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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-814]

Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from Tube Forgings of America, Inc. (TFA), Mills Iron Works, Inc. (Mills), and Hackney Ladish, Inc. (Hackney), (collectively, the petitioners), the U.S. Department of Commerce (the Department) is initiating an anti-circumvention inquiry. In this inquiry, the Department will determine whether certain imports of carbon steel butt-weld pipe fittings (butt-weld pipe fittings) into the United States, exported from Malaysia, which were completed in Malaysia using finished or unfinished butt-weld pipe fittings sourced from the People's Republic of China (PRC), are circumventing the antidumping duty order on butt-weld pipe fittings from the PRC.

DATES: APPLICABLE [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Julia Hancock at (202) 482-1394, AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

On July 6, 1992, the Department issued the *Order* on imports of butt-weld pipe fittings from the PRC.<sup>1</sup> Additionally, on March 31, 1994, the Department issued the affirmative final

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<sup>1</sup> See *Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value; Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*, 57 FR 29702 (July 6, 1992)

determination finding that imports into the United States of pipe fittings that were finished in Thailand from unfinished pipe fittings produced in the PRC constituted circumvention of the *Order* within the meaning of section 781(b) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> The Department applied this finding of circumvention to all imports of butt-weld pipe fittings from Thailand, regardless of manufacturer/producer, unless accompanied by a certification stating that such pipe fittings have not been produced from unfinished PRC pipe fittings.<sup>3</sup>

On May 22, 2017, the petitioners, pursuant to section 781(b) of the Act and 19 CFR 351.225(h), submitted a properly filed request for the Department to initiate an anti-circumvention inquiry to determine whether certain imports of butt-weld pipe fittings which were completed in Malaysia using finished or unfinished butt-weld pipe fittings sourced from the PRC are circumventing the *Order*.<sup>4</sup> Specifically, the petitioners allege that certain imports of butt-weld pipe fittings sourced from unfinished or finished butt-weld pipe fittings from the PRC have undergone minor finishing processes, or were simply marked with “Malaysia” as the country of origin, in Malaysia, before export to the United States. The petitioners request that the Department treat all butt-weld pipe fittings imported from Malaysia, regardless of producer or exporter, as subject merchandise under the scope of the *Order* and impose cash deposit requirements for estimated antidumping duties on all imports of butt-weld pipe fittings from Malaysia.<sup>5</sup> In the alternative to an anti-circumvention inquiry, the petitioners requested that we initiate and issue a preliminary scope ruling that certain imports of butt-weld pipe fittings which

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(*Order*).

<sup>2</sup> See *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China; Affirmative Final Determination of Circumvention of Antidumping Duty Order*, 59 FR 15155 (March 31, 1994) (*Final Determination of Circumvention 1994*).

<sup>3</sup> *Id.*, at 15158, 15159.

<sup>4</sup> See Letter from the petitioners to the Secretary of Commerce, “Carbon Steel Butt-Weld Pipe Fittings from the People’s Republic of China; Request for Circumvention Ruling to Section 781(b) of the Tariff Act of 1930,” dated May 22, 2017 (the petitioners’ Request).

<sup>5</sup> See the petitioners’ Request at 26-30.

were completed in Malaysia using finished or unfinished butt-weld pipe fittings sourced from the PRC are covered by the scope of the *Order*, pursuant to 19 CFR 351.225(k).<sup>6</sup>

On May 26, 2017, we received comments objecting to the allegations made by the petitioners from Pantech Steel Industries SDN PHD (Pantech).<sup>7</sup> Also, on June 14, 2017, we received comments objecting to the allegations made by the petitioners from Solidbend Fittings & Flanges Sdn. Bhd. (Solidbend).<sup>8</sup> On June 22, 2017, we received rebuttal comments from the petitioners regarding Solidbend's comments.<sup>9</sup> Additionally, on July 21, 2017, we received comments objecting to the allegations made by the petitioners from Arah Dagang Sdn Bhd (Arah Dagang).<sup>10</sup>

On August 8, 2017, we requested a list of all known producers and exporters of butt-weld pipe fittings in Malaysia from the petitioners, and on August 10, 2017, the petitioners submitted their response.<sup>11</sup> Additionally, on August 14, 2017, and August 18, 2017, we received additional comments from Solidbend and Pantech, respectively, opposing the initiation of an anti-circumvention inquiry based on the petitioners' circumvention allegation.<sup>12, 13</sup>

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<sup>6</sup> *Id.*, at 28-9.

<sup>7</sup> See Letter from Pantech to the Secretary of Commerce, "Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Response to Request for Anti-Circumvention Inquiry," dated May 26, 2017).

<sup>8</sup> See Letter from Solidbend, "Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China Anti-Circumvention Inquiry (Third-Country Assembly Malaysia)," dated June 14, 2017.

<sup>9</sup> See Letter from the petitioners to the Secretary of Commerce, "Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China; Anti-Circumvention Inquiry (Third Country Assembly, Malaysia); Petitioners' Response to Objections of Solidbend Fittings & Flanges," dated June 22, 2017 (the petitioners' Objection Comments).

<sup>10</sup> See Letter from Arah Dagang to the Secretary of Commerce, "Carbon Steel Butt-Weld Pipe Fittings from China: Response to Request for Anti-Circumvention Inquiry," dated July 21, 2017.

<sup>11</sup> See Letter from Paul Walker, Program Manager, to Tube Forgings of America, Mills Iron Works, Inc., and Hackney Ladish, Inc, "Request for Producers and Exporters from Malaysia: Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China," dated August 8, 2017; and Letter from the petitioners to Secretary of Commerce, "Carbon Steel Butt-Weld Pipe Fittings from The People's Republic of China; A-570-814; Anticircumvention Inquiry (Third Country Assembly, Malaysia); Petitioners' Response to the Department's August 8, 2017 Letter," dated August 10, 2017.

<sup>12</sup> See Letter from Solidbend, "Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China Anti-Circumvention Inquiry (Third-Country Assembly Malaysia)," dated August 14, 2017; and Letter from Pantech to the Secretary of Commerce, "Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Response to Petitioners' August 10, 2017, Letter Identify," dated August 16, 2017.

## Scope of the Order

The merchandise covered by the order consists of certain carbon steel butt-weld pipe fittings, having an inside diameter of less than 14 inches, imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (*e.g.*, threaded, grooved, or bolted fittings).<sup>14</sup> Carbon steel butt-weld pipe fittings are currently classified under subheading 7307.93.30 of the HTSUS. The HTSUS subheading is provided for convenience and customs purposes. The written product description remains dispositive.

## Determination To Not Initiate a Scope Proceeding

As noted above, the petitioners have requested the Department initiate either a scope proceeding to clarify whether the scope of the *Order* on butt-weld pipe fittings includes the merchandise in question pursuant to 19 CFR 351.225(k) or an anti-circumvention proceeding pursuant to section 781(b) of the Act and 19 CFR 351.225(h). In the instant case, although the petitioners have provided substantial record evidence which may support the initiation of either type of inquiry, the Department has concluded that the issues raised by the parties are better addressed in the context of an anti-circumvention proceeding pursuant to section 781(b) of the Act and 19 CFR 351.225(h).<sup>15</sup> As a result of this determination, the Department will not initiate a scope proceeding pursuant to 19 CFR 351.225(k) at this time.

## Merchandise Subject to the Anti-Circumvention Inquiry

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<sup>13</sup> After consideration of the comments filed by interested parties in opposition to the initiation of the petitioners' circumvention allegation, the Department will address the arguments and factual information presented in the comments during the course of this anti-circumvention inquiry.

<sup>14</sup> *See Order.*

<sup>15</sup> As such, the remainder of this notice will focus on the statutory criteria for the initiation of an anti-circumvention inquiry, as defined in section 781(b) of the Act. See also the Analysis section of this notice, below, for the full discussion of the Department's determination to initiate an anti-circumvention inquiry pursuant to section 781(b) of the Act and 19 CFR 351.225(h).

This anti-circumvention inquiry covers imports of butt-weld pipe fittings sourced from unfinished or finished butt-weld pipe fittings from the PRC that have undergone minor finishing processes, or were simply marked with “Malaysia” as the country of origin, in Malaysia, before export to the United States.

#### Initiation of Anti-Circumvention Inquiry

Section 781(b)(1) of the Act provides that the Department may find circumvention of an antidumping or countervailing duty order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting an anti-circumvention inquiry, under section 781(b)(1) of the Act, the Department will rely on the following criteria: (A) the merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping or countervailing duty order or finding; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or merchandise which is produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the antidumping or countervailing duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the administering authority determines that action is appropriate to prevent evasion of such order or finding. As discussed below, the petitioners provided evidence with respect to these criteria.

##### A. Merchandise of the Same Class or Kind

The petitioners state that the butt-weld pipe fittings exported to the United States from Malaysia are the same class or kind as the butt-weld pipe fittings covered by the *Order*.<sup>16</sup> The petitioners assert that merchandise subject to the *Order* is comprised of butt-weld pipe fittings “imported in either finished or unfinished form.”<sup>17</sup> According to the petitioners, the language of the scope establishes that, once the fitting has been formed, either in finished or unfinished form, regardless of any finishing process occurring in Malaysia, such merchandise is subject to the *Order*.<sup>18</sup> Additionally, the petitioners also provided affidavits, as well as an email from a Malaysian manufacturer, Globefit Manufacturing (Globefit), indicating that Malaysian exporters and producers are exporting merchandise identical to that which is subject to the *Order*.<sup>19</sup> Since the merchandise being imported into the United States from Malaysia is physically identical to the subject merchandise from the PRC, pursuant to section 781(b)(1)(A) of the Act, the petitioners state that the butt-weld pipe fittings are of the same class or kind of merchandise as the butt-weld pipe fittings subject to the *Order*.

#### B. Completion of Merchandise in a Foreign Country

Section 781(b)(1)(B)(ii) of the Act requires the Department to determine whether, “before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is produced in the foreign country with respect to which such order or finding applies.” The petitioners presented evidence demonstrating how butt-weld pipe fittings are completed in Malaysia through finishing or simply marking with “Malaysia” as the country-of-origin, from finished or unfinished butt-weld pipe

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<sup>16</sup> See the petitioners’ Request at 9-10.

<sup>17</sup> *Id.*, at 9.

<sup>18</sup> *Id.*, at 10; *Order*.

<sup>19</sup> *Id.*, at 10 and Attachments 1 and 2.

fittings manufactured and imported from the PRC.<sup>20</sup> Additionally, the petitioners provided evidence that there is very little production of butt-weld pipe fittings in Malaysia and that most Malaysian producers have converted their manufacturing operations to trading warehouses focusing on exports to the United States by sourcing butt-weld pipe fittings from the PRC, Taiwan, and South Korea.<sup>21</sup> The petitioners submitted evidence that the capacity to produce butt-weld pipe fittings significantly decreased and, thus, the few remaining Malaysian manufacturers must use imported finished or unfinished butt-weld pipe fittings from the PRC, which then undergo only minor finishing or are simply stamped with “Malaysia” as the country-of-origin.<sup>22</sup> As support, the petitioners provided an affidavit and email documenting that a Malaysian manufacturer, Globefit, had arrangements to purchase unfinished fittings with a PRC butt-weld pipe fitting manufacturer and finish the fittings, which would be stamped with “Malaysia” as the country-of-origin along with a certificate, for export to the United States with the purpose of evading the *Order*.<sup>23</sup>

### C. Minor or Insignificant Process

Under section 781(b)(2) of the Act, the Department is required to consider five factors to determine whether the process of assembly or completion is minor or insignificant. The petitioners allege that the production of butt-weld pipe fittings in the PRC, which subsequently undergoes only minor finishing processes, or are simply marked with “Malaysia” as the country-of-origin, comprises most the value associated with the merchandise imported from Malaysia

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<sup>20</sup> *Id.*, at 11, 12, and 15 and Attachments 1 and 2.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

into the United States, and that the processing occurring in Malaysia adds relatively little to the overall value of the finished butt-weld pipe fittings.<sup>24</sup>

1) Level of Investment

The petitioners do not have access to the actual level of investment for manufacturing butt-weld pipe fittings in Malaysia.<sup>25</sup> Accordingly, the petitioners provided an affidavit indicating that Malaysian manufacturers of butt-weld pipe fittings have switched their operations from manufacturing to import/export trading and, thus, the level of investment to manufacture butt-weld pipe fittings in Malaysia declined and is minimal.<sup>26</sup> In support of their argument that the level of investment in Malaysia is minimal, the petitioners provided an affidavit from TFA asserting that the cost in equipment to cut, heat, and form seamless pipe into rough fittings is substantially higher than the cost in equipment necessary to only perform the finishing steps for the finished butt-weld pipe fittings, which comprises approximately less than twenty percent of the total cost.<sup>27</sup> Moreover, the petitioners submitted evidence that the level of investment to merely stamp the butt-weld pipe fittings with “Malaysia” as the country-of-origin accounts for relatively little of the total cost of equipment needed to complete the full integrated production of a finished butt-weld pipe fitting.<sup>28</sup> While the investment costs of a U.S. producer are not identical to those of a PRC or Malaysian producer, the petitioners argue, based on their own experience, that the investment costs of equipment for each production step would be the same relative to the total equipment cost regardless of the location of the producer.<sup>29</sup>

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<sup>24</sup> *Id.*, at 17.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*, at 17 and Attachment 2.

<sup>27</sup> *Id.*, at 18 and Attachment 3.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*



## 2) Level of Research and Development

The petitioners assert that butt-weld pipe fittings are a technologically mature product and that there has been no significant advancement in the product or its production for decades.<sup>30</sup> As such, the level of research and development to produce butt-weld pipe fittings is minimal to non-existent.<sup>31</sup>

## 3) Nature of Production Process in Malaysia

According to the petitioners, the additional processing undertaken by Malaysian producers of butt-weld pipe fittings is minimal.<sup>32</sup> Regardless of whether butt-weld pipe fittings exported from the PRC to Malaysia are in finished or unfinished forms, the production steps performed are minor, according to the petitioners.<sup>33</sup> Conversely, the manufacturing process to produce butt-weld pipe fittings in the PRC from the beginning of the production process is much more complex. Specifically, the manufacturing process for butt-weld pipe fittings consists of three production phases: (1) the seamless carbon steel pipe is transformed into a rough shape of an elbow, tee, *etc.*, through a cold- or hot-forming process that produces the rough pipe fitting; (2) then, the rough pipe fitting goes through a reforming or sizing process to ensure that the fitting will match the pipe to which it is to be welded; and (3) the final stage that produces the finished butt-weld pipe fitting includes shot blasting or cleaning, machine beveling of the fitting, boring and tapering its interior, grinding, die stamping, and painting.<sup>34</sup> In contrast, the processing of unfinished forms into a finished butt-weld pipe fitting, which is performed in Malaysia, only involves the third-step of the production process for butt-weld pipe fittings.<sup>35</sup> As

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<sup>30</sup> *Id.*, at 19 (citing to *Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand*, Inv. Nos. 731-TA-308-310 and 520-521, USITC Pub. 4628 (August 2016) (*Fourth Sunset Review*) at I-3).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*, at 19.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*, at 16 (citing to *Fourth Sunset Review* at I-3 and I-6).

<sup>35</sup> *Id.*, at 19 and Attachment 2.

a consequence, because the production process is so minimal in Malaysia and unfinished fittings are of the same class or kind of merchandise as the finished butt-weld pipe fittings, the petitioners maintain that the finished butt-weld pipe fittings produced in Malaysia from finished or unfinished butt-weld pipe fittings exported from the PRC are subject to the *Order*.

#### 4) Extent of Production in Malaysia

The petitioners argue that production facilities in Malaysia are more limited compared to facilities in the PRC.<sup>36</sup> This is because Malaysian manufacturers primarily have shifted their business model from manufacturing to trading and, thus, the production capacity in Malaysia is significantly smaller than it may have been in prior years, as identified in the petitioners' submitted affidavit.<sup>37</sup> Moreover, the petitioners cite information indicating that the production facilities in Malaysia for butt-weld pipe fittings are limited to finishing operations, and, in some instances, limited to only stamping butt-weld pipe fittings with a "Malaysia" country-of-origin mark.<sup>38</sup>

#### 5) Value of Processing in Malaysia

The petitioners assert that the production of butt-weld pipe fittings in the PRC accounts for a large percentage of the total value of the finished butt-weld pipe fittings that are produced in Malaysia.<sup>39</sup> Using information provided in an affidavit from TFA, the petitioners posit that the price of unfinished or finished butt-weld pipe fittings is between approximately 80 percent to 100 percent of the price of finished butt-weld pipe fittings.<sup>40</sup> Thus, the value-added in Malaysia by either just finishing the unfinished butt-weld pipe fittings or merely adding the "Malaysia" country-of-origin marking ranges from an estimated 15 percent to a considerably lesser value

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<sup>36</sup> *Id.* at 20.

<sup>37</sup> *Id.*, at 20 and Attachment 2.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*, at 21 and Attachment 3.

<sup>40</sup> *Id.*

added. Thus, the petitioners maintain that the completion activities in Malaysia add very little to the finished butt-weld pipe fittings exported to the United States from butt-weld pipe fittings sourced from the PRC.<sup>41</sup> This conclusion is comparable to the little amount of value added by finishing operations performed in Thailand on butt-weld pipe fittings sourced from the PRC in the *Final Determination of Circumvention 1994*.<sup>42</sup>

#### D. Value of Merchandise Produced in the PRC

The petitioners argue that the evidence, as noted above, in their anti-circumvention request clearly supports their position that the value of unfinished and finished butt-weld pipe fittings produced in the PRC, and then finished or marked with a Malaysian country-origin mark, represents a significant portion of the total value of the merchandise exported to the United States, as measured by a percentage of the total cost of manufacture.<sup>43</sup>

#### E. Additional Factors to Consider in Determining Whether Inquiry is Warranted

Section 781(b)(3) of the Act directs the Department to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country within the scope of the *Order*, such as “(A) the pattern of trade, including sourcing patterns, (B) whether the manufacturer or exporter of the merchandise . . . is affiliated with the person who uses the merchandise . . . to assemble or complete in the foreign country the merchandise that is subsequently imported in the United States, and (C) whether imports into the foreign country of the merchandise . . . have increased after initiation of the investigation which resulted in the issuance of such order or finding.”

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<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*, at 22.

### 1) Pattern of Trade

The petitioners state that the record evidence demonstrates that, since the imposition of the *Order*, a pattern of trade illustrates circumvention between the levels of imports for butt-weld pipe fittings between the PRC, Malaysia, and the United States.<sup>44</sup> Publicly-available import data show that PRC-origin imports of butt-weld pipe fittings into Malaysia increased significantly in recent years, and a steady increase in exports from Malaysia to the United States since the imposition of the *Order*.<sup>45</sup> Also, between 2010 and 2015, publicly-available import data show a marked increase of PRC-origin butt-weld pipe fittings into Malaysia coincides with a decline in volume of exports from the PRC to the United States.<sup>46</sup> Additionally, the petitioners submit that the record evidence shows that, while butt-weld pipe fittings exported from the PRC to the United States declined between 2010 and 2015, butt-weld pipe fittings exported from Malaysia to the United States increased steadily at the same time.<sup>47</sup> No other factual information on the record contradicts this claim.

### 2) Affiliation

The petitioners provided no information regarding the affiliation between PRC producers of unfinished and finished butt-weld pipe fittings, and Malaysian producers of butt-weld pipe fittings that undergo only minor finishing processes, or are simply marked with “Malaysia” as the country-of-origin.

### 3) Subsequent Import Volume

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<sup>44</sup> *Id.* at 23.

<sup>45</sup> *Id.*, at 23 and Attachment 4. The petitioners stated that all imports of butt-weld pipe fittings from the PRC into Malaysia, the PRC into the United States, and Malaysia into the United States declined in 2016, but this was due to the substantial decline in oil prices globally and this decline is not an indication that circumvention of the *Order* through Malaysia ceased, which is further supported by the *Fourth Sunset Review. Id.*, at 24-25 at footnote 59; *Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand*, Inv. Nos. 731-TA-308-310 and 520-21, USITC Pub. 4628 (August 2016) (*Fourth Sunset Review*) at 6 and I-6.

<sup>46</sup> See the petitioners’ Request at 24-25 and Attachment 4.

<sup>47</sup> *Id.*

The petitioners presented evidence indicating that shipments of butt-weld pipe fittings from the PRC to Malaysia steadily increased since imposition of the *Order*, whereas shipments of butt-weld pipe fittings from the PRC to the United States steadily declined.<sup>48</sup> No other factual information contradicts this claim.

#### Analysis of the Allegation

Based on our analysis of the petitioners' anti-circumvention inquiry allegation, the Department determines that the petitioners have satisfied the criteria under section 781(b)(1) of the Act to warrant the initiation of an anti-circumvention inquiry of the *Order* on butt-weld pipe fittings from the PRC.

With regard to whether the merchandise from Malaysia is of the same class or kind as the merchandise produced in the PRC, the petitioners presented information to the Department indicating that, pursuant to section 781(b)(1)(A) of the Act, the merchandise being produced in and/or exported from Malaysia may be of the same class or kind as butt-weld pipe fittings produced in the PRC, which is subject to the *Order*.<sup>49</sup> Consequently, the Department finds that the petitioners provided sufficient information in their request regarding the class or kind of merchandise to support the initiation of this anti-circumvention inquiry.

With regard to completion or assembly of merchandise in a foreign country, pursuant to section 781(b)(1)(B) of the Act, the petitioners also presented information to the Department indicating that the butt-weld pipe fittings exported from Malaysia to the United States are produced in Malaysia using butt-weld pipe fittings from the PRC, which account for a significant portion of the total costs related to the production of butt-weld pipe fittings.<sup>50</sup> We find that the

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<sup>48</sup> *Id.*, at 25-6 and Attachment 4.

<sup>49</sup> *Id.* at 9-10.

<sup>50</sup> *Id.*, at 21-2 and Attachment 3.

information presented by the petitioners regarding this criterion supports their request to initiate this anti-circumvention inquiry.

The Department finds that the petitioners sufficiently addressed the factors described in section 781(b)(1)(C) and 781(b)(2) of the Act regarding whether the assembly or completion of butt-weld pipe fittings in Malaysia is minor or insignificant. In particular, the petitioners' submission asserts that: 1) the level of investment of butt-weld pipe fittings is minimal in Malaysia; 2) research and development is not taking place in Malaysia; 3) the production process involves only finishing or simply stamping with a Malaysian country-of-origin mark on butt-weld pipe fittings from a country subject to the *Order*; 4) the production facilities in Malaysia are more limited compared to facilities in the PRC; and 5) the value of the processing performed in Malaysia is minimal, as the production of butt-weld pipe fittings in the PRC accounts for approximately 80 percent to 100 percent of the value of finished butt-weld pipe fittings.<sup>51</sup>

With respect to the value of the merchandise produced in the PRC, pursuant to section 781(b)(1)(D) of the Act, the petitioners relied on one of their member's information and arguments in the "minor or insignificant process" portion of their anti-circumvention allegation to indicate that the value of the unfinished or finished butt-weld pipe fittings, produced in the PRC, may be significant relative to the total value of the finished butt-weld pipe fittings exported from Malaysia to the United States.<sup>52</sup> We find that this information adequately meets the requirements of this factor, as discussed above, for the purposes of initiating this anti-circumvention inquiry.

With respect to the additional factors listed under section 781(b)(3) of the Act, we find that the petitioners presented evidence indicating that shipments of butt-weld pipe fittings from

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<sup>51</sup> See discussion of these five factors above.

<sup>52</sup> See the petitioners' Request at 10-23 and Attachments 1, 2, and 3.

Malaysia to the United States increased since the imposition of the *Order* and that shipments of butt-weld pipe fittings from the PRC to Malaysia also increased since the *Order* took effect, further supporting initiation of this anti-circumvention inquiry.<sup>53</sup>

Accordingly, we are initiating a formal anti-circumvention inquiry concerning the *Order* on butt-weld pipe fittings from the PRC, pursuant to section 781(b) of the Act.

In connection with this anti-circumvention inquiry, in order to determine: (1) the extent to which PRC-sourced unfinished or finished butt-weld pipe fittings is further processed into butt-weld pipe fittings in Malaysia before shipment to the United States; (2) the extent to which a country-wide finding applicable to all exports might be warranted, as alleged by the petitioners; and (3) whether the process of turning PRC-sourced unfinished or finished butt-weld pipe fittings into finished butt-weld pipe fittings processed in Malaysia is minor or insignificant, the Department will issue questionnaires to Malaysian producers and exporters of butt-weld pipe fittings to the United States. The Department will issue questionnaires to solicit information from the Malaysian producers and exporters concerning their shipments of butt-weld pipe fittings to the United States and the origin of the imported unfinished or finished butt-weld pipe fittings being processed into butt-weld pipe fittings. Companies failing to respond completely and timely to the Department's questionnaire may be deemed uncooperative and an adverse inference may be applied in determining whether such companies are circumventing the *Order*. See section 776 of the Act.

Finally, while we believe sufficient factual information has been submitted by the petitioners supporting their request for an inquiry, we do not find that the record supports the simultaneous issuance of a preliminary ruling. Such inquiries are by their nature complicated and require additional information regarding production in both the country subject to the order

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<sup>53</sup> See the petitioners' Request at 23-5 and Attachment 4.

and the third-country completing the product. As noted above, the Department intends to request additional information regarding the statutory criteria to determine whether shipments of butt-weld pipe fittings from Malaysia are circumventing the *Order* on butt-weld pipe fittings from the PRC. Thus, further development of the record is required before a preliminary ruling can be issued.



### Notification to Interested Parties

In accordance with 19 CFR 351.225(e), the Department finds that the issue of whether a product is included within the scope of any order cannot be determined based solely upon the application and the descriptions of the merchandise. Accordingly, the Department will notify by mail all parties on the Department's scope service list of the initiation of anti-circumvention inquiries. Additionally, in accordance with 19 CFR 351.225(f)(1)(i) and (ii), in this notice of initiation issued under 19 CFR 351.225(e), we included a description of the product that is the subject of this anti-circumvention inquiry (*i.e.*, butt-weld pipe fittings that contain the characteristics as provided in the scope of the *Order*), and an explanation of the reasons for the Department's decision to initiate this anti-circumvention inquiry, as provided above.

In accordance with 19 CFR 351.225(1)(2), if the Department issues an affirmative preliminary determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require cash deposits of estimated antidumping duties, at the applicable rates, for each unliquidated entry of the merchandise at issue, entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiry. The Department will establish a schedule for questionnaires and comments for this inquiry. In accordance with section 781(f) of the Act and 19 CFR 351.225(f)(5), the Department intends to issue its final determination within 300 days of the date of publication of this notice.

This notice is published in accordance with 19 CFR 351.225(f).

*Dated: August 21, 2017.*

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

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