

with notice of issuance of the charging letter * * * Hence, as service was effected on June 30, 1997, MES's answer to the charging letter was due no later than August 1, 1997. MES did not file an answer to the charging letter. MES is therefore in default. Thus, pursuant to section 766.7 of the Regulations, BXA moved the Administrative Law Judge (hereinafter the "ALJ") to find the facts to be as alleged in the charging letter and render a Recommended Decision and Order.

Following BXA's motion, the ALJ issued a Recommended Decision and Order in which he found the facts to be as alleged in the charging letter, and concluded that those facts constitute two violations of section 787.5(a)(1) of the former Regulations by MES, as BXA alleged. The ALJ also agreed with BXA's recommendation that the appropriate penalty to be imposed for the violations is a denial of MES's export privileges for ten years.

As provided by section 766.22 of the Regulations, the Recommended Decision and Order has been referred to me for final action. Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the Recommended Decision and Order of the ALJ.

Accordingly, It Is Therefore Ordered, First, that, for a period of ten years from the date of this Order, Modern Engineering Services, House No. 2262 I-10/2, Islamabad, Pakistan, also known as Engineering and Technical Services, No. 1 Street #17, f-8-3 Rawalpindi, Islamabad, Pakistan, and all of its successors or assigns, officers, representatives, agents, and employees, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported

or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that this Order shall be served on MES and on BXA, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Dated: December 14, 2000.

William A. Reinsch,

Under Secretary for Export Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-565-801]

Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings From the Philippines

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

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: December 27, 2000.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James at (202) 482-2924 and (202) 482-0649, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1999).

Final Determination

We determine that stainless steel butt-weld pipe fittings from the Philippines are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margin of sales are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

The Department published the preliminary determination of sales at less-than-fair-value on August 2, 2000. See *Notice of Preliminary Determination of Sales at Less Than Fair Value*:

Stainless Steel Butt-Weld Pipe Fittings from the Philippines, 65 FR 47393 (August 2, 2000) (Preliminary Determination). Since then the following events have occurred:

The Department conducted verifications of the cost responses of Tung Fong Industrial Co., Ltd. (Tung Fong) from September 25 through September 29, 2000 and the sales responses of Tung Fong from October 2 to October 6, 2000. See the "Verification" section (below).

The Department performed a post-preliminary analysis for Tung Fong. It put this analysis on the record of this investigation on November 2, 2000.

The petitioners, Tung Fong, and Enlin Steel Corporation (Enlin) filed case briefs on November 15, 2000. The petitioners and Enlin filed rebuttal briefs on November 22, 2000. Tung Fong filed its rebuttal brief on November 24, 2000.

Critical Circumstances

According to section 733(e) of the Tariff Act, the Department must examine whether there is a reasonable basis to believe or suspect that (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, 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 subject merchandise at less than its fair value and there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports during the "relatively short period" of over 15 percent may be considered "massive." Section 351.206(i) of the Department's regulations defines "relatively short period" normally as the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.

As in the preliminary determination, we continue to find critical circumstances for respondent Enlin. (Enlin did not comment on this determination in its case brief.) See the Preliminary Determination at 47396 for

an explanation of the basis for the Department's determination.

With respect to Tung Fong, we impute knowledge of dumping with regard to exports by this company based on Tung Fong's final dumping margin being greater than 25 percent. See *Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China: Preliminary Determination of Sales at Less-Than-Fair-Value*, 62 FR 31972, 31978 (June 11, 1997). We also find that there was a massive increase in imports over a relatively short period of time. See Tung Fong's export volumes provided in its August 8, 2000 submission, p. E447. Based on this information we make an affirmative final determination of critical circumstances with regard to Tung Fong.

With respect to companies in the "all others" category, it is the Department's normal practice to base its determination on the experience of investigated companies. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate From Japan*, 64 FR 73215, 73218 (December 29, 1999), and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 9737, 9741 (March 4, 1997). However, for companies in the "all others" category, we do not use adverse facts available. Accordingly, we cannot utilize the dumping margins of Tung Fong or Enlin in making this determination because they were both based, at least partially, on adverse facts available. Therefore, since we have no other basis on which to impute knowledge of dumping, we make a negative final determination with respect to "all others." See also the Preliminary Determination at 47396.

Period of Investigation

The period of investigation is October 1, 1998 through September 30, 1999.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) from Joseph Spetrini, Deputy Assistant Secretary, Import Administration, to Troy Cribb, Assistant Secretary for Import Administration, dated the same date as publication of this notice, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a

complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B-099 of the Department of Commerce building. In addition, a complete version of the Decision Memo can be accessed directly on the internet at <http://ia.ita.doc.gov>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

For purposes of this investigation, the product covered is certain stainless steel butt-weld pipe fittings. Certain stainless steel butt-weld pipe fittings are under 14 inches in outside diameter (based on nominal pipe size), whether finished or unfinished. The product encompasses all grades of stainless steel and "commodity" and "specialty" fittings. Specifically excluded from the definition are threaded, grooved, and bolted fittings, and fittings made from any material other than stainless steel.

The fittings subject to these investigations are generally designated under specification ASTM A403/A403M, the standard specification for Wrought Austenitic Stainless Steel Piping Fittings, or its foreign equivalents (*e.g.*, DIN or JIS specifications). This specification covers two general classes of fittings, WP and CR, of wrought austenitic stainless steel fittings of seamless and welded construction covered by the latest revision of ANSI B16.9, ANSI B16.11, and ANSI B16.28. Pipe fittings manufactured to specification ASTM A774, or its foreign equivalents, are also covered by these investigations.

These investigations do not apply to cast fittings. Cast austenitic stainless steel pipe fittings are covered by specifications A351/A351M, A743/743M, and A744/A744M.

The stainless steel butt-weld pipe fittings subject to these investigations are currently classifiable under subheading 7307.23.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Currency Conversion

We made currency conversions into United States dollars in accordance with section 77A(a) of the Tariff Act based on exchange rates in effect on the dates of the United States sales, as provided by the Dow Jones Business Information Services.

Verification

As provided in section 782(i) of the Tariff Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondent.

Fair Value Comparisons

To determine whether sales of stainless steel butt-weld pipe fittings from the Philippines were made in the United States at less than fair value, we compared U.S. export price sales to the normal value (NV). Our calculations followed the methods described in the preliminary determination, except as noted below and in the final determination calculation memorandum, dated the same date as the date of this notice, which has been placed in the file in Room B-099 of the Department of Commerce.

1. EP

For the price to the United States, we used EP as defined in section 772 of the Tariff Act. We calculated EP using the same method as in the preliminary determination, with the following exception:

1. We made corrections to Tung Fong's data for individual sales for bank charges and imputed credit benefit based on findings at the sales verification. For specifics, see the final determination analysis memorandum from Fred Baker to the file (analysis memorandum) dated the same date as the date of publication of this notice.

2. NV

We used the same method to calculate NV as that described in the preliminary determination, with the following exceptions:

1. We included all third-country sales in the calculation regardless of whether they were above or below the cost of production;

2. We compared U.S. sales only to third-country sales with identical product characteristics;

3. For all U.S. sales without an identical match in the third-country market, we assigned an NV comparison equivalent to the highest margin for any U.S. sale that had an identical match in the third-country market;

4. We made corrections to Tung Fong's data for individual sales for sales dates and international freight based on findings at the sales verification. See the analysis memorandum for specifics.

Use of Facts Available

For a discussion of our application of facts available, see the "Facts Available" section of the Decision Memo, which is on file in B-099 and available on the internet at *ia.ita.doc.gov*.

All Others

Pursuant to section 735(5)(A) of the Tariff Act, the estimated "all-others" rate is equal to the estimated weighted-average dumping margin established for Tung Fong.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act, we are directing the Customs Service to continue to suspend the liquidation of all entries of stainless steel butt-weld pipe fittings from the Philippines manufactured by Enlin that are entered, or withdrawn from warehouse, for consumption on or after May 4, 2000, the date ninety days prior to the August 2, 2000 publication of the Preliminary Determination in the **Federal Register**. We will also instruct the Customs Service to suspend liquidation of all entries of stainless steel butt-weld pipe fittings manufactured by Tung Fong that are entered, or withdrawn from warehouse, for consumption on or after May 4, 2000. We will instruct the Customs Service to suspend liquidation for all other exporters of stainless steel butt-weld pipe fittings that are entered, or withdrawn from warehouse, beginning August 2, 2000. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted average dumping margin, as indicated in the chart below. These cash deposit instructions will remain in effect until further notice.

Manufacturer/exporter	Margin (percent)
Enlin Steel Corporation	33.81
Tung Fong Industrial Co., Ltd.	33.81
All Others	33.81

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission (ITC) of the determination. As the final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury

does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published pursuant to section 735(d) and 777(i)(1) of the Tariff Act.

Dated: December 15, 2000.

Troy H. Cribb,

Assistant Secretary for Import Administration.

Appendix

Comments and Responses

- A. Initiation of Sale-Below-Cost Investigation
- B. Use of Adverse Facts Available
- C. Appropriate Treatment of Miscellaneous Cost Items
- D. Model Match Method
- E. Critical Circumstances
- F. Rescinding the Investigation

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-809]

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

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

ACTION: Notice of the final determination in the less than fair value investigation of stainless steel butt-weld pipe fittings from Malaysia.

SUMMARY: On August 2, 2000, the Department of Commerce ("Department") published the preliminary determination in the less than fair value ("LTFV") investigation of stainless steel butt-weld pipe fittings from Malaysia. See Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Stainless Steel Butt-Weld Pipe Fittings from Malaysia, 65 FR 47398 (August 2, 2000) ("Preliminary Determination"). This investigation covers one manufacturer/exporter of the subject merchandise. The period of investigation ("POI") is October 1, 1998 through September 30, 1999.

Based upon our verification of the data and analysis of the comments received, we have made changes to our determination. Therefore, the final