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fittings from South Korea, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register.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 R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 95–4719 Filed 2–24–95; 8:45 am]

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[A–549–809]

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 50568), 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: Saccharin 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 , 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. Hover 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 chose 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 Departments'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	Deposit percent
Awaji Sangyo (Thailand) Co., Ltd.	38.41	37.67

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. 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 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. 95–4727 Filed 2–24–95; 8:45 am]

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[A–412–816]

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