(1) of the Proposed Regulations). We divided the interest savings by Carmiel's total sales in 1993.

On this basis, we determine the net subsidy from this program to be 0.36 percent *ad valorem* during the POI.

C. Exchange Rate Risk Insurance Scheme

Introduced in 1981, the Exchange Rate Risk Insurance Scheme (EIS), operated by the Israel Foreign Trade Insurance Corporation Inc. (IFTRIC), was designed to allow exporters to insure themselves against the risk of losses which might occur when the rate of devaluation of the Israeli shekel lagged behind the rate of inflation. The EIS was optional and open to exporters willing to pay a premium to IFTRIC.

Under this program, if the rate of inflation was greater than the rate of devaluation, the exporter was compensated by an amount equal to the difference between these two rates

multiplied by the value-added of the exports. If the rate of devaluation was higher than the change in the domestic price index, however, the exporter was required to compensate IFTRIC. Companies using EIS paid a premium, calculated for each exporter as a percentage of the insured value of exports.

In determining whether an export insurance program provides a countervailable benefit, we examine whether the premiums and other charges are adequate to cover the program's long-term operating costs and losses. See Section 355.44(d) of the Proposed Regulations and *IPA*. We have reviewed EIS data in this investigation which showed that EIS operated at a loss from 1981 through 1991. We believe that this 11 year history is more than adequate to establish that the premiums and other charges are "manifestly inadequate" to cover the long-term operating costs and losses of the program. The Department's determination that this program is countervailable is consistent with our determination in *IPA*.

We confirmed at verification that this program was terminated during our POI by the GOI. However, we also found at verification that the GOI will continue to honor outstanding claims for exports made prior to the date of termination, August 31, 1993, as long as the claims are made within three years of the date of export. Because of the possibility of residual benefits, we have not adjusted the cash deposit rate to reflect the termination of this program.

We have calculated the benefit during the POI as the net amount of compensation (compensation received less compensation and fees paid) Carmiel received during that period expressly for pipe fittings exported to the United States. We confirmed by reviewing company records that a certain portion of the total benefit reported by Carmiel as having been received during the POI was actually received by the company in 1992. Therefore, we have not included this amount in our calculations for purposes of this determination.

We divided the resulting net compensation amount by the value of the company's exports of pipe fittings to the United States during the POI. On this basis, we determine the estimated net subsidy from this program to be 0.19 percent *ad valorem* during the POI.

D. Exemption From Wharfage Fee

The Ports and Trains Authority administers all import/export operations and the train system in Israel. Wharfage fees represent 45-50 percent of the

revenues of the Authority to cover its infrastructure and overhead costs.

We confirmed at verification that during the POI, importers were obligated to pay wharfage fees equal to 1.5 percent *ad valorem* of import value and exporters 0.2 percent *ad valorem* of export value. However, we also found that, during the POI, exporters were exempted by a Ports and Trains Authority decision from paying the wharfage fee altogether. The exemption of this fee does not relate to the imported input (see the *Rebate of Wharfage Fees* section below), but rather to the finished product. Government officials explained that an exemption for exporters was made possible by the Authority's sound financial position.

We determine that the exemption from the wharfage fee provides an export subsidy insofar as export are allowed an exemption (unlike the other users of the port, *i.e.*, importers) solely due to their status as exporters. *Cf. Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish From Canada*, 51 FR 10041 (Mar. 24, 1986).

In order to calculate the benefit resulting from this program, which provides recurring benefits, we multiplied the total value of the company's exports during the POI by the 1.5 percent *ad valorem* coefficient and divided this amount by the total value of the company's exports.

On this basis, we determined the estimated net subsidy from this program to be 1.50 percent *ad valorem* during the POI.

E. Rebate of Wharfage Fees

We confirmed at verification that an additional program allows exporters, upon export of the finished product, rebates of the wharfage fees paid on imports of physically incorporated inputs. We were informed at verification that since the Israeli Customs Service administers the drawback system, the GOI asked it to take responsibility for rebating wharfage fee under this program. Under the rebate program, a company can receive a rebate for up to 80 percent of the wharfage fees paid on imported inputs that are physically incorporated into exported products.

This program provides preferential treatment for exporters and does not qualify for non-countervailable treatment under section 355.44(i) of the Proposed Regulations, as wharfage fees do not constitute indirect taxes or import charges. (See *DOC Position to Comment 3* below.)

To calculate the benefit provided by this program, which provides recurring

benefits, we divided the total amount of rebate received during the POI by the total value of the company's exports during the same period.

On this basis, we determine the estimated net subsidy from this program to be 0.34 percent *ad valorem*.

F. Fund for the Promotion of Marketing Abroad

During verification we learned that Carmiel received benefits in 1992 under the Fund for the Promotion of Marketing Abroad. GOI officials explained that under the Fund, companies apply for three-year financing for overseas market research projects. The company is obligated to repay the financing (in part) based on export earnings. We also learned that Carmiel has been informed that the funds approved in 1992 have been cancelled because the company did not timely submit its implementation report. Consequently, the Fund Director has asked the company to repay the previously received amount. As of the time of verification, Carmiel had not yet made any repayments.

Given the information we have received, we determine that this program provides benefits solely to exporters. Consequently, we determine that the assistance provided to Carmiel constitutes an export subsidy. Moreover, although Carmiel has been asked to repay the funds, the company has yet to repay anything. Consequently, we are treating the amount as a short-term, interest-free loan still outstanding as of the end of our POI.

In order to calculate the benefit received by Carmiel, we have used the 1992 rate for short-term financing as outlined in a Bank of Israel Annual Report on the record of this proceeding. We have divided the interest savings by Carmiel's total export sales in 1993.

On this basis, we determine the net subsidy from this program to be 0.23 percent *ad valorem* during the POI.

II. Programs Determined Not To Be Countervailable

A. Rebate of Peace of Galilee Levy

We confirmed that the Peace of Galilee (Shlomo-Hagalil) Levy was instituted on imports to help the balance of payments problem in Israel caused by incessant war with its neighbors. We confirmed that since at least 1986 the GOI has allowed rebates on this levy in a manner similar to that on the Rebate of Wharfage Fee program. Under the rebate program, a company can receive a rebate for 100 percent of the levies paid on imported inputs that are physically incorporated into exported products.

We confirmed that the company is tasked to provide information to the GOI regarding which inputs are physically incorporated into its exported products, and this information does not give rise to an excessive rebate. We also found that the Customs Authority is tasked with verifying the claims made by companies such as Carmiel. Consequently, we find this program to provide a nonexcessive rebate of the levies. See *Proposed Regulations* at Section 355.44(i). Therefore, we have found this program to be not countervailable.

III. Programs Determined Not To Be Used

We determine that Carmiel did not receive benefits during the POI for exports of the subject merchandise to the United States under the following programs:

- A. *Additional Incentives under the ECIL*
 - 1. *Preferential Accelerated Depreciation*
 - 2. *Tax Benefits*
 - 3. *Preferential Loans*
 - 4. *Industry Subsidy Payments*
- B. *Labor Training Grants*
- C. *Encouragement of Industrial Research and Development (EIRD) Grants*
- D. *Special Export Financing Loans*
- E. *Provision of Funds for Transportation to Eilat Harbor*

Interested Party Comments

Comment 1: With respect to the Exchange Rate Risk Insurance Scheme, petitioner argues that Carmiel originally reported that it received a certain amount during the POI based on IFTRIC records. At verification, however Carmiel claimed that the original figure incorrectly included a payment received in 1992. Petitioner argues that according to IFTRIC records verified by the Department, the disputed payment was received by Carmiel during the POI. Therefore, the Department should use the figure originally reported by Carmiel.

Carmiel notes that the disputed amount was actually received by the company in 1992. According to Carmiel, it is the date of receipt by the company that is controlling; hence, the benefit from the EIS should be adjusted to reflect only the amount received during the POI.

DOC Position

We agree with Carmiel. We confirmed at the verification of Carmiel that the company actually received the disputed amount in 1992, not during the POI. It is unclear why IFTRIC recorded a later date of payment. Nevertheless, we have

countervailed only the amount received by the company under this program during the POI.

Comment 2: Carmiel argues that since the Department verified that the Exchange Rate Risk Insurance Scheme was terminated during the POI, the deposit rate should be set at zero.

Petitioner argues that the Department should reject Carmiel's claim. Petitioner notes that the Department found that, although this program was terminated during the POI, the GOI will continue to honor outstanding claims as long as they are made within three years of the date of export. Therefore, residual benefits from the program will continue to be available after the POI.

DOC Position

We agree with petitioner. The Department's practice, as outlined in Section 355.50(d)(1)(2) of the Proposed Regulations, is not to adjust the cash deposit rate when it determines that residual benefits may continue to be bestowed under a terminated program. As we verified that residual benefits are possible under this program, we have not made an adjustment to the cash deposit rate.

Comment 3: According to petitioner, the Department verified that wharfage fees, assessed in order to finance the Ports and Trains Authority, differ for importers and exporters, even though the costs associated with both activities do not differ. Moreover, for the last ten years, exporters have been exempt from paying a fee altogether. Since the Department was unable to verify the value of the wharfage fee exemption to Carmiel, it should as best information available ("BIA") establish a 1.5 percent *ad valorem* countervailing duty for this program. Petitioner further argues that the record does not indicate that these fees cover costs that have nothing to do with the services suggested by the term "wharfage," and, therefore, do not operate as a tax.

Respondent counters that the wharfage fee is, in fact, a general levy intended to cover myriad government activities that have nothing to do with the services suggested by the term "wharfage." The fee is paid to a government agency and is not tied to any specific cost or service. It is a tax, and more particularly an indirect tax on exports. Therefore, it should not be considered a countervailable subsidy.

DOC Position

We agree with petitioner that wharfage fees represent fees rather than indirect taxes. Consistent with the concept of a fee, the wharfage fees here are paid only by users of the port

facilities, and the funds raised are used to pay for the costs incurred by the Port Authority and the maintenance of those facilities.

We note that we have not used BIA, as petitioner suggests, to calculate the countervailable benefit provided by this program. Rather, as noted above, for the exemption of the fee, we have determined that the correct method by which to calculate the benefit received by Carmiel is to multiply the 1.5 percent exemption by total export sales during the POI, and divide the resulting amount by the same total export sales value.

Comment 4: Petitioner notes that, with respect to the Rebate of the Peace of Galilee Levy Program, the record does not provide enough information to determine the extent to which the rebate provided to Carmiel is excessive. Although remission of import duties for imports consumed as "normal waste" may not be excessive, the Israeli Customs has made no effort to identify "normal waste" in the production of butt-weld pipe fittings. Therefore, petitioner submits that, as BIA, the entire amount rebated under this program should be treated as a countervailable subsidy. Petitioner notes that in *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Israel* (52 FR 1649; January 15, 1987) ("OCTG"), the Department found that this program did not provide an excessive rebate of duties paid on imported inputs physically incorporated into the exported product. However, in this investigation, unlike OCTG, Customs indicated that it makes no attempt to determine a value for the carbon steel pipe wasted in producing subject merchandise.

Respondent argues that this program does not provide a countervailable subsidy in that it is an indirect tax on items physically incorporated into the final exported product. In fact, in OCTG, the Department found this program to be not countervailable. Respondent also argues that there is absolutely nothing in the record of this case to suggest that, while the rebate was "nonexcessive" in OCTG, the rebate to Carmiel is excessive. Petitioner's attempt to make the rebate appear excessive by focusing on the Custom's official's statement about wastage is misplaced. Such percentages are not determined as they are not relevant to the payments. The rebate is based on the proportion of export sales to home market sales. No calculation for wastage is necessary; Customs simply compares the tonnage of finished product exported to the tonnage sold in the Israeli market.

DOC Position

We agree with respondent that this program is not countervailable because it provides a non-excessive rebate of the levies on imported inputs that are used in the production of subsequently exported finished products. We confirmed at the Israeli Customs Department that its personnel monitor company reports regarding which imports are physically incorporated into the end product and the total amount of levies paid on such inputs. We also note that a rebate is only given on physically incorporated inputs. Consequently, waste is not an issue here. For this reason, we do not find anything in the remarks of the Customs official at verification that is inconsistent with our finding here, or in *OCTG*.

Comment 5: With respect to the Fund for the Promotion of Marketing Abroad, Carmiel states that the record is clear that it received funds for this program in 1992 (which is outside the POI), and that the company must refund the money to the government since it did not fulfill its obligations under the program. Accordingly, Carmiel maintains the money it received does not constitute a countervailable subsidy during the POI.

DOC Position

We confirmed at verification that the company is obligated to repay the benefit, has not yet done so. Therefore, during the POI, Carmiel had use of money to which it would not have otherwise had access. Consequently, we have found that this amount constituted a countervailable interest-free loan during the POI.

Comment 6: Petitioner notes that according to the verification report, Carmiel receives "certain advantages" if 90 percent of its sales represent its own production. The exact nature of these advantages is not, unfortunately, further explained in the verification report. However, the fact that these otherwise undefined advantages are only available to a specific class of sellers in Israel demonstrates that the "advantages" are not generally available within the country.

Respondent argues that, as outlined in the verification report, producing companies in Israel are eligible for certain benefits while trading companies are not. Hence, in order to preserve its status as a producing company, Carmiel formed a trading company. There are, however, no additional subsidies available to production companies other than the ones already investigated in this case.

DOC Position

We agree with respondent. We found no evidence at verification to suggest that Carmiel received any additional benefits than those already noted above. The company explained that it formed a trading company in order to preserve its "producing company status." Consequently, we find no reason to pursue this issue any further.

Verification

In accordance with section 776(h) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examination of relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099 of the Main Commerce Building).

Suspension of Liquidation

In accordance with our affirmative preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of carbon steel butt-weld pipe fittings from Israel, which were entered or withdrawn from warehouse for consumption, on or after June 1, 1994, the date our preliminary determination was published in the Federal Register. This final countervailing duty determination was aligned with the final antidumping duty determination of certain carbon steel butt-weld pipe fittings from Israel, pursuant to section 703(a)(1) of the Act.

Under Article 5, paragraph 3 of the GATT Subsidies Code, provisional measures cannot be imposed for more than 120 days without final affirmative determinations of subsidization and injury. Therefore, we instructed the U.S. Customs Service to discontinue suspension of liquidation on the subject merchandise beginning September 30, 1994, but to continue suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise entered from June 1 through September 29, 1994. We will reinstate suspension of liquidation under section 703(d) of the Act, if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amount indicated below.

Certain Carbon Steel Butt-Weld Pipe Fittings
Country-Wide Ad Valorem Rate: 4.93 percent

ITC Notification

In accordance with section 705(c) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. If, however, the ITC determines that such injury does exist, we will issue a countervailing duty order directing Customs officers to assess countervailing duties on carbon steel butt-weld pipe fittings from Israel.

Return or Destruction of Proprietary Information

This notice 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 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act and 19 CFR 355.20(a)(4).

Dated: February 16, 1995.

Barbara R. Stafford,
Acting Assistant Secretary for Import Administration.

[FR Doc. 95-4718 Filed 2-24-95; 8:45 am]

BILLING CODE 3810-08-M

APPENDIX C

**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 FRANCE, INDIA, ISRAEL,
MALAYSIA, THE REPUBLIC OF KOREA,
THAILAND, THE UNITED KINGDOM, AND
VENEZUELA

Invs. Nos.: 701-TA-360-361 (Final) and 731-TA-688-695 (Final)

Date and Time: February 28, 1995 - 9:30 a.m.

Sessions were held in connection with the investigations in the U.S. International Trade Commission's main hearing room, 500 E Street, S.W., Washington, DC.

In support of the imposition of antidumping duties:

McKenna & Cuneo
Washington, DC
on behalf of--

U.S. Fittings Group

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

Thomas Radley, National Sales Manager, Ladish
Company, Inc.

Stephen Letko, Senior Vice President, Marketing
and Sales, Mills Iron Works, Inc.

Peter Buck Feller)
Lawrence J. Bogard)--OF COUNSEL
Andrew E. Bej)

In opposition to the imposition of antidumping duties:

Akin, Gump, Strauss, Hauer & Feld, L.L.P.
Washington, DC
on behalf of--

Interfit, S.A.
Vallourec, Inc.

Noel Boespflug, President, Vallourec, Inc.

Yves Pognonec, Executive Vice President,
Vallourec, Inc.

Patrick F.J. Macrory--OF COUNSEL

Continued on the following page.

CALENDAR OF PUBLIC HEARING--Continued

In opposition to the imposition of antidumping duties:--Continued

Graham & James
Washington, DC
on behalf of--

Awaji Sangyo (Thailand) Co., Ltd.

Yoshihiro Saito--OF COUNSEL

BKL Fittings, Ltd.

James Arthur Smith, General Manager, Export Sales,
BKL Fittings, Ltd.

Morrison & Foerster
Washington, DC
on behalf of--

COVECO, C.A.
Petrolobos, S.A.

Giacomo Sozzi, Assistant to the President and
Director of Operations in Venezuela, COVECO, C.A.

Paul J. McGarr, Trade Analyst, Morrison & Foerster

Julie C. Mendoza)
Craig A. Lewis)--OF COUNSEL

Cameron & Hornbostel
Washington, DC
on behalf of--

Sivanandha Pipe Fitting Limited
Karmen Steels of India

Pipe Fittings Carmiel Ltd. of Israel

Dennis James, Jr.--OF COUNSEL

Grunfeld, Desiderio, Lebowitz & Silverman
Washington, DC
on behalf of--

Allied Fittings Corp.
Silbo Industries, Inc.

David L. Simon--OF COUNSEL

APPENDIX D
MONTHLY IMPORT STATISTICS

Table D-1

Certain carbon steel butt-weld pipe fittings: U.S. imports from Malaysia and the United Kingdom, January 1993 to September 1994

(1,000 pounds)		
Period	Malaysia	United Kingdom
1993:		
January	223	149
February	44	113
March	127	380
April	0	371
May	66	40
June	54	350
July	238	59
August	277	168
September	91	174
October	173	141
November	76	132
December	<u>44</u>	<u>242</u>
Total	1,413	2,319
1994:		
January	260	246
February	0	277
March	149	326
April	435	850
May	187	90
June	0	751
July	162	327
August	156	251
September	<u>40</u>	<u>22</u>
Total	1,388	3,139
Period averages:		
January 1993-February 1994 ¹	120	203
March 1994-September 1994 ²	161	374
April-June 1994 ³	207	564
July-September 1994 ⁴	119	200
January 1993-September 1994	133	260

¹ Period prior to the filing of the petition. (The petition in the subject investigations was filed on February 28, 1994.)

² Period subsequent to the filing of the petition.

³ 3-month period immediately prior to the 3-month period prior to Commerce's determinations.

⁴ 3-month period prior to Commerce's determinations. Commerce's preliminary determinations with respect to LTFV imports from Malaysia and the United Kingdom were issued effective Oct. 4, 1994. In making its critical circumstances determination in past investigations, the Commission has examined imports during the 3-month period prior to Commerce's determinations.

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

APPENDIX E

DESCRIPTION OF MANUFACTURING PROCESSES

Description of Manufacturing Process

The manufacturing of most certain carbon steel butt-weld pipe fittings begins with seamless carbon steel pipe or, in the case of caps, (usually) with plate. There are two basic methods for manufacturing elbows, reducers, and tees that are distinguished by whether the pipe section is heated before processing or whether it is cold-processed. (Heating, in turn, may be accomplished by induction heating the pipe section or by placing it in a gas-fired furnace.) Depending on the type and size of fitting to be made and the design of the particular manufacturer's equipment, one process may be preferred to the other. (Much of the equipment is custom-designed. Equipment and production processes can vary in terms of number of fittings produced per minute and operating costs.) However, in general, certain carbon steel butt-weld pipe fittings are manufactured in the same way throughout the world.¹ Reportedly, there are no differences between finished fittings that are hot-formed and those that are cold-processed.²

When manufacturing most elbows, the pipe is first cut to length. During the hot process, the pipe is heated until soft and then pushed over a mandrel. (A mandrel is a metal rod whose diameter equals that of the desired interior diameter of the fitting.) As the hot pipe is pushed over the mandrel, it stretches so that its outer diameter increases and its walls become thinner. The desired degree of bend in the fitting is also achieved at this stage. (When manufacturing an elbow using the cold process, the sectioned pipe is also pushed over a mandrel and then formed in a press.)

Unlike elbows, which are formed over mandrels, tees and reducers are formed within dies. In the hot-process to form reducers, the pipe section is heated and then formed using a series of progressively smaller dies in a swedge press, with several heats, to near final size. Reducers are hammer-forged to size in the cold process. Tees are cold-formed in a die that matches the shape and size of the finished product using pressure from either water or a light oil. The starting point for manufacturing tees using the hot process is an oversized pipe which is first turned into an oval. A hole is burned in one end, the piece is heated, then placed in a T-shaped die in a press where the hot metal is forced into the shape of the die.

After forming, the pipe must usually be sized in a coining operation to ensure that the fitting will match the pipe to which it is to be welded. Fittings that are formed at a temperature below 1,200° F (which is typical in the cold process) or above 1,800° F must also be heat-treated to relieve metallurgical stress built up within the fitting during the forming process.

Finishing steps involved in the manufacture of subject fittings may include shot blasting or other cleaning, machine beveling, boring and tapering, grinding, die stamping, inspecting, and painting. Shot blasting removes oxidation and mill scale from the rough-formed fittings. Ends are beveled and inside diameters are bored and tapered to ANSI tolerances. The fittings are then ground to remove surface imperfections and stamped with the heat lot number, parent material, and size and wall thickness. Next, fittings are inspected for flaws and defects. They must also be checked for thickness, length dimensions, and inside and outside diameter tolerances, as specified by the ASTM and the ANSI. Finally, the fittings are painted with a protective coating.

¹ Testimony of Jay Zidell, president of Tube Forgings, conference TR, p. 22. Petitioner's prehearing brief, p. 2.

² Staff visit to *** plant and conversation with ***.

The finishing processes of some firms are semi- or completely automated where the equipment bevels, bores, tapers, and grinds in one operation. In addition, some manufacturers use a continuous forming process, whereby a pipe may be converted into a rough in one continuous operation,³ eliminating the steps of inventorying the semifinished product and reworking it in a later process. The manufacture of certain carbon steel butt-weld pipe fittings can be labor-intensive. The following tabulation lists, for 1993, the pounds manufactured per hour worked by production and related workers producing certain carbon steel butt-weld pipe fittings:

* * * * *

It is most useful to compare productivity reported by the larger producers. ***.⁴ Recent data for Weldbend were not available. In response to a question from Commissioner Crawford, petitioner discusses reasons for the significant differences between the productivity rates of the domestic manufacturers in its posthearing brief (app. A, p. A-13).

³ Weldbend revamped its operations and became an integrated producer over a four-year period in the late 1980s and early 1990s. As a result, the company's manufacturing facilities are said to be the most modern in the industry, making full use of automated processes. *Supply House Times*, Sept. 1993.

⁴ Staff visit to *** plant and conversation with ***.

APPENDIX F
ADDITIONAL STATISTICAL DATA

Table F-1

Finished certain carbon steel butt-weld pipe fittings: U.S. shipments by U.S. producers, by shapes and by sizes, 1993

* * * * *

Table F-2

Finished certain carbon steel butt-weld pipe fittings: U.S. shipments of imports by U.S. importers, by sources, by shapes, and by sizes, 1993

* * * * *

Table F-3

Certain carbon steel butt-weld pipe fittings: U.S. shipments of U.S. producers, by products, by types, and by customers, 1993

* * * * *

Table F-4

Certain carbon steel finished butt-weld pipe fittings: Reported U.S. shipments of U.S. subject imports, by sources, by products, by types, and by customers, 1993

* * * * *

APPENDIX G

SUMMARY OF STAFF CONTACTS WITH WELDBEND

INFORMATION OBTAINED ON WELDBEND CORP.

The following is an account of salient information that the staff has obtained on Weldbend Corp., Argo, IL, *** U.S. producer of the subject butt-weld pipe fittings. Weldbend is believed to have accounted for about one-third of U.S. production of the subject fittings in 1994.

Weldbend began operations approximately 45 years ago by buying and reselling surplus fittings, and later fittings from another U.S. firm. Weldbend went on to become a *** reseller of imports, then a converter of imported and domestic forgings, and most recently an integrated U.S. producer of butt-weld pipe fittings and flanges.

1992 Investigations

Weldbend spent a considerable amount of time and expense to develop estimated data in response to the Commission's questionnaires in investigations Nos. 731-TA-520 and 521 (Final), Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand. Weldbend *** the petition in the 1992 investigations. Its data from those investigations, which cover calendar years 1989-91, have been placed on the record in the current investigations and have been released under administrative protective order. They are by far the most complete and current data that exist for Weldbend. Although the firm did not *** keep specific records on the products subject to the investigations, in 1992 it provided estimates of capacity, shipments, purchases, employment indicators, income-and-loss data and other financial indicators (asset valuation and capital expenditures), and also submitted pricing data relating to the subject products. It also provided income-and-loss information on its overall operations, which also included non-subject butt-weld pipe fittings and flanges.

Weldbend's data were verified by the Commission staff during invs. Nos. 731-TA-520 and 521 (Final).¹ Nonetheless, the president of Weldbend, Mr. James J. Coulas, Sr., ***² *** a statement made by Weldbend's attorney at the conference that " . . . we do not have our records computerized and we do not normally segregate the particular kind of fittings definition that is being used in this case. Therefore, we have to do by hand the very extensive questionnaire response." Weldbend's questionnaire response provided ***. ***. Parties' comments concerning Weldbend's data were centered around the question of whether Weldbend should be considered a related party and be excluded from the domestic industry because of its purchases of subject imports in those investigations. Weldbend even contended in its postconference brief that excluding it from the domestic industry would " . . . exclude economic data of considerable significance to an accurate picture of the whole domestic industry and, thereby, impair the accuracy of the Commission's ultimate injury or threat determination"³ and " . . . Weldbend's substantial share of, and its evident commitment to, domestic production make its inclusion essential to the Commission's assessment of the industry's performance and prospects."⁴

The following tabulation presents salient data submitted by Weldbend in its questionnaire response in the final investigations in 1992 for the subject products (unless otherwise indicated):

¹ The staff verification report noted that ***. ***.

² Nov. 15, 1994, telephone conversation with members of the investigative team.

³ Postconference brief of Weldbend, p. 10.

⁴ Postconference brief of Weldbend, pp. 27-28.

* * * * *

During the 1992 investigations, Weldbend stated that it had made substantial investments (\$***) to modernize and expand its manufacturing plant in Argo, IL.

The Commission excluded Weldbend from the domestic industry in the 1992 final investigations because Weldbend was found to be a "related party" producer that made large purchases of subject imports and was shielded to a significant degree from the effects of dumped imports.⁵

1994 Preliminary Investigations

Subsequent to receipt of the Commission's questionnaires in the 1994 preliminary investigations on carbon steel butt-weld pipe fittings from France, India, Israel, Malaysia, Korea, Thailand (AST), the United Kingdom, and Venezuela, Weldbend sent the Commission a letter dated March 9, 1994, listing its reasons for not being able to comply with the request for data. (The letter is presented on the following page.) On March 16 the Commission's investigator spoke by telephone with Mr. Coulas, Sr., and on March 17 spoke with Weldbend's attorney, Mr. Simeon Kriesberg of Mayer, Brown & Platt, Washington, DC, to attempt to obtain a response to the questionnaire. (Weldbend was not a party to the investigations.) The staff sent a facsimile to Mr. Coulas, Sr., on March 17, requesting that Weldbend make its "best effort" to provide the information and extending the deadline for response to the questionnaire. On March 23, Weldbend submitted a limited response to the producer's questionnaire, indicating in a cover letter from Mr. Kriesberg that ***. ***. The only data contained in the questionnaire response consisted of ***. ⁶ (Weldbend subsequently provided *** its production of the subject fittings for 1993: 23.5 million pounds.) The questionnaire response also contained ***, and noted that Weldbend's prices ***. It also noted that carbon steel flanges accounted for *** of Weldbend's net sales in fiscal year 1994.

The Current Final Investigations

Weldbend has not responded in writing to the Commission's questionnaires in the current final investigations. It has been forthcoming in providing information on the telephone and in a staff plant visit to Weldbend in December 1994, but claims that it cannot ***.⁷ Mr. Coulas indicated in a November 15, 1994, telephone conversation that although Weldbend ***, the Commission staff was welcome to visit Weldbend's facility.⁸

⁵ Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand, USITC Publication 2528, June 1992, pp. 10, 16.

⁶ The questionnaire response noted that ***. ***.

⁷ The Commission sent a producer's questionnaire as well as an importer's questionnaire to Weldbend. Neither questionnaire was returned; however, Weldbend has stated that it **** during the period for which data were collected in the investigations.

⁸ Mr. Coulas said that Weldbend ***. ***.

WELDBEND CORPORATION

6600 SOUTH HARLEM AVENUE • ARGO, IL 60001-1930

March 9, 1994

701-TA-360/361
731-TA-688-685
(CP)

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13 - 522 - 2500
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FAX

13 - 522 - 7021
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FIELD INVESTIGATION

Mr. Lynn Featherstone
Director, Office of Investigations
United States International Trade Commission
Washington, D.C. 20436

94 MAR 17 12:55

RECEIVED
OFFICE OF THE ATTORNEY
GENERAL

Dear Mr. Featherstone:

We have received your letter together with the questionnaires on butt-weld pipe fittings. Our company is a producer of fittings, not an importer. We do not have computerized records, and we do not keep records separately for the type of fittings you are investigating. So, all information of the kind you request must be compiled by hand.

Several years ago, in a case involving China and Thailand, we spent hundreds of hours of employee time and many thousands of dollars in attorney and accountant fees in an effort to complete similar questionnaires, and even then we were unable to gather all of the information requested. We cannot afford another costly effort this time around, just for the sake of a few companies that again are asking the government to save them from foreign competition.

As I said in testimony several years ago, at Weldbend we believe that the way to combat foreign competition is to invest in the most modern equipment, the most efficient production methods, and the most dedicated people in the world -- and to treat the customer fairly. We have done all of these things, and that is why we can compete in the market. We do not need government help.

Our job is to make the world's best butt-weld pipe fittings for our American customers. We can't get that job done if we are constantly filling out questionnaires.

Sincerely,

WELDBEND CORPORATION

James J. Coulas, Sr.
President

JJC:ss

Staff Field Trip to Weldbend

The staff investigator and accountant visited Weldbend on December 5, 1994, and compiled extensive field trip notes, the major points of which are condensed below.

(1) Weldbend's new production facility, which enables it to forge its products, is now operational. Because of this, Weldbend's production process ***. *** Weldbend purchased foreign and domestically produced roughs and machined them in its production facility, Weldbend *** butt-weld pipe fittings under 14 inches in its own facility. (***) Weldbend uses ***.

(2) Weldbend now has ***.

(3) Butt-weld pipe fittings of 14 inches and above are ***.

(4) Weldbend boxes or cartonizes its product, ***;

(5) Weldbend makes ***. ***. It has no sales force; orders are submitted directly to Weldbend.

(6) Weldbend's prices ***. ***.

(7) The firm is doing "well." Mr. Coulas, Sr., stated that ***. Mr. Coulas stated that Weldbend's recent ***.

(8) Weldbend claims that ***.⁹ ***.

Mr. Coulas also stated that it will be difficult for firms in these investigations to report data on butt-weld pipe fittings of 14 inches and under in inside diameter. He said that firms will report nominal sizes, which are not based on inside diameter.

Telephone Conversations and Other Contacts

Subsequent to the staff's plant visit to Weldbend, a number of telephone conversations were held with Mr. Coulas and/or his attorneys. In a December 14, 1994, conference call, Mr. Coulas said that he ***. When asked about actual or potential negative effects on Weldbend's operations from subject imports, he said that imports ***. He said that ***. ***.¹⁰

When asked how Weldbend is doing, Mr. Coulas said that Weldbend is doing well, and that ***. ***.

Although Mr. Coulas said that Weldbend's ***. ***.

On December 20, 1994, staff identified principal information that it needed from Weldbend, and contacted Weldbend's attorney requesting the following information (not necessarily in priority order):

* * * * *

In response, Weldbend sent a letter dated January 5, 1995, and Mr. Coulas reiterated by telephone on January 6, 1995, that Weldbend ***.¹¹ (The January 5, 1995, letter is presented on the following page.) ***.

⁹ Weldbend plans ***.

¹⁰ It is possible that Weldbend ***.

¹¹ Mr. Coulas said that he has ***. ***.

WELDBEND CORPORATION

6600 SOUTH HARLEM AVENUE • ARGO, IL 60501-1930

January 5, 1995

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2 - 582 - 3500
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2 - 582 - 7621
8 - 458 - 0106

Mr. George Deyman
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

Re: Certain Carbon Steel Butt-Weld Pipe Fittings from France et al.
Invs. Nos. 701-TA-360-361, 731-TA-688-695 (Final)

Dear Mr. Deyman:

You have asked whether Weldbend Corporation consents to the use of the questionnaire response that Weldbend submitted to the Commission on April 17, 1992, in connection with the investigation of certain carbon steel butt-weld pipe fittings from the People's Republic of China and Thailand.

* * * * *

In closing, let me say again, we do not ask for any assistance from the Commission, and we do not wish to participate in any of the investigations of imported fittings. We just want to be left alone to carry on our own business.

G-7

Sincerely yours,

James J. Coulas, Sr.

APPENDIX H

EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of certain carbon steel butt-weld pipe fittings from France, India, Israel, Malaysia, Korea, Thailand (products produced by AST only), the United Kingdom, and/or Venezuela on their growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product. The Commission also asked U.S. producers to report the influence of such imports on their scale of capital investments undertaken. The responses are as follows:

Actual Negative Effects

* * * * *

Anticipated Negative Effects

* * * * *

Influence of Imports on Capital Investment

* * * * *

