

Act, the Regulations, or this Order. Payment to the Department of \$10,000 shall be made within 30 days of service of this Order, in the manner specified in the attached instructions;

Third, that Baasel will submit to the Director, Office of Export Enforcement, a semi-annual report concerning the receipt and disposition of U.S.-origin goods and technical data by Baasel during the ten-year denial set forth above; and

Fourth, that the proposed Charging Letter, the Consent Agreement and this Order be made available to the public.

This Order is effective immediately.

Entered this 9th day of March 1984.

Theodore Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 84-7027 Filed 3-15-84; 8:45 am]

BILLING CODE 3510-25-M

[A-580-007]

**Certain Circular Welded Carbon Steel Pipes and Tubes From the Republic of Korea: Final Determination of Sales at Less Than Fair Value**

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We have determined that certain circular welded carbon steel pipes and tubes (CWPT) from the Republic of Korea (Korea) are being sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether these imports are materially injure, a U.S. industry. We have directed the U.S. Customs Service to continue to suspend the liquidation of entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after October 28, 1983, in accordance with our preliminary determination, and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. Hyundai Steel Pipe Co., Ltd., preliminarily excluded, is now subject to suspension as of the date of publication of this notice. Union Steel Manufacturing Co., Ltd., previously subject to suspension under the preliminary determination, is now *de minimis*.

We have determined that two companies should be excluded from this determination. Those firms which are

subject to the suspension of liquidation and those firms which are excluded from this action are indicated in the "Suspension of Liquidation" section of this notice.

**EFFECTIVE DATE:** March 16, 1984.

**FOR FURTHER INFORMATION CONTACT:** Holly A. Kuga, Agreements Compliance Division, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-1102.

**SUPPLEMENTARY INFORMATION:**

**Final Determination**

We have determined that CWPT from Korea 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) (19 U.S.C. 1673). The margins for the individual firms investigated are indicated in the "Suspension of Liquidation" section of this notice. The dumping margins ranged from 0.00 percent to 64.95 percent. The overall weighted-average margin on all sales compared is 1.04 percent.

**Case History**

On April 21, 1983, we received a petition filed by counsel for the Committee on Pipe and Tube Imports (CPTI). The CPTI represents the following domestic manufacturers of CWPT: Allied Tube and Conduit Corp.; American Tube Co., Inc.; Bull Moose Tube Co.; Copperweld Tubing Group; Kaiser Steel Corp.; Merchants Metals, Inc.; Pittsburgh-International; Southwestern Pipe, Inc.; and Western Tube and Conduit. In accordance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioner alleged that CWPT from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 11, 1983 (48 F. R. 22179). On June 6, 1983, the ITC found that there is a reasonable indication that imports of certain CWPT are materially injuring, or are threatening to materially injure, a United States industry.

Questionnaires were presented in Seoul, Korea to Korean CWPT producers on June 9, 1983. The five Korean producers that responded to our

questionnaires account for approximately 90 percent of Korean CWPT exports to the United States during the period of investigation. They are: Union Steel Manufacturing Co., Ltd. (Union); Pusan Steel Pipe Co., Ltd. (Pusan); Hyundai Steel Pipe Co., Ltd. (Hyundai); Korea Steel Pipe Co., Ltd. (KSP) and Dongjin Steel Co., Ltd. (Dongjin).

On July 8, 1983, counsel for the Korean CWPT producers requested additional time to respond to our questionnaires. On July 11, 1983, we granted a two-week extension to July 25, 1983. On July 21, 1983, counsel for the respondents requested an additional two-week extension which we also granted. We received the responses on August 8, 1983.

Pursuant to section 733(c)(1)(A) of the Act, we postponed the preliminary determination, at the request of the petitioner, to no later than October 24, 1983 (48 FR 41055).

We received submissions from counsel for petitioner on September 12 and 29, 1983 and October 5 and 11, 1983 alleging that home market sales of CWPT had been made at less than the cost of producing the merchandise in Korea. After reviewing the submissions, we determined that there were reasonable grounds to believe or suspect that home market sales had been made at prices which were less than their costs of production pursuant to section 773(b) of the Act. We presented a cost of production questionnaire to the Korean CWPT producers on October 14, 1983. Responses were received on November 21 and 30, 1983. Since we did not receive cost of production information in time for the preliminary determination, we have investigated whether home market sales of CWPT have been made at prices which are less than their costs of production for our final determination.

On October 24, 1983, we made a preliminary determination that CWPT are being, or are likely to be sold in the United States at less than fair value (48 FR 49900). After receiving a request from counsel for the respondents, on November 28, 1983, we postponed the final determination until not later than March 12, 1984 (48 FR 54388), in accordance with section 735(a)(2)(A) of the Act.

From December 5-16, 1983, we verified the responses of the manufacturers in Korea, and from February 8-13, 1984, we verified respondents' data pertaining to sales by those Korean manufacturers that maintained sales subsidiaries in the United States.

The hearing which was originally scheduled for December 21, 1983 was held on February 14, 1984 to allow the parties an opportunity to address the issues.

#### Scope of Investigation

The merchandise covered by this investigation is CWPT, which are defined for purposes of this proceeding as: welded carbon steel pipes and tubes, of circular cross section, currently provided for in items 610.3231, 610.3232, 610.3241 and 610.3244 of the *Tariff Schedules of the United States Annotated* (1983).

We investigated sales of CWPT by Union, Pusan, Hyundai, KSP and Dongjin during the period from November 1, 1982, to April 30, 1983.

#### Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

In making our fair value comparisons, we made several changes to the figures provided by respondents because the figures did not represent an amount calculated according to our usual practices or because verification indicated that another amount should be used.

#### United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by the Korean producers, because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the packed f.o.b., c.i.f., c. & f., ex-dock duty paid price or c.i.f. duty paid and delivered price to unrelated distributors. We made deductions, where appropriate, for Korean inland freight, ocean freight, marine insurance, foreign brokerage and handling, U.S. brokerage and handling, U.S. duty, U.S. inland freight, wharfage expenses and government testing and inspection fees. With the exception of Union, we added back to the U.S. price, the amount of import duties and defense taxes rebated upon exportation of the CWPT, which had been assessed upon the importation of materials used to produce the exported CWPT as provided for under sections 772(d)(1)(B) of the Act. In the case of Dongjin, we also added the amount of countervailing duty currently being imposed on this company's CWPT imports into the United States to offset

an export subsidy, pursuant to section 772(d)(1)(D) of the Act.

#### Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market sales.

Petitioners alleged that sales of CWPT in the home market were at prices below the cost of producing CWPT. We examined production costs, which included all appropriate costs for materials, fabrication, and general expenses. Sales below the cost of production were found to be made by Korean CWPT producers. Where sales of the merchandise under investigation were made over an extended period of time and in substantial quantities, and were at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, we disregarded these sales in our analysis, in accordance with section 773(b) of the Act. All five producers had sufficient home market sales of CWPT above cost of production to use these sales in determining foreign market value.

We calculated home market prices based on c. & f., ex-factory, or f.o.b. packed prices of merchandise sold to unrelated distributors in Korea. From these prices we deducted, where appropriate, inland freight and rebates. We made circumstances of sale adjustments for differences between U.S. and home market credit costs and advertising, in accordance with section 353.15(a) of the Commerce Regulations and for indirect selling expenses in the home market used as an offset to U.S. commissions in accordance with section 353.15(c) of the Commerce Regulations. We also made an adjustment, where appropriate, for differences in the physical characteristics of the merchandise, in accordance with section 353.16 of the Commerce Regulations. We deducted home market packing cost and added the cost of U.S. packing, pursuant to 773(a)(1) of the Act.

We disallowed Union's claimed circumstance of sale adjustment for warehousing expenses. Since respondent was not able to demonstrate that the warehousing occurred after the sale of the subject merchandise, we cannot consider such warehousing to be circumstance which bears a direct relationship to the sales under consideration, as required by section 353.15 of the Commerce Regulations.

#### Verification

In accordance with section 776(a) of the Act, we verified the information used in making this determination by using standard verification procedures,

including on-site inspection of the manufacturer's operations and examination of accounting records and selected documents containing relevant information.

#### Results of Investigation

	Weighted— average margin percentage	Percentage of total sales compared
Union .....	0.24	100
Pusan .....	0.76	81.4
Hyundai .....	1.35	100
KSP .....	2.13	100
Dongjin .....	0.22	100

#### Petitioner's Comments

##### Comment 1

Posco, the Korean steel producer which supplies the coil used to produce the merchandise under investigation, maintains a two-tiered pricing system. It sells coil for eventual domestic consumption at higher prices than coil which will be processed and exported. This allows it to compete with imported coil which benefits from the receipt of duty drawback. The cost of producing the merchandise under investigation must be calculated only on the basis of the higher coil costs incurred by the respondent pipe and tube manufacturers in producing for domestic consumption. Since the Department is required by law to exclude from constructed value the amount of any taxes or duties imposed on raw materials which are rebated upon exportation of the merchandise to the U.S., it would, conversely, include any taxes or duties assessed upon imported raw materials used in producing the merchandise sold in the home market in computing the cost of producing that merchandise. It follows, therefore, that the same methodology should apply in the instant case to the different costs of raw materials under the dual pricing system maintained by POSCO.

##### DOC Position

Section 773(b) of the Act requires us in appropriate circumstances, to determine whether home market sales have been made at less than the cost of producing the merchandise in question. Section 353.7(b) of our regulations (19 CFR 353.7(b)), in interpreting and applying the Act, requires the cost of production be computed on the basis of the "costs of materials, labor, and general expenses, excluding profit incurred in producing such or similar merchandise." (emphasis added)

Similarly, section 733(c)(1) of the Act requires us, in calculating constructed

value, to use "the cost of materials \* \* \* and of fabrication or other processing of any kind employed in producing such or similar merchandise. \* \* \*" (emphasis added). The phrase "such or similar merchandise", in turn, is defined in section 771(16) of Act (in relevant part to this issue) as " \* \* \* merchandise which is the subject of the investigation and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, that merchandise."

Consequently, where there are different costs associated with producing merchandise produced for export as compared with merchandise produced for domestic sale and the merchandise is physically identical, we have used the average cost of producing that merchandise in calculating cost of production or constructed value.

Finally, we disagree with petitioner that duties are excluded from the cost of materials in a constructed value calculation. Section 773(e)(1) of the Act and section 353.6(a)(1) of the Commerce regulations exclude only certain internal taxes from the cost of materials in a constructed value context. Since the law makes no distinction between the cost of materials with respect to whether those costs include duties, petitioner's argument in this regard is inapposite to the question of whether we should segregate the costs of raw materials in calculating either constructed value or cost of production.

#### Comment 2

The Department should make certain recalculations of conversion costs for those home market products having lighter wall thicknesses which were produced in very small quantities. In order to change production from one diameter to another, a significant amount of down time occurs in the mill. The fact that smaller quantities of home market products were weight-averaged with the larger production of export products distorts the actual cost of production of these home market products.

The Department must calculate cost of production of home market products based on actual costs of producing those products. Weight averaging the costs of production for products which are different and which are also produced in different quantities is not acceptable.

#### DOC Position

Where a product sold in the home market is not identical to the product sold to the United States and there are quantifiable production cost differences to which the dissimilarity between products is attributable, we took these

cost differences into account in calculating cost of production. The product differences are not attributable to the sizes of production runs. Consequently, we did not take them into account in calculating cost of production. (See also DOC Position to Petitioner's Comment 1.)

#### Comment 3

In the calculation of cost of production for the home market products, labor and overhead costs for home market products should be allocated according to the tons per hour produced of each size of pipe and tube, rather than allocating these costs on a per ton basis.

#### DOC Position

We agree with petitioner. An allocation method which does not reflect machine productivity by size will tend to understate the cost of small diameter pipes and tubes and overstate the costs of larger diameter pipes and tubes. We asked respondents to reallocate these costs based on standard machine hours, where a method reflecting productivity had not originally been provided. KSP and Union did not have the data available to comply with this request. We reallocated their costs on a size-by-size basis using as the best available information the average experience of those companies where the data had been supplied.

#### Comment 4

Respondents sell pipes and tubes in the home market on the basis of standard weight, while cost of production is calculated on an actual weight basis. However, the actual wall thicknesses used by respondents and supplied to the Department in calculating actual weight are inaccurate. Although companies may claim to produce pipes and tubes at the absolute minimum tolerance for the standard, the experience of the U.S. domestic industry is such that consistent production at that minimum is not possible. Any attempt to produce as close to the minimum tolerance as respondents claim they do would result in a significant portion of the Korean pipes and tubes being below the minimum specification and, therefore, being rejected.

#### DOC Position

Costs of production were provided to the Department on an actual weight basis. Except for Dongjin, the weights in the home market sales responses were based on standard weight conversions. In order to compare cost of production to home market selling prices, the same units should be used to calculate these

figures. The companies supplied us with the actual wall thickness of the pipes and tubes sold in the home market on a size-by-size basis. To compute the actual weight of the pipes and tubes produced, the companies used actual wall thickness in the formula for standard weight conversions. The resulting units of weight are the "actual" units of weight used by each company to allocate production costs. Actual wall thickness reflects the gauge of the coil that had been used in the production of these pipes and tubes. The deviation from the standard gauge for pipes and tubes does vary between companies. However, these numbers were examined during verification and were found to reflect each company's actual experience.

#### Comment 5

In determining the cost of production for home market products, the Department should use the time period of last quarter of 1982 and first quarter 1983.

#### DOC Position

We agree with petitioner. During verification we found that domestic pipe and tube sales are made from inventories of finished goods. Production for domestic sales remains in inventory an average of 30 days. Consequently, we consider the appropriate production costs for comparison to home market sales prices to be those incurred in the last quarter of calendar year 1982 and the first quarter of calendar year 1983. We believe, particularly since the cost of a significant raw material input was declining in price throughout the calendar year preceding the period of investigation, that these costs more accurately reflect what it actually costs to produce the pipes and tubes sold in the home market during the period of investigation.

#### Comment 6

The Department was correct in recomputing the cost of the production of Dongjin according to U.S. Generally Accepted Accounting Principles (GAAP) because the method used by Dongjin would not have reflected the variable and fixed costs of producing the merchandise. However, petitioner objects to the low value assigned to raw materials obtained by Dongjin upon takeover of the bankrupt Ilssin company.

#### DOC Position

Dongjin was formed to purchase Ilssin Steel, a company in bankruptcy and

controlled by its creditors. Included in the business purchase were inventory (raw material and finished goods), plant and equipment. The Department accepted the stated purchase price of the business, including inventory, because it was based on an independent appraisal of replacement cost. In accounting for the purchase, the company has recorded the sum of the cash payments and the nominal value of the notes as the cost or value of the assets; the accounting was in conformity with Korean GAAP. However, the accounting is not consistent with U.S. GAAP in that it does not capture the financial aspects of the purchase. The effect of using U.S. GAAP on the cost of production submitted by the respondent on the two markets and the concerned companies' own costs. In making would be a decrease in depreciation expense but a reflection of the financial aspects of the transaction. In this case, the method of accounting did not change the basis for our fair value comparisons.

#### *Comment 7*

The Department must make an adjustment for differences between the Korean galvanizing specifications and galvanizing specifications on export products and for differences in wall thickness for products sold in the two markets, pursuant to section 353.16 of Commerce Regulations.

#### *DOC Position*

We determine that an adjustment should be made for differences in the zinc standards. Respondents claim that the amount of zinc used on home market and U.S. products is the same because they perform hot-dipped galvanizing, a process which makes it difficult to control the amount of zinc applied to lighter coated products such as that sold in the home market. Respondent's data were not submitted in a manner to support these claims. Therefore, to adjust for differences in galvanizing, we used, as best information available, the different specifications for zinc application in the two markets and the concerned companies' own costs. In making this adjustment, we took into account differences in surface areas between products.

We also adjusted for certain differences in the wall thicknesses of home market products where they differed from the wall thicknesses of the U.S. products. In Certain Steel Pipes and Tubes from Japan (48 FR 1206), the Department made adjustments for certain differences in the dimensions of the compared products. Pipes and tubes whose size were within a plus or minus

ten percent variation in dimension were compared without adjustment, while adjustments were made where greater dimensional variation occurred. In keeping with the earlier case concerning pipes and tubes from Japan, we made adjustments in those instances.

Petitioner provided us with information to support their claim that production costs varied with differences in wall thicknesses, but these data were not presented in a way that demonstrated what those differences were. Since the data provided by the Korean companies did not break out the costs for such dimensional differences as wall thicknesses, we used as the best information available the relative relationships of the last published trigger prices for pipes and tubes of different wall thickness to adjust home market prices for wall thickness differences, according to section 776(b) of the Act.

#### *Comment 8*

Respondents' cost of production information contains inconsistencies that cast doubt on its credibility. Other than those discussed elsewhere, these issues include decreasing coil costs, decreasing labor costs, higher profits in the home market, higher general selling and administrative (GSA) expenses for export sales than for home market sales, the weight averaging of costs over two time periods and unexpected cost relationships between some products.

#### *DOC Position*

The Department was aware of petitioner's concerns and addressed all these issues during on site verification in Korea. Information supplied by respondents was checked against their internal records; some data were reallocated and resubmitted based on the cost accountants' findings.

#### *Comment 9*

In those cases where no product sold in the home market is identical or similar to a product sold to the United States, the Department should use third country sales, or given no third country sales, constructed value to represent the foreign market value. Likewise, if an insignificant quantity of a product exported to the U.S. is sold in the home market, comparison to that home market product should be avoided and constructed value should be used. The Department also should make comparisons on all products sold to the United States during the period of investigation.

#### *DOC Position*

Similar products are sold in the home market for all U.S. sales covered by this investigation. Adjustments for the any differences between products sold in the two markets were made as described elsewhere in this notice. In those cases where, for certain companies, only small quantities of a given size and type of any product existed in the home market, we examined their prices individually and found them to be representative when they were compared to the prices at which similar products were sold in larger quantities by the concerned company or the prices at which the same product was sold by the other pipe and tube producers. Therefore these products were used for comparison to U.S. sales.

With the exception of the sales of tube hollows, we made comparisons on all pipes and tubes sold to the United States during the period of investigation. While we believe tube hollows to be similar to the products in the home market being used for comparison purposes, we were not able to develop enough specific information to determine what, if any adjustments, should be made before making fair value comparisons. As tube hollows represent only 4.26 percent of the pipe and tube sales made during the investigative period, we decided not to include them in our comparisons for the final determination in this case.

#### *Comment 10*

The Department must ascertain whether the duty drawback adjustment claimed by the Korean producers was properly computed. Drawback receipts from exports of products outside the investigation should not be allocated to exports of pipe and tube products under investigation. Furthermore, no drawback should be claimed for export sales utilizing domestically produced flat rolled steel.

#### *DOC Position*

During on site verification, we ascertained the amount of drawback for which the five Korean companies were in fact eligible. Where the drawback claim was not calculated properly, we made changes in those figures; in all cases the amounts allowed were limited exclusively to exports of products under investigation. We traced both import licenses for coil and export permits for investigated pipe and tube directly to the drawback application. Where there was insufficient imported coil to cover an exported article, we verified that no duty drawback claim was made.

*Comment 11*

If Korean law limits promissory notes to a maximum of 90 days, then any additional time claimed by respondent for home market credit adjustments should be disallowed.

*DOC Position*

We are unaware of any Korean law limiting promissory notes to 90 days for financing in the home market. In the Final Results of Administrative Review on Bicycle Tires and Tubes from Korea (48 FR 26494 (1983)), we found that respondent companies had, in fact, received promissory notes for no longer than 90 days. We did not, however, find a law limiting promissory notes to 90 days for home market financing.

Respondent claimed credit expenses for home market sales on the basis of the time period between the shipment of the merchandise under investigation and the time the promissory note was paid. We verified that the respondent's information was accurate. We calculated credit expense by applying the appropriate short-term interest rate to the days outstanding between the date of shipment to the first unrelated purchaser and the date of payment by that purchaser. This credit expense is allowable as a circumstance of sale adjustment pursuant to 19 CFR 353.15(a) of our regulations.

*Comment 12*

The additional rebate granted by Pusan after the period of investigation and applied retroactively to the home market sales under investigation is not allowable as either a rebate or as a circumstance of sale adjustment.

*DOC Position*

Due to the obvious implications for administration of the antidumping law, in our sales comparisons, we are reluctant to reflect changes that are made subsequent to the initiation of an antidumping investigation, particularly when these changes would retroactively affect the sales prices of merchandise sold during the investigative period. The burden must be placed on respondent to demonstrate clearly that these changes are normal in the trade. While the pipe and tube producers generally offer rebates on home market sales of the investigated products, there is no evidence that retroactive rebates are a normal business practice. Therefore, we did not make the requested adjustment.

*Comment 13*

Due to Union's inability to provide cost of production information on a size-by-size basis, the Department should use constructed value as the foreign

market value for comparison with U.S. purchase price.

*DOC Position*

In the investigation of lightweight polyester filament fabrics from Korea (48 FR 49679 (1983)), we requested and the respondent companies provided individual costs of production for each fabric under investigation. At issue in that case was whether respondents' methods for allocating costs were reasonable. Ultimately, the Department accepted respondents' methods as being the most reasonable methods available.

By contrast, in this case, Union did not provide its cost of production on a size-by-size basis as requested by the Department. Therefore, we used as the best available information data provided by three companies being investigated other than Union, to allocate Union's labor and factory overhead costs on a size-by-size basis. We calculated the average relative difference between sizes from information provided by the three other companies. We then allocated Union's costs using the relative cost difference between sizes.

*Respondent's Comments**Comment 1*

Respondents used weighted-average costs of hot-rolled coil pursuant to the "consistent policy directives" of the Department of Commerce; i.e., that weighted average costs are to be used rather than separate costs of production for domestic and export goods where domestic and export cost differences are not directly attributable to differences in physical characteristics of the merchandise.

In its policy papers, the Department interprets the cost of production and constructed value sections of the law as referring to "generic" merchandise, not specific items in every case, for two reasons: (1) The statute would be distorted if producers could be found to be selling below cost where the average cost of producing goods of the generic type is less than the price of the home market product and (2) the Department's policy paper notes, if the Department utilized separate costs for domestic and export, it would be contrary to the interpretation provided in section 353.16 of Department Regulations concerning differences in physical characteristics of similar merchandise. The petitioner has not offered sufficient legal or policy justifications to overturn the Department's rulings.

*DOC Position*

See DOC Position to Petitioner's Comment 1.

*Comment 2*

Dongjin's treatment of the transaction in its accounting records was in conformity with Generally Accepted Accounting Principles (GAAP) in Korea, and that accounting treatment required by Korean law. The legislative history of the 1973 Trade Reform Act does not deal with the situation where foreign tax law mandates equal accounting treatment throughout all sectors of the economy for a certain occurrence. The Department would be violating "its own fundamental precept" by restructuring Dongjin's costs in accordance with GAAP.

*Position*

See DOC Position to Petitioner's Comment 2.

*Comment 3*

With respect to the transaction described above, the Department should not use the discount rate of 10 percent, but rather should use 5.78 percent, the interest rate POSCO provisionally negotiated with the Bank in an "arms-length" transaction. The 10 percent rate governs only short-term commercial loans by banks.

*DOC Position*

We did not use the 5.78 percent provisional interest rate because it was never adopted or applied. The bank instead insisted that all payments be considered principle. The rate used by the Department to record the financial aspect of this transaction is one known from a review of the company's books and records to be incurred by Dongjin on other than short-term financing.

*Suspension of Liquidation*

In accordance with section 733(d) of the Act, we instructed the U.S. Customs Service to suspend liquidation of all entries of CWPT from Korea, which were entered, or withdrawn from warehouse for consumption on or after October 28, 1983, with the exception of CWPT produced by Dongjin and Hyundai (48 FR 49900 (1983)).

As of the date of publication of this notice in the Federal Register, the liquidation of all entries, or withdrawals from warehouse, for consumption of this merchandise will be suspended for Hyundai, and will continue to be suspended for Pusan and KSP. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin

amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The companies excluded from this determination are identified by an asterisk (\*) in the chart below. The weighted-average margins are as follows:

Manufacturers/producers/exporters	Weighted-average margins (percent)
Union Steel Mfg. Co., Ltd.	*0.24
Pusan Steel Pipe Co., Ltd.	0.76
Hyundai Steel Pipe Co., Ltd.	1.35
Korea Steel Pipe Co., Ltd.	2.13
Dongjin Steel Co., Ltd.	*0.22
All Other Manufacturers/Producers/Exporters	1.04

#### ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential 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 Import Administration.

The ITC will make its determination on whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury does not exist, this proceeding will be terminated and all 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 an antidumping order, directing Customs officers to assess an antidumping duty on CWPT from Korea entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: March 12, 1984.

**William T. Archey,**  
Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-7143 Filed 3-15-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-563-008]

#### Certain Welded Carbon Steel Pipes and Tubes From Taiwan; Final Determination of Sales at Less Than Fair Value

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** We have determined that certain welded carbon steel pipes and tubes from Taiwan are being sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threatening to materially injure, a United States industry. We have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after October 28, 1983, in accordance with our preliminary determination, and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin, as described in the "Suspension of Liquidation" section of this notice. Those firms which are subject to the suspension of liquidation are indicated in the "Suspension of liquidation" section of this notice.

**EFFECTIVE DATE:** March 16, 1984.

**FOR FURTHER INFORMATION CONTACT:** Nicholas C. Tolerico, Agreements Compliance Division, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; Telephone: (202) 377-4036.

#### SUPPLEMENTARY INFORMATION:

##### Final Determination

We have determined that certain welded carbon steel pipes and tubes (CWPT) from Taiwan 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) (19 U.S.C. 1673). The dumping margins for the firms investigated are indicated in the "Suspension of Liquidation" section of this notice.

##### Case History

On April 21, 1983, we received a petition filed by counsel for the Committee on Pipe and Tube Imports (CPTI). The CPTI represents the following domestic manufacturers of CWPT: Allied Tube and Conduit Corp., American Tube Co., Inc., Bull Moose

Tube Co., Copperweld Tubing Group, Kaiser Steel Corp., Merchants Metals, Inc., Pittsburgh-International, Southwestern Pipe Inc., and Western Tube and Conduit. In accordance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioner alleged that CWPT from Taiwan are being, or are likely to be sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on May 11, 1983 (48 FR 22179). On June 6, 1983, the ITC preliminarily determined that there is a reasonable indication that imports of CWPT are materially injuring a United States industry.

The petitioner alleged that at least 16 Taiwanese companies produce CWPT for export to the United States. However, we identified three producers and exporters that account for approximately 95 percent of the exports to the United States. Questionnaires were presented in Taiwan to these producers and exporters on June 7, 1983. On July 5, 1983, we received a letter from counsel for the Taiwan CWPT producers and exporters requesting additional time in which to respond because of the lack of computer capability and the complexity of the responses. We granted an extension and, on July 13, 1983, we received a response from Kao Hsing Chang Iron & Steel Corporation (KHC). On July 23, 1983, we received responses from Tai Feng Industries, Inc. (TFI) and Yieh Hsing Enterprise Co., Ltd. (YH).

The preliminary determination in this investigation was scheduled for September 28, 1983. Pursuant to section 733(c)(1)(A) of the Act, we subsequently postponed the preliminary determination, at the request of the petitioner, to no later than October 24, 1983 (48 FR 41055).

On October 24, 1983, we made a preliminary determination that CWPT from Taiwan are being, or are likely to be sold in the United States at less than fair value (48 FR 49902). Our preliminary determination was based on the best information available, in accordance with Section 776(b) of the Act. This section of the Act states that whenever a party refuses or is unable to produce information requested in a timely manner and in the form required, the

Commerce Department may use the best information otherwise available for determining if sales have been made at less than fair value. We did so with respect to all respondents, for the following reasons. We presented the questionnaires to respondents on June 7, 1983. The responses were due no later than July 7, 1983. Subsequently, at the request of the respondents, we granted an extension to July 13, 1983. On August 25, 1983, we cautioned counsel for the respondents that we might not be able to use the information contained in the responses for the preliminary determination if they were not amended to include data, by size, of pipes and tubes sold in the home market and in the United States. We considered size data essential because the unit prices of pipes and tubes vary by size. On September 2, 1983, we gave written notices to counsel for the respondents that the data requested on August 25, 1983, would have to be submitted no later than September 9, 1983, in order to be used for the September 28, 1983, preliminary determination. On September 8, 1983, we notified counsel for the respondents that the preliminary determination had been postponed until no later than October 24, 1983, and that the requested information has to be submitted no later than September 26, 1983, in order to be used for the preliminary determination. On September 22 and September 29, 1983, counsel for the respondents submitted responses to the Department's request for information. However, information by size on home market and United States sales of pipes and tubes were not included.

On September 29, 1983, we gave written notice to counsel for the respondents that the information requested would have to be submitted by October 14, 1983, in order to be verified for use in our final determination and that absent a timely and adequate response, we might base our final determination on the best information otherwise available.

Responses in acceptable form were received from TFI and YH on October 12, 1983. On November 8, 1983, KHC requested postponement of our final determination and an extension of time to supply the Department with an acceptable response to our questionnaire. On November 29, 1983, KHC filed an acceptable response to our questionnaire. On November 30, 1983, pursuant to section 735(c)(2)(A) of the Act, we postponed our final determination to no later than March 12, 1984 (48 FR 54526).

We held a hearing on February 14, 1984, to allow the parties an opportunity to address the issues.

#### Scope of Investigation

The merchandise covered by this investigation is certain welded carbon steel pipes and tubes, which are defined for purposes of this proceeding as: welded carbon steel pipes and tubes, of circular cross section, with walls not thinner than 0.065 inches, and 0.375 inches or more but not over 4.5 inches in outside diameter, provided for in items 610.3231, 610.3232, 610.3241 and 610.3244 of the *Tariff Schedules of the United States Annotated* (TSUSA).

When this investigation was initiated, the scope of the investigation also included welded carbon steel pipes and tubes of rectangular (including square) cross section, provided for in TSUSA items 610.3955 and 610.4975. However, in its preliminary determination, the ITC found that there was no reasonable indication that imports of welded rectangular pipes and tubes were materially injuring, or were threatening to materially injure, a United States industry. Accordingly, we terminated our investigation on these products.

Since the three respondents produced and exported over 95 percent of the CWPT exported to the United States during the period of this investigation, we limited our investigation to them. We investigated sales of CWPT by these respondents during the period from November 1, 1982, to April 30, 1983.

#### Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair market value.

#### United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by KHC, TF, and YH because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the packed f.o.b., c.& f., or c.i.f. price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling charges, bank charges, ocean freight, marine insurance and stamp tax. We added back to the U.S. price the amount of import duties rebated or not collected which had been assessed upon the importation of the raw materials used in the production of CWPT, in accordance with section 772(d)(1)(B) of the Act.

#### Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market sales.

For two companies, YH and TF, we used the best information available, in accordance with section 776(b) of the Act, because verification of these companies' responses to our questionnaire revealed discrepancies which rendered the home market sales prices unreliable. The "Supplemental Information" section of this notice contains a full discussion of the reasons for using the best information available. The best information available for purposes of this determination is the information contained in the petition. This information consists of average Taiwanese home market prices for steel pipes and tubes. From these prices we deducted, where appropriate, figures for inland freight and stamp, education and business taxes which we were able to verify for YH. We also made an adjustment for YH's verified indirect selling expenses in the home market used as an offset to U.S. commissions, in accordance with § 353.15(c) of the Commerce Regulations. The average Taiwanese home market prices which we are using as a basis for YH's and TF's foreign market values do not include packing cost. We added the cost of U.S. packing pursuant to Section 773(a)(1) of the Act.

We used home market prices for KHC as a basis for foreign market value. From those prices we deducted, where appropriate, inland freight and stamp, education and business taxes. We made an adjustment, where appropriate, for commissions directly related to sales to unrelated parties, and for differences between U.S. and home market credit costs, in accordance with § 353.15(a) of the Commerce Regulations. We also deducted home market packing cost and added the cost of U.S. packing, pursuant to 773(a)(1) of the Act.

#### Supplemental Information

In performing the on-site verification in accordance with section 776(a) of the Act, our investigators found discrepancies in the reports of home market sales in the responses of two firms, YH and TFI. Those discrepancies, in quantity of sales and in product description, were of sufficient magnitude to disqualify the use of the home market data in our calculations of dumping margins. In the case of YH, we found that the quantities reported were incorrect because of off-specification pipe being shown as standard weight in a significant number of cases. We were,

however, able to verify YH's inland freight, and stamp, education and business taxes, and indirect selling expenses because the freight expenses are based on correct quantities and the stamp, education and business taxes and the indirect selling expenses were calculated as percentages of the verified value of the merchandise sold in the home market. In the case of TFI, we were unable to relate the reported sales with the proofs of delivery of the pipe. We were consequently unable to verify the total quantity of sales or any of the claimed adjustments to the home market prices.

#### Verification

In accordance with section 776(a) of the Act, we verified the respondent's data by using standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and selected documents containing relevant information.

#### Petitioner's Comments

##### Comment 1

The Department cannot use the home market sales prices submitted in the questionnaire responses by YH and TF because they were unverifiable. The Department should use the information supplied by the American Institute in Taiwan as the best information available. Furthermore, since the Department was unable to verify the quantity of home market sales for either YH or TFI, it must deny all claimed adjustments to home market prices because they are quantity-based, and, therefore, unverified.

##### DOC Position

We agree, in part for the reasons set forth in the "Supplemental Information" section of this notice.

##### Comment 2

The Taiwanese manufacturers should not be given adjustments to U.S. sales prices for duty rebates. The Department has not received official documents from the Taiwanese Customs authorities issued to the Taiwanese companies which are verifiable and establish that import duties have either been paid in cash by the importers or debited in an account for the imports. Furthermore, the Department should not grant the claimed rebates since they have not, as yet, been paid.

##### DOC Position

We have verified in several previous investigations that the Taiwanese duty rebate system operated in a manner which permitted adjustment of the U.S.

prices pursuant to section 772(d)(1)(B) of the Act. See, e.g., *Carbon Steel Plate from Taiwan*, Notice of Determination of Sales at LTFV, (44 FR 9639 (1979)); *Motorcycle Batteries from Taiwan*, Final Determination of Sales at LTFV, (47 FR 9264 (1982)); *Bicycle Tires and Tubes from Taiwan*, Final Determination of Sales at Not LTFV, (48 FR 19437 (1983)); *Bicycles from Taiwan*, Final Determination of Sales at LTFV, (48 FR 31688 (1983)); *Color televisions from Taiwan*, Final Determination of Sales at LTFV, (49 FR 48490 (1984)).

While we did verify that import duties were, in fact, imposed upon imports or debited in an account for the importers, our verification initially raised some questions as to the operation of the Taiwanese duty rebate system with respect to imported steel coil, because the Taiwanese Customs authorities temporarily suspended the granting of duty rebates to all Taiwanese pipe and tube manufacturers. Subsequent to our verification, Taiwanese Customs confirmed in writing that they had established that Taiwanese pipe and tube manufacturers were entitled to duty rebates and would be receiving those rebates or credits in the near future. The documents provided by Taiwanese Customs showing approval of duty rebates correspond to the documents gathered by the Department during its on-site verification of the pipe and tube companies' records.

##### Comment 3

The receipt of checks from operating customer companies which are subsequently dishonored by a bank is not sufficient to write off those accounts receivable as a bad debt. Therefore, the adjustment to home market sales prices claimed by KHC for bad debt expenses must be denied.

##### DOC Position

We agree. Without additional information demonstrating that the payments in question will remain uncollected, a circumstance of sale adjustment is not allowable simply because a check is returned for lack of sufficient funds and the company registers such failures to pay in its accounting records.

#### Respondents' Comments

##### Comment 1

The claimed duty rebate adjustment is lawful and proper.

##### DOC Position

We agree. See the discussion at petitioner's comment 2.

##### Comment 2

The Department is required to use the resubmitted home market sales data of YH that was submitted in corrected form after the verification.

##### DOC Position

We disagree. During the course of our verification, we discovered YH was selling pipe and tube of nonstandard specification. However, in its questionnaire response, YH reported standard weights. Had the Department not uncovered this discrepancy, a serious understatement of the weight of the pipe sold and the resulting overstatement of the sales price and adjustments to sales price in the home market would have occurred. After having been discovered in these incorrect statements, the company submitted amendments to its response to our questionnaire and requested a reverification. The purpose of verification is to confirm the information submitted by a respondent. If, during the course of verification we discover a systematic misstatement of the facts which would materially alter our conclusions, we are fully justified in using petitioner's data in making our determination.

##### Comment 3

The bad debt adjustment claimed by respondents is lawful and proper.

##### DOC Position

We disagree. See the discussion at petitioner's comment 3.

##### Comment 4

Home market sales prices should be adjusted regarding the stamp tax, education surtax, and business tax.

##### DOC Position

We agree, in part, and have adjusted the home market selling price for YH and KHC, for whom we verified this information.

##### Comment 5

The preliminary margin was an unlawful penalty.

##### DOC Position

We disagree. As stated in our notice of preliminary determination of sales at less than fair value and the "Case History" section of this notice, respondents were given numerous opportunities over many months to submit acceptable responses. When the information was finally furnished, it was too late to be included in the preliminary determination. This action left us no choice but to use the best information

available, which was the petitioner's data.

#### Comment 6

The present investigation was not lawfully instituted.

#### DOC Position

We disagree. As outlined in our initiation memorandum and notice of initiation (48 FR. 22179), the petition and subsequent information filed by the petitioner on May 4, 1983, satisfied our rules and regulations covering initiation of an antidumping investigation.

#### Comment 7

Respondents should have a further opportunity to comment because of the unrealistic preliminary determination and the rescheduling of the verification trip.

#### DOC Position

We disagree. Our actions which seem unfair to respondents resulted from the respondents' own conduct. We properly notified respondents of the last day we could take into account information in making our preliminary determination. Further, in most respects this was a simple price to price antidumping investigation with no unusual claims for adjustments. A change in the date of verification should not inconvenience a respondent who submits correct information.

Our discovery of certain gross discrepancies in the responses of YH and TFI a month earlier would not have affected the results of this investigation with respect to those companies. On October 12, 1983, YH and TFI did submit adequate questionnaire responses. However, at issue is not the adequacy of these submissions but rather the extent of their accuracy. YH's and TFI's home market sales information was sufficiently inaccurate to make its use impossible in our final determination.

#### Comment 8

Determination of home market prices for TFI sales must be based on information supplied by the respondents.

#### DOC Position

We disagree. During the course of the verification, we discovered that TFI had reported incorrect quantities of pipe and tube sold in its home market. After attempting to reconcile the response with company records, we were forced to end our attempt to verify TFI's response. Had we not uncovered this misstatement, serious distortion of home market prices would have occurred.

The purpose of verification is to confirm the information submitted by respondents. If, during the course of verification, we discover a systematic misstatement of the facts which would materially alter our conclusions, we are fully justified in using petitioner's data in making our calculations.

#### Comment 9

Foreign market value should be based on verified-price lists and discount worksheets for TFI.

#### DOC Position

We disagree. We have no way to know how much tonnage was sold at the list prices, nor how much discount individual customers received. Petitioner's data with appropriate adjustments is the best information available.

#### Comment 10

The Department should use the weighted average of the other two respondents or treat TFI as "all other manufacturers, producers, exporters."

#### DOC Position

We disagree. We investigated TFI. It alone controlled the timing and quality of information to be submitted for our use in determining whether sales had occurred at less than fair value.

#### Comment 11

The Department should adjust TFI's home market sales for inland freight, interest, and entertainment expenses.

#### DOC Position

We disagree. The claimed adjustments were allocated according to quantity, which we were unable to verify.

#### Comment 12

The Department should use U.S. sales prices supplied by TFI and should adjust them for rebated duties, stamp and business taxes, ocean freight, export charges, and other charges.

#### DOC Positions

We agree. We verified U.S. sales prices and adjustments and have used them in our calculations.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, at the time of our preliminary determination we directed the United States Customs Service to suspend liquidation of all entries of certain welded carbon steel pipes and tubes from Taiwan. This suspension of liquidation applied to all merchandise entered, or withdrawn from warehouse,

for consumption on or after October 31, 1983. As of the publication of this notice, the Customs Service shall require a cash deposit equal to the estimated amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturers/producers/exporters	Weighted-average margins (percent)
Kao Hsing Chang.....	9.7
Tai Feng.....	43.7
Yieh Hsing.....	38.5
All others.....	9.7

#### ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential 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 Import Administration.

The ITC will make its determination whether these imports are materially injuring, or are threatening to materially injure, a United States industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all 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 an antidumping order, directing Customs offices to assess an antidumping duty or CWPT from Taiwan entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Dated: March 12, 1984.

William T. Archey,  
Acting Assistant Secretary for Trade Administration.

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