



A-583-863

Administrative Review

POR: 05/17/2018 – 08/31/2019

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November 3, 2020

**MEMORANDUM TO:** Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Rescission of the Antidumping  
Duty Administrative Review of Forged Steel Fittings from  
Taiwan; 2018-2019

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## I. SUMMARY

The Department of Commerce (Commerce) continues to determine that Both-Well Steel Fittings, Co., Ltd. (Bothwell), the sole company under review, did not have any entries during the period of review (POR) May 17, 2018 through August 31, 2019 that are subject to review. We have analyzed the case and rebuttal briefs submitted by interested parties and, consistent with the *Preliminary Results*,<sup>1</sup> continue to find it appropriate to rescind this review. We recommend that you approve the positions described in the “Discussion of the Issue” section of this memorandum. We received comments from parties on one issue in this administrative review: whether Commerce should rescind the administrative review.

## II. BACKGROUND

On July 23, 2020, the Department of Commerce (Commerce) published its preliminary intent to rescind the administrative review of the antidumping duty (AD) order on forged steel fittings from Taiwan for the period May 17, 2018 through August 31, 2019.<sup>2</sup> The review covers one producer/exporter of the subject merchandise, Bothwell.

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<sup>1</sup> See *Forged Steel Fittings from Taiwan: Preliminary Intent to Rescind the Antidumping Duty Administrative Review; 2018-2019*, 85 FR 44503 (July 23, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> *Id.*



On August 24, 2020, Bothwell timely submitted a case brief commenting on the *Preliminary Results*.<sup>3</sup> On August 31, 2020, the petitioner<sup>4</sup> timely submitted a rebuttal brief.<sup>5</sup>

Based upon our analysis of the comments received, we continue to find that Bothwell had no suspended entries during the POR that are subject to review. Therefore, we are rescinding this administrative review.

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.<sup>6</sup> On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.<sup>7</sup> The deadline for the final results of this review is now January 19, 2021.

### **III. SCOPE OF THE ORDER**

The products covered by the scope of this order are carbon and alloy forged steel fittings, whether unfinished (commonly known as blanks or rough forgings) or finished. Such fittings are made in a variety of shapes including, but not limited to, elbows, tees, crosses, laterals, couplings, reducers, caps, plugs, bushings, unions, and outlets. Forged steel fittings are covered regardless of end finish, whether threaded, socket-weld or other end connections.

While these fittings are generally manufactured to specifications ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350, and ASTM A182, the scope is not limited to fittings made to these specifications.

The term forged is an industry term used to describe a class of products included in applicable standards, and does not reference an exclusive manufacturing process. Forged steel fittings are not manufactured from casting. Pursuant to the applicable specifications, subject fittings may also be machined from bar stock or machined from seamless pipe and tube.

All types of fittings are included in the scope regardless of nominal pipe size (which may or may not be expressed in inches of nominal pipe size), pressure rating (usually, but not necessarily expressed in pounds of pressure/PSI, *e.g.*, 2,000 or 2M; 3,000 or 3M; 6,000 or 6M; 9,000 or 9M), wall thickness, and whether or not heat treated.

Excluded from this scope are all fittings entirely made of stainless steel. Also excluded are flanges, butt weld fittings, butt weld outlets, nipples, and all fittings that have a maximum pressure rating of 300 pounds of pressure/PSI or less.

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<sup>3</sup> See Bothwell's Letter, "Forged Steel Fittings from Taiwan: Comment on Preliminary Determination," dated August 24, 2020 (Bothwell's Case Brief).

<sup>4</sup> The petitioner is the Bonney Forge Corporation.

<sup>5</sup> See Petitioner's Letter, "Forged Steel Fittings from Taiwan: Rebuttal Comments on Both-Well Comments on Preliminary Intent to Rescind Review," dated August 31, 2020 (Petitioner's Rebuttal Brief).

<sup>6</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

<sup>7</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

Also excluded are fittings certified or made to the following standards, so long as the fittings are not also manufactured to the specifications of ASME B16.11, MSS SP-79, MSS SP-83, MSS SP-97, ASTM A105, ASTM A350, and ASTM A182:

- American Petroleum Institute (API) API 5CT, API 5L, or API 11B
- Society of Automotive Engineering (SAE) SAE J476, SAE J514, SAE J516, SAE J517, SAE J518, SAE J1026, SAE J1231, SAE J1453, SAE J1926, J2044 or SAE AS 35411
- Underwriter's Laboratories (UL) certified electrical conduit fittings
- ASTM A153, A536, A576, or A865
- Casing Conductor Connectors 16-42 inches in diameter made to proprietary specifications
- Military Specification (MIL) MIL-C-4109F and MIL-F-3541
- International Organization for Standardization (ISO) ISO6150-B

To be excluded from the scope, products must have the appropriate standard or pressure markings and/or accompanied by documentation showing product compliance to the applicable standard or pressure, *e.g.*, "API 5CT" mark and/or a mill certification report.

Subject carbon and alloy forged steel fittings are normally entered under Harmonized Tariff Schedule of the United States (HTSUS) 7307.99.1000, 7307.99.3000, 7307.99.5045, and 7307.99.5060. They also may be entered under HTSUS 7307.92.3010, 7307.92.3030, 7307.92.9000, and 7326.19.0010. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

#### IV. DISCUSSION OF THE ISSUE

##### **Comment: Whether Commerce Should Rescind the Administrative Review**

###### *Bothwell's Comments:*

- An antidumping administrative review "will cover, as appropriate, entries, exports, or sales of the subject merchandise" during the POR. Regarding entries, Commerce's regulation does not limit them to suspended entries as opposed to liquidated entries.<sup>8</sup>
- In *Hubbell Power*, the Court of International Trade (CIT) found that Commerce must complete a review and calculate a dumping margin for a company having sales and shipments but no entries during the review period.<sup>9</sup>
- Bothwell provided extensive evidence throughout the review, including information and documents from the importer of record, demonstrating that Bothwell had not only U.S. sales but also U.S. entries of subject merchandise.<sup>10</sup>

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<sup>8</sup> See Bothwell's Case Brief at 1 (citing 19 CFR 351.213(e)(1)(i)).

<sup>9</sup> *Id.* (citing *Hubbell Power Systems, Inc. v. United States*, Slip Op. 12-123 (CIT 2012) (*Hubbell Power*)).

<sup>10</sup> *Id.* at 2.

- The antidumping statute states that administrative reviews are to “determine (in accordance with paragraph (2)), the amount of any antidumping duty” with “notice of any duty to be assessed, estimated duty to be deposited” as to imports going forward.<sup>11</sup>
- The purpose of an administrative review is to determine a dumping margin on entries irrespective of suspension of liquidation and to determine a new antidumping cash deposit rate going forward based on sales during the period of review.<sup>12</sup>
- In *Ammonium Nitrate from Russia*, Commerce reviewed the entry in question and found there was no evidence of error in the U.S. Customs and Border Protection (CBP) entry data, which is not the issue in this review.<sup>13</sup>
- The overriding evidence provided by Bothwell of POR entries in this review overcomes any presumption by Commerce to rely solely on the CBP data for entries of subject merchandise during the POR.<sup>14</sup>
- Commerce does not need to wait for CBP to act on the active protests on the entries of subject merchandise, but rather should complete the administrative review and calculate a dumping margin while CBP considers the protests.<sup>15</sup>

*Petitioner’s Rebuttal:*

- Commerce should rescind this review because there are no reviewable entries, as all of Bothwell’s shipments of subject merchandise during the POR have already been liquidated.<sup>16</sup>
- The merits of the protest are questionable and essentially involve nothing more than circular arguments.<sup>17</sup>
- According to the antidumping duty law, following an affirmative investigation, liquidation of entries of subject merchandise are suspended, with a duty deposit, pending a resolution that results in liquidation—either a review or, as here, a determination that entries may be liquidated at a given antidumping duty rate. Once entries are liquidated, they are outside the purview of the antidumping law.<sup>18</sup>
- Commerce cited to *Ammonium Nitrate from Russia* to support its general practice of considering CBP data to be reliable because, as in this case, Commerce consulted with CBP on the issue.<sup>19</sup>

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<sup>11</sup> *Id.* (citing section 751(a)(1)(B) and (C) of the Tariff Act of 1930, as amended (the Act)).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* (citing *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review*, 77 FR 65532 (October 29, 2012), and accompanying Issues and Decision Memorandum (IDM) at 5-6 (*Ammonium Nitrate from Russia*)).

<sup>14</sup> *Id.* at 4 (citing *Ad Hoc Shrimp Trade Action Committee v. United States*, Slip Op. 11-106 (CIT August 24, 2011) (*Ad Hoc Shrimp*); and *Pakfood Public Co. Ltd v. United States*, 753 F. Supp. 2d. 1334 (CIT 2011) (*Pakfood*)).

<sup>15</sup> *Id.* (citing *Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 70 FR 72789 (December 7, 2005), and accompanying IDM at Comment 7 (*SSPC from Belgium*); and *Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 73 FR 19811 (April 11, 2008), and accompanying IDM at Comment 1 (*CVP 23 from India*)).

<sup>16</sup> See Petitioner’s Rebuttal Brief at 1.

<sup>17</sup> *Id.* at 2.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 2-3.

**Commerce's Position:** As stated in the *Preliminary Results*, it is Commerce's practice to rescind an administrative review pursuant to 19 CFR 351.213(d)(3) when there are no entries of subject merchandise during the POR subject to the antidumping duty order for which liquidation is suspended.<sup>20</sup> Commerce's practice is to only conduct administrative reviews on suspended entries of subject merchandise.<sup>21</sup> Suspended entries are required for administrative reviews because of the direct relationship between suspension of liquidation and Commerce's ability to enforce its antidumping duty orders. For a company subject to administrative review, a suspended entry is necessary for Commerce to assess the duties determined in that administrative review. At the end of the administrative review, the suspended entries are liquidated at the assessment rate computed for the review period.<sup>22</sup> Therefore, for an administrative review to be conducted, there must be a suspended entry to be liquidated at the newly calculated assessment rate.

The sole issue addressed in these final results is whether there are entries of subject merchandise produced by Bothwell during the POR that are subject to review and that have not been liquidated. As a preliminary matter, Bothwell stated that all of its exports of subject merchandise to the United States from Taiwan were through a certain unaffiliated reseller.<sup>23</sup> However, the initial CBP data released in this review only showed that Bothwell-produced merchandise was imported from third countries by other unaffiliated exporters.<sup>24</sup> Because Bothwell did not report the third-country sales from the other unaffiliated exporters, the record reflects that Bothwell did not have knowledge of those sales. Accordingly, we will not review those entries for purposes of this antidumping administrative review.

With respect to the entries which Bothwell did report, as demonstrated in the *Preliminary Results*, Commerce found CBP liquidated those entries.<sup>25</sup> In its supplemental questionnaire response, Bothwell reported that the U.S. customer and importer had filed amended entries with CBP to correctly identify the manufacturer as Bothwell and provided a chart with the misidentified entry numbers, which the U.S. importer had submitted to CBP.<sup>26</sup> Then, Commerce released the CBP data related to the misidentified entry numbers provided by Bothwell, which indicated the liquidated status and liquidation/closure date of these entries.<sup>27</sup> Subsequently, Bothwell submitted comments on the CBP data stating that the U.S. importer had filed protests with CBP regarding the misidentified entry numbers over the incorrect liquidation of these entries during the POR.<sup>28</sup> After that, Commerce released a memo from the Customs Liaison Unit (CLU) with new factual information (NFI) stating the status of the protests with CBP

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<sup>20</sup> See, e.g., *Ammonium Nitrate from Russia*.

<sup>21</sup> See, e.g., *Honey from the People's Republic of China: Final Rescission of the New Shipper Review and Final Results of the Administrative Review; 2015-2016*, 83 FR 1015 (January 9, 2018), and accompanying IDM at Comment 4.

<sup>22</sup> See 19 CFR 351.212(b)(1).

<sup>23</sup> See Bothwell's Letter, "Forged Steel Fittings from Taiwan: Antidumping," dated November 26, 2019.

<sup>24</sup> See Memorandum, "Release of Customs Entry Data from U.S. Customs and Border Protection (CBP)," dated November 19, 2019.

<sup>25</sup> See Memorandum, "Forged Steel Fittings from Taiwan," dated June 8, 2020 (CBP Memo).

<sup>26</sup> See Bothwell's Letter, "Forged Steel Fittings from Taiwan: Antidumping," dated February 21, 2020 at 4 and Exhibit SA-8B.

<sup>27</sup> See Memorandum, "Release of Customs Entry Data from U.S. Customs and Border Protection (CBP) with respect to Both-Well Steel Fittings Co., Ltd.," dated March 31, 2020.

<sup>28</sup> See Bothwell's Letter, "Forged Steel Fittings from Taiwan: Antidumping," dated April 14, 2020.

regarding the liquidated entries.<sup>29</sup> On June 25, 2020, Bothwell submitted comments on the NFI stating that on June 19, 2020, the U.S. importer provided CBP with the information that addressed CBP's reasons for denying the protests and filed a request to void the denial.<sup>30</sup> Accordingly, Commerce relied on the CBP data on the record that demonstrates that Bothwell had no suspended entries of subject merchandise during the POR.

One of Commerce's primary functions in the course of an administrative review is to determine the appropriate antidumping duty margin to apply to entries of subject merchandise, for the purpose of directing CBP to liquidate suspended entries of subject merchandise at that rate.<sup>31</sup> Entries that have been liquidated cannot be reviewed because they are subject to post-entry liquidation procedures. Because Bothwell demonstrated that it did not have any suspended entries that were not already liquidated, Commerce's determination that Bothwell did not have any suspended entries to review is supported by the record.

We do not disagree that section 19 CFR 351.213(e)(1) gives Commerce the discretion to base a review on either entries, exports, or sales, as appropriate.<sup>32</sup> However, in determining that a respondent has no reviewable transactions subject to a given review, Commerce must find that there was at least one of the following: no entries, no exports, or no sales. Commerce does not need to find that all three did not occur during the POR in order to make a finding of no reviewable transactions.<sup>33</sup> Thus, the fact that Bothwell reported sales within the POR does not necessarily require Commerce to conduct a review if there are no unliquidated entries to which antidumping duties can be assessed.

With respect to conducting a review to calculate cash deposits, section 751(a)(2)(C) of the Act specifically provides that the "determination under this paragraph {i.e., determination of antidumping duties} shall be the basis for the assessment of countervailing or antidumping duties on **entries** of merchandise covered by the determination and for deposits of estimated antidumping duties" (emphasis added). Commerce's practice to require an entry subject to review in conducting an administrative review and establishing a new cash deposit rate was upheld by the U.S. Court of Appeals (CAFC) in *Allegheny*. In that case, the CAFC concluded that "the statutory commands that an annual review 'shall' take place where requested, .... and that the review 'shall be the basis for.... deposits of estimated duties, '.... do not preclude Commerce's policy here."<sup>34</sup> The statute indicates that where requested, Commerce must initiate a review. However, here there are no POR suspended entries or unlinked sales,<sup>35</sup> and as such there is "nothing to review and no basis for revising cash deposit rates." In summary, it is not Commerce's practice to conduct a review solely for the purpose of revising an existing cash

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<sup>29</sup> See CBP Memo.

<sup>30</sup> See Bothwell's Letter, "Forged Steel Fittings from Taiwan: Antidumping," dated June 25, 2020 at 2.

<sup>31</sup> See section 751(a)(2)(C) of the Act (stating that one of the purposes of an administrative review is to assess the current amount of antidumping duties on entries of subject merchandise).

<sup>32</sup> See *Allegheny Ludlum Corp. v. United States*, 346 F.3d. 1372 (Fed. Cir. 2003) (*Allegheny*).

<sup>33</sup> See *Potassium Permanganate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*; 2013, 80 FR 50264 (August 19, 2015), and accompanying IDM at "Comment: Finding of No Reviewable Transactions" (*Potassium from China*).

<sup>34</sup> See *Allegheny*, 346 F.3d at 1372 (internal citations omitted).

<sup>35</sup> As indicated above, in this case there are no U.S. sales reported by Bothwell that are not linked to liquidated entries.

deposit rate.<sup>36</sup>

We disagree with Bothwell's claim that in *Hubbell Power*, the CIT found that Commerce must complete a review and calculate a dumping margin for a company having sales and shipments but no entries during the review period. *Hubbell Power* is inapposite because it involved a non-market economy analysis (including a determination of whether the respondent qualified for separate rate status), facts which the CIT deemed relevant.<sup>37</sup>

In determining whether there are entries of the subject merchandise subject to a review, it is Commerce's general practice to rely on CBP information.<sup>38</sup> Commerce considers CBP data reliable because they are derived from actual entries of subject merchandise, based on information required by and provided to the U.S. government authority responsible for permitting goods to enter into the United States (*i.e.*, CBP).<sup>39</sup> We disagree with Bothwell that the overriding evidence provided by Bothwell of POR entries in this review overcomes any presumption by Commerce to rely solely on the CBP data for entries of subject merchandise during the POR. In addition, we disagree with Bothwell's citations to *Ad Hoc Shrimp* and *Pakfood* in relation to this proceeding, as those cases dealt with the reliance of CBP data with regard to the selection of mandatory respondents.<sup>40</sup> In fact, *Pakfood* reaffirms the accuracy of CBP data by stating that "... the data obtained by Customs officials in their regular course of business is accurate."<sup>41</sup> In this instance, we are relying on CBP data that supports the entry numbers provided by Bothwell regarding the liquidated entries of subject merchandise. Bothwell affirmed the information provided by CBP by providing the protests on the liquidated entries submitted by its U.S. importer, which were subsequently denied by CBP.

We also disagree with Bothwell that Commerce should complete the administrative review and calculate a dumping margin while CBP considers the protests. In *SSPC from Belgium* and *CVP 23 from India*, the issue was the discovery of misidentified subject merchandise entries that were liquidated without regard to antidumping duties. As such, Commerce calculated rates in order for CBP to seek payment of such duties.<sup>42</sup> In this case, CBP has already liquidated the entries of subject merchandise with regard to the antidumping duty cash deposit rate. In addition, CBP already informed Commerce that it had rejected Bothwell's U.S. importer's protests of the liquidated entries.<sup>43</sup>

Therefore, we continue to find that, according to the CBP data, Bothwell has no suspended

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<sup>36</sup> See *Potassium from China* IDM at "Comment: Finding of No Reviewable Transactions."

<sup>37</sup> See *Hubbell Power*.

<sup>38</sup> See, *e.g.*, *Certain Circular Welded-Non Alloy Pipe from Mexico: Final Results of Antidumping Duty Administrative Review*, 76 FR 77770 (December 14, 2011), and accompanying IDM at Comment 1.

<sup>39</sup> See *Ammonium Nitrate from Russia* IDM at Comment 1.

<sup>40</sup> See *Ad Hoc Shrimp* at 1333-1334 (stating "... notwithstanding Customs' duty to assure the accuracy of CBP data, the volume of subject merchandise produced/exported by respondents subject to this review and entered during the POR may have been inaccurately reported in CBP Form 7501 data ... {such that} ... AHSTAC's evidence must be taken into account when the Department makes its determinations regarding POR subject entry volumes, prior to respondent selection ...") and *Pakfood*, 753 F. Supp. 2 at 1345 (stating "The Reliability of CBP Data Used to Select Mandatory Respondents in this Review Was Supported by Substantial Evidence on the Record.").

<sup>41</sup> See *Pakfood* at 1346.

<sup>42</sup> See *SSPC from Belgium* IDM at Comment 7; and *CVP 23 from India* IDM at Comment 1.

<sup>43</sup> See CBP Memo.

entries during the POR. As such, Commerce should rescind this administrative review with respect to Bothwell.

**V. RECOMMENDATION**

We recommend rescinding this administrative review for the reasons explained above.



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

11/3/2020

**X**



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance