

notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these determinations and notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: July 5, 20002.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-816]

### Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of the preliminary results of antidumping duty administrative review.

**SUMMARY:** In response to a request from respondent Ta Chen Stainless Pipe Co., Ltd. ("Ta Chen") and Markovitz Enterprises, Inc. (Flowline Division), Alloy Piping Products Inc., Gerlin, Inc., and Taylor Forge ("Petitioners"), the Department of Commerce ("Department") is conducting an administrative review of the

antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. This review covers one manufacturer and exporter of the subject merchandise. The period of review ("POR") is June 1, 1999 through May 31, 2000. We preliminarily determine that sales have been made below normal value ("NV"). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on entries of Ta Chen's merchandise during the period of review, in accordance with the Department's regulations (19 CFR 351.106 and 351.212(b)). The preliminary results are listed in the section titled "Preliminary Results of Review," *infra*.

**EFFECTIVE DATE:** July 12, 2001.

**FOR FURTHER INFORMATION CONTACT:** Alex Villanueva or James C. Doyle, Enforcement Group III—Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-6412 and (202) 482-0159, respectively.

### Applicable Statute

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

### Background

On June 16, 1993, the Department published in the **Federal Register** the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. *See Amended Final Determination and Antidumping Duty Order: Certain Stainless Steel Butt-Weld Pipe and Tube Fittings from Taiwan* 58 FR 33250 (June 16, 1993). On June 20, 2000, we published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan covering the period June 1, 1999 through May 31, 2000. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, Or Suspended Investigation* 65 FR 38242 (June 20, 2000). On June 20, 2000, respondent, Ta Chen, requested that the Department conduct an administrative review of Ta Chen for the period of June

1, 1999 through May 31, 2001. On June 30, 2000, Petitioners requested that the Department conduct an administrative review of Ta Chen for the period of June 1, 1999 through May 31, 2000. On July 31, 2000, the Department published a notice of initiation of this antidumping duty administrative review for the period of June 1, 1999 through May 31, 2000. *See Notice of Initiation of Antidumping or Countervailing Duty Administrative Reviews and Requests for Revocation in Part* 65 FR 46687 (July 31, 2000).

On October 26, 2000, the Department issued its antidumping questionnaire to Ta Chen. On November 27, 2000, Ta Chen reported that it made sales of subject merchandise to the United States during the period of review ("POR") in its response to Section A of the Department's questionnaire. On December 26, 2000, Ta Chen submitted its response to Sections B, C, and D of the Department's questionnaire. On January 2, 2001, Ta Chen submitted a page which was missing from its December 26, 2000 Sections B, C, and D of the Department's questionnaire. On January 8, 2001, the Department issued to Ta Chen a supplemental questionnaire to Section A of the Department's questionnaire. On February 5, 2001, the Department issued to Ta Chen a supplemental questionnaire on Sections B, C, and D of the Department's questionnaire. On February 6, 2001, Ta Chen submitted its supplemental response to Section A of the Department's questionnaire. On March 5, 2001, Ta Chen submitted its supplemental responses to Sections B, C, and D of the Department's questionnaire. On March 8, 2001, Ta Chen submitted a corrected narrative to the Department's supplemental Sections B, C, and D questionnaire. On March 15, 2001, the Department issued to Ta Chen the second supplemental questionnaire to Section A of the Department's questionnaire. On April 6, 2001, Ta Chen submitted its response to the second supplemental questionnaire to Section A of the Department's questionnaire. On April 9, 2001, Ta Chen submitted additional information it claimed was inadvertently omitted from its response to the Department's second Section A supplemental questionnaire. On April 12, 2001, the Department issued a third Section A supplemental questionnaire. On April 23, 2001, Ta Chen submitted its response to the third supplemental Section A response of the Department's questionnaire. On May 4, 2001, the Department issued to Ta Chen a fourth supplemental questionnaire to Section

A. On May 11, 2001, Ta Chen submitted its response to the fourth supplemental Section A of the Department's questionnaire.

Pursuant to section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 245 days. On January 9, 2001, the Department extended the time limits for these preliminary results by 90 days to June 1, 2001 in accordance with the Act. See *Notice of Postponement of Preliminary Results of Antidumping Duty Administrative Review: Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan*, 66 FR 1644 (January 9, 2001). On March 15, 2001, the Department further extended the time limits for these preliminary results by 30 days to July 2, 2001 in accordance with the Act. See *Notice of Postponement of Preliminary Results of Antidumping Duty Administrative Review: Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan*, 66 FR 15078 (March 15, 2001).

The Department is conducting this administrative review in accordance with section 751 of the Act.

#### Scope of the Review

The products subject to this administrative review are certain stainless steel butt-weld pipe fittings, whether finished or unfinished, under 14 inches inside diameter. Certain welded stainless steel butt-weld pipe fittings ("pipe fittings") are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise is used where one or more of the following conditions is a factor in designing the piping system: (1) Corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; and (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, with the following five shapes the most basic: "elbows", "tees", "reducers", "stub ends", and "caps." The edges of finished pipe fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this review. The pipe fittings subject to this review are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States ("HTSUS").

Although the HTSUS subheading is provided for convenience and customs

purposes, our written description of the scope of this review is dispositive. Pipe fittings manufactured to American Society of Testing and Materials specification A774 are included in the scope of this order.

#### Period of Review

The POR for this administrative review is June 1, 1999 through May 31, 2000.

#### Verification

As provided in section 782(i) of the Act, from May 28, 2001 to June 1, 2001, the Department verified sales, cost and production information provided by Ta Chen, using standard verification procedures, including an examination of relevant sales, financial and production records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports and are on file in the Central Records Unit ("CRU") located in room B-099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC. For changes to Ta Chen's expenses based on verification findings, see *Facts Available* section below.

#### Product Comparison

In accordance with section 771(16) of the Act, we considered all pipe fittings produced by Ta Chen, covered by the description in the "Scope of Review" section of this notice, supra, and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to pipe fittings sold in the United States. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by Ta Chen as follows (listed in order of preference): specification, seam, grade, size and schedule.

As in the 1998-1999 administrative review ("98/99 review"), the record shows that Ta Chen both purchased from, and entered into tolling arrangements with, two unaffiliated Taiwanese manufacturers of subject merchandise. See Section A questionnaire response at 2. Also as in the 98/99 review, there was no evidence on the record that either manufacturer had knowledge that these fittings would be sold into the United States market. See *Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results of the Antidumping Duty Administrative Review*, ("98/99 Final") 65 FR 81827 (December 27, 2000). A final unchanged fact from the 98/99 review is that the Department was able to segregate

purchased from tolled fittings for certain fittings, but not for others. *Id.* These two factors were the key considerations in the following precedents, which contained similar fact patterns: *Dynamic Random Access Memory Semiconductors of One Megabit or Above from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review and Notice of Determination Not to Revoke Order*, 63 FR 50867, 50876 (Sept. 23, 1998); *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy*, 64 FR 43152, 43154 (Aug. 9, 1999); *Notice of Final Results of Antidumping Duty Administrative Review: Certain Pasta from Italy*, 65 FR 7349, 7356-57 (Feb. 14, 2000); and 98/99 *Final* and accompanying Decision Memo at Comment 6. ("Issues and Decision Memo"). Therefore, although the Department is able to separate out a significant portion of the sales of purchased fittings, we have determined that it is not appropriate to extract such sales from Ta Chen's U.S. sales database because we have no evidence on the record that the outside producers had knowledge that their subject fittings were destined for sale by Ta Chen in the U.S. market. However, section 771(16) of the Act defines "foreign like product" to be "[t]he subject merchandise and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, that merchandise." Thus, consistent with the Department's past practice, we have restricted the matching of products which Ta Chen has identified with certainty that it purchased from an outside producer and resold in the U.S. market to identical or similar products purchased by Ta Chen from the same outside producer and resold in the home market. *Id.* and *Analysis Memorandum for Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Preliminary Results of the 1999-2000 Administrative Review of Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan* ("Analysis Memo") at 2-3. Finally, where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the physical characteristics or to constructed value ("CV"), as appropriate.

#### Date of Sale

The Department's regulations state that the Department will normally use

the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. See 19 CFR 351.401(i). If Commerce can establish "a different date [that] better reflects the date on which the exporter or producer establishes the material terms of sale," Commerce may choose a different date. *Id.*

In the present review, Ta Chen claimed that invoice date should be used as the date of sale in both the home market and U.S. market. See Ta Chen's Sections B, C, and D responses at 2-4 (December 26, 2000). Moreover, Ta Chen did not indicate any industry practice which would warrant the use of a date other than invoice date in determining date of sale.

Accordingly, we have no information demonstrating that another date is more appropriate, and we preliminarily based date of sale on invoice date recorded in the ordinary course of business by the involved sellers and resellers of the subject merchandise in accordance with 19 CFR 351.401(i).

#### Fair Value Comparisons

To determine whether sales of subject merchandise by Ta Chen to the United States were made at below NV, we compared, where appropriate, the CEP to the NV, as described below. Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual U.S. transactions to the monthly weighted-average NV of the foreign like product where there were sales at prices above the cost of production ("COP"), as discussed in the Cost of Production Analysis section, below. For a further discussion of the EP sales reclassification to CEP, see below.

#### Export Price/Constructed Export Price

Section 772(a) of the Act defines export price as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States.\* \* \*" Section 772(b) of the Act defines constructed export price as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.\* \* \*"

In the instant case, all of the sales at issue were "back-to-back" sales; that is,

Ta Chen sold pipe fittings to Ta Chen's U.S. affiliate, TCI, and then TCI sold the pipe fittings to the unaffiliated U.S. customers at a marked-up price to account for TCI's commission and selling expenses. See Sections B, C, and D supplemental questionnaire response (February 6, 2001) at 5. In addition, the record evidence demonstrates that for sales reported by Ta Chen as EP sales, the sale to the first unaffiliated customer was made between TCI and the unaffiliated customer in the United States. See Sections B, C, and D supplemental questionnaire response database (February 6, 2001). TCI takes title to subject merchandise, invoices the U.S. customer, and receives payment from the U.S. customer. In addition, TCI incurs seller's risk, makes agreements with commission agents, relays orders and price requests from the U.S. customer to Ta Chen, and pays for containerization expenses, U.S. customs broker charges, U.S. antidumping duties and international freight. See Section A Supplemental Questionnaire Response (February 6, 2001) at 5-6. Ta Chen also stated that on occasion the U.S. customer will initiate the sale with TCI or TCI will initiate the sale with the customer. *Id.*

Based on these facts, we have determined that these sales originally reported as EP by Ta Chen meet the standard for CEP since the first sale to an unaffiliated customer occurred in the United States and was between TCI and the U.S. purchaser. Therefore, the sales originally reported by Ta Chen as EP sales were reclassified by the Department as CEP sales.

Having determined such sales are CEP, we calculated the price of Ta Chen's United States sales based on CEP in accordance with section 772(b) of the Act. We calculated CEP based on FOB or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we deducted discounts. Also where appropriate, in accordance with section 772(d)(1), the Department deducted commissions, direct selling expenses and indirect selling expenses, including inventory carrying costs, which related to commercial activity in the United States. We also made deductions for movement expenses, which include foreign inland freight, foreign brokerage and handling, ocean freight, containerization expense, harbor construction tax, marine insurance, U.S. inland freight, U.S. brokerage and handling, and U.S. Customs duties. Finally, pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. In accordance with Department practice, we recalculated credit expenses for CEP sales by basing credit

on Ta Chen's U.S. dollar-denominated short-term borrowing rate, rather than on Ta Chen's home market currency-denominated short-term borrowing rate. See Import Administration Policy Bulletin, Imputed Credit Expenses and Interest rates (February 23, 1998); *Analysis Memo* at 7-9.

#### Normal Value

After testing home market viability, as discussed below, we calculated normal value ("NV") as noted in the "Price-to-CV Comparisons" and "Price-to-Price Comparisons" sections of this notice.

##### 1. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared Ta Chen's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. In addition, Ta Chen stated that the home market is viable since sales to the home market are more than 5 percent by quantity of sales in the United States. See Sections A questionnaire response (November 27, 2001) at 3. Because Ta Chen's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. We, therefore, based NV on home market sales.

##### 2. Cost of Production Analysis

Because we disregarded sales below the cost of production in the most-recently completed segment of this proceeding,<sup>1</sup> we have reasonable grounds to believe or suspect that sales by Ta Chen in its home market were made at prices below the COP, pursuant to sections 773(b)(1) and 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we conducted a COP analysis of home market sales by Ta Chen.

##### A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of Ta Chen's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses ("G&A"), interest expenses, and packing costs. We relied on the COP

<sup>1</sup> See 98/99 Final, 65 FR at 81828.

data submitted by Ta Chen in its original and supplemental cost questionnaire responses. For these preliminary results, we did not make any adjustments to Ta Chen's submitted costs.

#### B. Test of Home Market Prices

We compared the weighted-average COP for Ta Chen to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(A) and (B) of the Act. On a product-specific basis, we compared the COP to home market prices, less any movement charges, discounts, and direct and indirect selling expenses.

#### C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Ta Chen's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of Ta Chen's sales of a given product during the POR were at prices less than the COP, we determined that such sales have been made in "substantial quantities" within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. In such cases, because we use POR average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

#### D. Calculation of Constructed Value

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of Ta Chen's cost of materials, fabrication, G&A (including interest expenses), U.S. packing costs, direct and indirect selling expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by Ta Chen in connection with the production and sale of the foreign like product in

the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses.

#### Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the cost of production ("COP"), we based NV on prices to home market customers. We calculated NV based on prices to unaffiliated home market customers. Where appropriate, we deducted early payment discounts, credit expenses, and inland freight. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in CEP comparisons. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Additionally, in accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs. In accordance with the Department's practice, where there were no usable contemporaneous matches to a U.S. sale observation, we based NV on CV.

#### Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the CEP transaction. The NV LOT is that of the starting-price sales in the comparison market, or when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See *Notice of Final Determination of Sales*

*at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997).

In reviewing the selling functions reported by the respondent, we examined all types of selling functions and activities reported in respondent's questionnaire response on LOT. In analyzing whether separate LOTs existed in this review, we found that no single selling function was sufficient to warrant a separate LOT in the home market. See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27371 (May 19, 1997).

Ta Chen reported one LOT in the home market based on two channels of distribution: trading companies and end-users. We examined the reported selling functions and found that Ta Chen's selling functions, to its home market customers regardless of channel of distribution, include inventory maintenance to date of shipment, incurring risk of non-payment, extension of credit terms, addresses customer complaints, research and development and technical assistance, after-sale services, and freight and delivery arrangement. See Section A supplemental questionnaire response at 6-8. We, therefore, preliminarily conclude that the selling functions for the reported channels of distribution are sufficiently similar to consider them as one LOT in the comparison market.

Because Ta Chen reported that all of its U.S. CEP sales are made through TCI, Ta Chen is claiming that there is only one LOT in the U.S. market for its constructed export price sales and we preliminarily agree with Ta Chen that its U.S. sales constitute a single LOT. We examined the reported selling functions and found that Ta Chen's selling functions for sales to TCI include inventory maintenance to date of shipment, incurring risk of non-payment, extension of credit terms, research and development and technical assistance, after-sale services, and freight and delivery arrangement.

When we compared the LOT of the CEP sales to Ta Chen's home market LOT, we noted that Ta Chen reported that it provided moderate-to-low technical assistance at its home market LOT, while providing very similar services at its CEP level. Therefore, the selling functions performed by Ta Chen in both markets leads us to conclude that any differences in selling activities are not significant. Accordingly, we preliminarily find that all sales in the home market and the U.S. market were made at the same LOT. Therefore, we have not made a LOT adjustment because all price comparisons are at the

same LOT and an adjustment pursuant to section 773(a)(7)(A) of the Act is not appropriate. Additionally, because we found that the LOT in the home market matched the LOT of the CEP transactions, we did not make a CEP offset by adjusting normal value under section 777(a)(7)(B) of the Act.

#### Reimbursement

We found reimbursement in the most-recently completed segment of this proceeding. Therefore, we have analyzed the evidence on the record of this proceeding regarding reimbursement. *See 98/99 Final*, 65 FR at 81829. Unlike the prior review, information exists on the record which makes clear that the agreement to reimburse antidumping duties, when signed, was limited solely to the 1992–1994 PORs. *See Section A Questionnaire Response* (November 27, 2000) at 346. Because the agreement is clearly limited to those PORs, and therefore did not apply to any antidumping duties incurred during later periods, the rebuttable presumption that there is continuing reimbursement is overcome.<sup>2</sup> Therefore, the Department has preliminarily determined that an agreement to reimburse is not in effect for this POR.

#### Facts Available

In accordance with section 776(a)(2)(A) of the Act, we preliminarily determine that the use of facts available is appropriate for one element of Ta Chen's dumping margin calculation. Section 776(a)(2) of the Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

In this case, section 776(a)(2)(A) of the Act applies because, at the verification of Ta Chen and TCI on May 28, 2001 through June 1, 2001, we discovered that TCI failed to report expenses

incurred to move inventory among its warehouses, which should properly have been reported in its calculation of U.S. indirect selling expenses ("ISE"). *See U.S. Verification in the Administrative Review of the Antidumping Duty Order on Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan for the Period 6/1/99–5/31/00 ("U.S. Verification Report")* at 6.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that a party has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See The Statement of Administrative Action to the URAA* at 870 ("SAA"). In this instance, the use of an adverse inference is appropriate because Ta Chen failed to act to the best of its ability in providing the data it had about these expenses in advance of verification because Ta Chen, without consulting with the Department, determined that the expenses were too small. *See U.S. Verification Report* at 6.

Consistent with Department practice in cases where a respondent fails to cooperate to the best of its ability, and in keeping with section 776(b) of the Act, we have preliminarily determined that the use of partial adverse facts available is warranted. As adverse facts available, the Department recalculated Ta Chen's reported U.S. ISE expenses by adding a certain percentage to the reported U.S. ISE percentage. The Department calculated the certain percentage by first taking the sum of the unreported expenses as listed in the U.S. Verification Report at Exhibit TCI–12, and deducting from that total the amount which is clearly attributable to non-subject merchandise. The Department subtracted the non-subject merchandise-related expenses in order to ensure that the numerator and denominator of the certain percentage were both calculated on the same basis to the extent possible, given the data collected at verification. The Department then divided the resulting figure by the total value of TCI's U.S. sales of subject merchandise as reported in its U.S. sales database, rather than TCI's total sales, to arrive at the certain percentage to be added to the reported U.S. ISE percentage as adverse facts available.

#### Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the exchange rates in effect on the dates of the U.S. sales as published by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs

the Department to use a daily exchange rate in effect on the date of sale of subject merchandise in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined, as a general matter, that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. *See, e.g., Certain Stainless Steel Wire Rods from France: Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 8915, 8918 (March 6, 1996) and Policy Bulletin 96–1: Currency Conversions, 61 FR 9434, March 8, 1996. As indicated in these precedents, the benchmark is defined as the rolling average of rates for the past 40 business days. When we determined a fluctuation existed, we substituted the benchmark for the daily rate.

#### Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists for the period June 1, 1999, through May 31, 2000:

#### CERTAIN STAINLESS STEEL BUTT-WELD PIPE FITTINGS FROM TAIWAN

Producer/manufacturer/exporter	Weighted-average margin (percent)
Ta Chen .....	5.24

The Department will disclose to any party to the proceeding, within five days of publication of this notice, the calculations performed (19 CFR 351.224(b)). Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with an additional copy of the public version of any such comments on diskette. The Department will publish the final results of this administrative review,

<sup>2</sup> Note that Ta Chen submitted a letter signed by Robert Shieh, President of Ta Chen on February 1, 2001 which indicated that the agreement has been terminated. *See Section A Supplemental Questionnaire Response* (February 6, 2001) at Attachment 19. However, the letter was written after the last date of the POR, is not related to the issue of the rebuttable presumption of reimbursement and, therefore, is not dispositive.

which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice.

Upon issuance of the final results of review, the Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisal instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the results and for future deposits of estimated duties. For duty assessment purposes, we calculated an importer-specific assessment rate by dividing the total dumping margins calculated for the U.S. sales to the importer by the total entered value of these sales. This rate will be used for the assessment of antidumping duties on all entries of the subject merchandise by that importer during the POR.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided in section 751(a)(1) of the Act: (1) The cash deposit rate for Ta Chen, the only reviewed company, will be that established in the final results of this review; (2) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established in the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will continue to be the "all other" rate established in the LTFV investigation, which was 51.01 percent.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 2, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 01-17485 Filed 7-11-01; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Export Trade Certificate of Review

**ACTION:** Notice of application.

**SUMMARY:** The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

**FOR FURTHER INFORMATION CONTACT:**

Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

#### Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five

copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 01-00004." A summary of the application follows.

#### Summary of the Application

Applicant: International Trading Group, LLC ("ITG"), 300 E. Lombard Street, Baltimore, Maryland 21202.

Contact: Kathy L. Ducassou, President and Chief Operating Officer.

Telephone: (410) 466-8114.

Application No.: 01-00004.

Date Deemed Submitted: June 29, 2001.

Members (in addition to applicant): None.

ITG seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

#### Export Trade

##### 1. Products

All products.

##### 2. Services

All services.

##### 3. Technology Rights

Technology Rights, including, but not limited to, patents, trademarks, copyrights and trade secrets that relate to Products and Services.

##### 4. Export Trade Facilitation Services (as they Relate to the Export of Products, Services and Technology Rights)

Export Trade Facilitation Services, including, but not limited to: Professional services in the areas of government relations and assistance with state and federal export programs; foreign trade and business protocol; consulting; marketing research analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping and export management; export licensing; advertising; documentation and services related to compliance with customs requirements; insurance and financing; bonding; warehousing; export trade promotion; trade show exhibitions;