

Based on the EA, RUS has concluded that the proposed action will not have a significant effect to various resources, including important farmland, floodplains, wetlands, cultural resources, threatened and endangered species and their critical habitat, air and water quality, and noise.

RUS has also determined that there would be no negative impacts of the proposed project on minority communities and low-income communities as a result of the construction of the project.

Dated: July 21, 2005.

**James R. Newby,**

*Assistant Administrator, Electric Program, Rural Utilities Service.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-831]

#### **Stainless Steel Sheet and Strip in Coils from Taiwan: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review**

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

**EFFECTIVE DATE:** August 9, 2005.

**SUMMARY:** In response to a request from petitioners<sup>1</sup> and one Taiwanese manufacturer/exporter, Chia Far Industrial Factory Co., Ltd. ("Chia Far"), the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on stainless steel sheet and strip in coils ("SSSS") from Taiwan. This review covers six producers/exporters of the subject merchandise. The period of review ("POR") is July 1, 2003, through June 30, 2004.

The Department has preliminarily determined that all but one of the companies subject to this review made U.S. sales at prices less than normal value ("NV"). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on these preliminary results of review. We will issue the final results of

review no later than 120 days from the date of publication of this notice.

#### **FOR FURTHER INFORMATION CONTACT:**

Melissa Blackledge (Chia Far) or Karine Gziryan (YUSCO); AD/CVD Operations Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3518 or (202) 482-4081, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On July 1, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on SSSS from Taiwan. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 69 FR 39903 (July 1, 2004). In response to this opportunity notice, on July 30, 2004, petitioners and one producer/exporter, Chia Far, requested that the Department conduct an administrative review covering the period July 1, 2003, through June 30, 2004. Based on these requests, the Department initiated an administrative review of the following sixteen companies: Ta Chen Stainless Pipe Co., Ltd. ("Ta Chen"), Tung Mung Development Co. Ltd. ("Tung Mung"), China Steel Corporation ("China Steel"), Yieh Mau Corp. ("Yieh Mau"), Chain Chon Industrial Co., Ltd. ("Chain Chon"), Goang Jau Shing Enterprise Co., Ltd. ("Goang Jau Shing"), PFP Taiwan Co., Ltd. ("PFP Taiwan"), Yieh Loong Enterprise Company, Ltd. ("Yieh Loong"), Tang Eng Iron Works Company, Ltd. ("Tang Eng"), Yieh Trading Corporation ("Yieh Trading"), Chien Shing Stainless Steel Company Ltd. ("Chien Shing"), Chia Far, Yieh United Steel Corporation ("YUSCO"), Emerdex Stainless Flat-Rolled Products, Inc., Emerdex Stainless Steel, Inc., and the Emerdex Group ("the Emerdex companies"). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 69 FR 52857 (August 30, 2004).

During September, October, and November, 2004, the Department issued its antidumping questionnaire to all of the companies for which a review was initiated except the Emerdex companies (for further discussion of the Emerdex companies, see the section of this notice entitled "Partial Final Rescission of Review," below).<sup>2</sup> Of the six companies

that responded to the questionnaire, only two, Chia Far and YUSCO, reported that they sold subject merchandise to the United States during the POR.

On November 10, 2004, we notified the following companies by letter that if they did not respond to the Department's requests for information by November 17, 2004, the Department may use adverse facts available ("AFA") in determining their dumping margins: Tang Eng, Goang Jau Shing, Chien Shing, PFP Taiwan, Yieh Mau, Yieh Trading, and Yieh Loong. In November 2004, Tang Eng, Yieh Mau, and Yieh Loong reported that they did not sell or ship subject merchandise to the United States during the POR.

Throughout this administrative review, the Department has issued supplemental questionnaires to Chia Far and YUSCO, and petitioners have submitted comments regarding the respondents' questionnaire responses. The petitioners have also submitted comments regarding Ta Chen and the Emerdex companies.

On March 9, 2005, the Department extended the deadline for issuing the preliminary results in this administrative review until August 1, 2005. *See Stainless Steel Sheet and Strip in Coils from Taiwan: Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 11614 (March 9, 2005).

##### **Scope of the Order**

The products covered by the order on SSSS from Taiwan are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise de-scaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

structure and business practices, the merchandise under review that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under review. Section E requests information on further manufacturing.

<sup>1</sup> The petitioners are Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, J&L Specialty Steel, Inc., United Steelworks of America, AFL-CIO/CLC, and Zanesville Armco Independent Organization.

<sup>2</sup> Section A of the questionnaire requests general information concerning a company's corporate

The merchandise subject to this order is currently classifiable in the HTSUS at subheadings: 7219.13.00.31,

7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80.

Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise covered by this order is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled ("cold-reduced"), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

In response to comments by interested parties, the Department also determined that certain specialty stainless steel products were excluded from the scope of the investigation and the subsequent order. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing,

by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness ("Hv") of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of the order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron. Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of

between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III." "Arnokrome III" is a trademark of the Arnold Engineering Company.

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials ("ASTM") specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36." "Gilphy 36" is a trademark of Imphy, S.A.

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this order. This high-strength, ductile stainless steel product is designated under the Unified Numbering System ("UNS") as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17." "Durphynox 17" is a trademark of Imphy, S.A.

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of the order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives). This steel is similar to AISI grade 420, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and

1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420-J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6." This list of uses is illustrative and provided for descriptive purposes only. "GIN4 Mo.," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

#### Partial Preliminary Rescission of Review

Seven respondents, Ta Chen, Yieh Mau, Chain Chon, Tung Mung, Tang Eng, Yieh Loong, and China Steel, certified to the Department that they did not ship subject merchandise to the United States during the POR. The Department subsequently obtained CBP information in order to substantiate the respondents' claims. *See Memorandum From Melissa Blackledge To The File, U.S. Customs and Border Protection Data Query Results*, dated August 1, 2005. Thus, the evidence on the record does not indicate that Ta Chen, Yieh Mau, Chain Chon, Tung Mung, Tang Eng, Yieh Loong, or China Steel exported subject merchandise to the United States during the POR. Therefore, in accordance with 19 C.F.R. § 351.213(d)(3) and consistent with the Department's practice, we are preliminarily rescinding our review with respect to Ta Chen, Yieh Mau, Chain Chon, Tung Mung, Tang Eng, Yieh Loong, and China Steel. *See, e.g., Certain Welded Carbon Steel Pipe and Tube from Turkey; Final Results and Partial Rescission of Antidumping Administrative Review*, 63 FR 35190, 35191 (June 29, 1998); *Certain Fresh Cut Flowers from Columbia; Final Results*

*and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 53287, 53288 (October 14, 1997).

#### Partial Final Rescission of Review

On October 27, 2004, the Department issued a letter to petitioners noting that while 19 C.F.R. § 351.213 provides that domestic interested parties may request a review of "specified individual exporters or producers covered by the order," record information indicates the Emerdex companies are U.S. corporations located in California, rather than producers or exporters covered by the order on SSSS from Taiwan.<sup>3</sup> *See also* petitioners' September 10, 2004, submission to the Department. Therefore, we informed petitioners that the Department intends to rescind the instant review with respect to the Emerdex companies. Petitioners, however, claim that the following record information supports their contention that "Emerdex" is a Taiwanese exporter, supplier, or producer of subject merchandise: (1) a 2003 Dun & Bradstreet *Business Information Report* for Emerdex Stainless Flat Roll Products Inc. ("Emerdex Flat Roll") indicating the company "operates blast furnaces or steel mills, specializing in the manufacture of stainless steel," (2) Emerdex Flat Roll's 2003 U.S. income tax return indicating at least 25% of the company is owned by someone in Taiwan, (3) the 2002 financial statement of Ta Chen showing the second largest accounts payable balance for the company was owed to Emerdex. According to petitioners, the principal input used by Ta Chen in production is SSSS.<sup>4</sup> Based upon the above information, petitioners urge the Department to explore this matter further by issuing a series of questions regarding affiliation to any parent company that Emerdex might have in Taiwan (via Emerdex Flat Roll or Ta Chen).

Notwithstanding petitioners' arguments, we find it appropriate to rescind the instant review with respect to the Emerdex companies rather than undertake an examination of those U.S. companies, and their affiliates, in order to determine the appropriate

respondent. The party requesting an administrative review "must bear the relatively small burden imposed on it by the regulation to name names" of the appropriate respondent in its review request. *See Floral Trade Council of Davis, California v. United States, et al.*, 1993 WL 534598 (December 22, 1993). *See also Potassium Permanganate From the People's Republic of China: Rescission of Antidumping Duty Administrative Review*, 68 FR 58306, 58307 (October 9, 2003) (the Department rescinded the review noting that the party requested a review of a U.S. importer, rather than an exporter or producer of subject merchandise). Where this burden has not been met, the "ITA is not required to conduct an investigation to determine who should be investigated in an administrative review proceeding." *See Floral Trade Council of Davis, California v. United States et al.*, 707 F. Supp. 1343, 1345 (February 16, 1989). Moreover, petitioners' failure to name the actual parties to be reviewed has deprived importers of notice that their imports could be affected by the review. As the Court of International Trade ("CIT") stated, the Department's initiation notice "serves to notify any interested party that the antidumping duty rate on goods obtained from exporters named in the notice of initiation for an administrative review may be affected by the outcome of that review. So apprised, 'importers could participate in the administrative review in an effort to ensure that the calculation of antidumping duties on those products was correct.'" *See Transcom, Inc. and L&S Bearing Company v. United States*, 182 F.3d 876, 880 (June 16, 1999). Here, no such notice was given because petitioners failed to name the foreign exporters or producers to be reviewed.

Lastly, we note that none of the information placed on the record by petitioners demonstrates that there is an Emerdex parent corporation in Taiwan that produces or exports subject merchandise. The Dunn & Bradstreet report and Ta Chen's accounts payable balance relate to the Emerdex companies located in California, not companies located in Taiwan.<sup>5</sup>

<sup>3</sup> Neither petitioners, nor the Department, were able to locate any company in Taiwan named "Emerdex" or with "Emerdex" as part of its name.

<sup>4</sup> Ta Chen has been a respondent in the antidumping duty proceeding involving stainless steel butt-weld pipe fittings from Taiwan. In the 2002-2003 segment of that proceeding, the Department found Ta Chen to be affiliated to the Emerdex companies (these companies imported stainless steel-butt-weld pipe fittings into the United States). As noted above, Ta Chen is also a respondent in the instant administrative review.

<sup>5</sup> Additionally, the Department has obtained information from Dunn & Bradstreet indicating that Emerdex Flat Roll is a wholesaler of stainless steel products, not a producer. *See the Memorandum From Melissa Blackledge To The File regarding the Dun & Bradstreet Business Information Report submitted by Collier Shannon Scott, PLLC on behalf of petitioners.* The information the Department obtained from Dunn & Bradstreet is consistent with the business activity code reported for Emerdex Flat Roll in the company's 2003 U.S. income tax return and the information reported to the Department in

Furthermore, Emerdex Flat Roll's 2003 U.S. tax return does not state that the company has a parent corporation in Taiwan. Rather, the tax return simply notes that during the tax year, a "foreign person" in Taiwan owned, directly or indirectly, either 25% or more of the company's voting shares or 25% or more of the total value of all classes of the company's stock. The information in the tax return does not indicate that the "foreign person" is a company, let alone a company that produces or exports subject merchandise. Accordingly, the Department is rescinding the instant review with respect to the Emerdex companies.

#### Use of Facts Available

Section 776(a)(2) of the Tariff Act of 1930, as amended ("the Act"), provides that if any interested party: (A) withholds information that has been requested by the Department, (B) fails to provide such information by the deadlines for submission of the information or in the form or manner requested, (C) significantly impedes an antidumping investigation, or (D) provides such information but the information cannot be verified, the Department shall, subject to section 782(d) of the Act, use facts otherwise available in making its determination.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

The evidence on the record of this review establishes that, pursuant to section 776(a)(2)(A) of the Act, the use of total facts available is warranted in determining the dumping margin for PFP Taiwan, Yieh Trading, Goang Jau Shing, and Chien Shing, because these companies failed to provide requested information. Specifically, these companies failed to respond to the

Department's antidumping questionnaire.

On November 10, 2004, the Department informed these companies by letter that failure to respond to the requests for information by November 17, 2004, may result in the use of AFA in determining their dumping margins. These four manufacturers/exporters, however, did not respond to the Department's November 10, 2004, letter. Because these respondents failed to provide any of the necessary information requested by the Department, pursuant to section 776(a)(2)(A) of the Act, we have based the dumping margins for these companies on the facts otherwise available.

#### Use of Adverse Inferences

Section 776(b) of the Act states that if the Department "finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." See also Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act (URAA), H. Rep. No. 103-316 at 870 (1994). Section 776(b) of the Act goes on to note that an adverse inference may include reliance on information derived from (1) the petition; (2) a final determination in the investigation under this title; (3) any previous review under section 751 or determination under section 753; or (4) any other information on the record.

Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See SAA at 870; *Borden, Inc. v. United States*, 4 F. Supp. 2d 1221 (CIT 1998); *Mannesmannrohren-Werke AG v. United States*, 77 F. Supp. 2d 1302 (CIT 1999). The Court of Appeals for the Federal Circuit ("CAFC"), in *Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1380 (Fed. Cir. 2003), provided an explanation of the "failure to act to the best of its ability" standard, holding that the Department need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed, *i.e.*, information was not provided "under circumstances in which it is reasonable to conclude that less than full cooperation has been shown." *Id.*

The record shows that PFP Taiwan, Yieh Trading, Goang Jau Shing, and Chien Shing failed to cooperate to the best of their abilities, within the meaning of section 776(b) of the Act. As noted above, PFP Taiwan, Yieh Trading, Goang Jau Shing, and Chien Shing failed to provide any response to the Department's requests for information. As a general matter, it is reasonable for the Department to assume that these companies possessed the records necessary to participate in this review; however, by not supplying the information the Department requested, these companies failed to cooperate to the best of their abilities. As these companies have failed to cooperate to the best of their abilities, we are applying an adverse inference in determining their dumping margin pursuant to section 776(b) of the Act. As AFA, we have assigned these companies a dumping margin of 21.10 percent, which is the highest appropriate dumping margin from this or any prior segment of the instant proceeding. This rate was the highest petition margin and was used as AFA in a number of the segments in the instant proceeding. See, *e.g.*, *Stainless Steel Sheet and Strip from Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 6682 (February 13, 2002) ("1999-2000 AR of SSSS from Taiwan"). See also *Stainless Steel Sheet and Strip in Coils from Taiwan: Notice of Court Decision*, 67 FR 63887 (October 16, 2002).

The Department notes that while the highest dumping margin calculated during this or any prior segment of the instant proceeding is 36.44 percent, as argued by petitioners, this margin represents a combined rate applied to a channel transaction in the investigative phase of this proceeding, and it is based on middleman dumping by Ta Chen. See *Final Results of Redetermination Pursuant to Court Remand*, (Nov. 29, 2000) affirmed by 219 F. Supp. 2d 1333, 1345 (CIT 2002), *aff'd* 354 F. 3d 1371, 1382 (Fed. Cir. 2004). Where circumstances indicate that a particular dumping margin is not appropriate as AFA, the Department will disregard the margin and determine another more appropriate one as facts available. See *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest dumping margin for use as AFA because the margin was based on another company's uncharacteristic business expense, resulting in an unusually high dumping margin). Because a dumping

the 2002-2003 administrative review of stainless steel butt-weld pipe fittings from Taiwan. See Ta Chen's January 23, 2004, supplemental questionnaire response (at B-2) from the stainless steel butt-weld pipe fittings case (on November 5, 2004, at Enclosure 6, petitioners placed this page on the record of the instant review).

margin based on middleman dumping would be inappropriate, given that the record does not indicate that any of PFP Taiwan's, Yieh Trading's, Goang Jau Shing's, and Chien Shing's exports to the United States during the POR involved a middleman, the Department has, consistent with previous reviews, continued to use as AFA the highest dumping margin from any segment of the proceeding for a producer's direct exports to the United States, without middleman dumping, which is 21.10 percent.

Section 776(c) of the Act requires that the Department, to the extent practicable, corroborate secondary information from independent sources that are reasonably at its disposal. Secondary information is defined as "[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870. The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. As noted in *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information.

The rate of 21.10 percent constitutes secondary information. The Department corroborated the information used to establish the 21.10 percent rate in the less than fair value ("LTFV") investigation in this proceeding, finding the information to be both reliable and relevant. See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Taiwan*, 64 FR 30592, 30592 (June 8, 1999) ("Final Determination"); see also 1999–2000 AR of SSSS from Taiwan, 67 FR 6682, 6684 and accompanying *Issues and Decision Memorandum* at Comment 28. Nothing on the record of this instant administrative review calls into question the reliability of this rate. Furthermore, with respect to the relevancy aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. As discussed above, in selecting this

margin, the Department considered whether a margin derived from middleman dumping was relevant to PFP Taiwan's, Yieh Trading's, Goang Jau Shing's, and Chien Shing's commercial experience, and determined the use of this margin was inappropriate. The Department has determined that there is no evidence on the record of this case, however, which would render the 21.10 percent dumping margin irrelevant. Thus, we find that the rate of 21.10 percent is sufficiently corroborated for purposes of the instant administrative review.

#### Affiliation

##### YUSCO

During the course of this administrative review, petitioners have argued that YUSCO is under common control with certain companies, and thus it is affiliated with these companies. Specifically, petitioners contend that through direct and indirect interests and Board of Director positions associated with YUSCO's Chairman, Mr. Lin, YUSCO is affiliated with a number of companies, including Yieh Loong and China Steel. As has been the case in prior segments of this proceeding, we find that the facts on the record do not demonstrate that YUSCO is affiliated with Yieh Loong or China Steel. Nor do we conclude that the facts support a finding that YUSCO is affiliated with any of the other companies identified by petitioners. Because our discussion of this issue necessitates the use of business proprietary information, we have addressed the issue in the memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, covering the subject of affiliation.

##### Chia Far

During the first administrative review in this proceeding, the Department found Chia Far and its U.S. reseller, Lucky Medsup Inc. ("Lucky Medsup"), to be affiliated by way of a principal–agency relationship. The Department primarily based its finding on: (1) a document evidencing the existence of a principal–agent relationship, (2) Chia Far's degree of involvement in sales between Lucky Medsup and its customers, (3) evidence indicating Chia Far knew the identity of Lucky Medsup's customers, and the customers were aware of Chia Far, (4) Lucky Medsup's operations as a "go-through" who did not maintain any inventory or further manufacture products, and (5) Chia Far's inability to provide any documents to support its claim that the document evidencing the principal–

agent relationship was not valid during the POR. See *Stainless Steel Sheet and Strip in Coils from Taiwan: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 6682 (February 13, 2002) and the accompanying *Issues and Decision Memorandum* at Comment 23 (upheld by CIT in *Chia Far Industrial Factory Co. Ltd. v. United States, et al.*, 343 F. Supp. 2d 1344, 1356 (August 2, 2004)). The Department has continued to treat Chia Far and Lucky Medsup as affiliated parties throughout this proceeding.

In the instant administrative review, however, Chia Far contends that it is no longer affiliated with Lucky Medsup because: (1) there is no cross-ownership between Chia Far and Lucky Medsup and no sharing of officers or directors, (2) Lucky Medsup's owner operates independently of Chia Far as a middleman, (3) Lucky Medsup's transactions with Chia Far are at arm's length, (4) there are no exclusive distribution contracts between Lucky Medsup and Chia Far (the one that existed in 1994, was terminated in 1995), and (5) Lucky Medsup is not obligated to sell Chia Far's merchandise and Chia Far is not obligated to sell through Lucky Medsup in the United States.

We, however, find the fact pattern in the instant review mirrors that which existed when the Department found the parties to be affiliated. First and foremost, Chia Far could not provide any documents in response to the Department's request that it demonstrate that the agency agreement was terminated and the principal–agent relationship no longer exists. See Chia Far's March 25, 2002, supplemental questionnaire response at page 1. Furthermore, Chia Far's degree of involvement in Lucky Medsup's U.S. sales is similar to that found in prior reviews. Specifically, Chia Far played a role in the sales negotiation process with the end–customer (Chia Far was informed of the identity of the end–customers and the sales terms that they had requested before it set its price to Lucky Medsup), Lucky Medsup's sales order confirmation identifies Chia Far as the manufacturer, and Chia Far shipped the merchandise directly to end–customers and provided technical assistance directly to certain end–customers. Lastly, as was true in prior segments of this proceeding, during the instant POR Lucky Medsup did not maintain inventory or further manufacture SSSS. Therefore, we continue to find that Chia Far is affiliated with Lucky Medsup.

### Identifying Home Market Sales

Section 773 (a)(1)(B) of the Act defines NV as the price at which foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country (home market), in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the export price ("EP") or constructed export price ("CEP"). In implementing this provision, the CIT has found that sales should be reported as home market sales if the producer "knew or should have known that the merchandise {it sold} was for home consumption based upon the particular facts and circumstances surrounding the sales." See *Tung Mung Development Co., Ltd. & Yieh United Steel Corp. v. United States and Allegheny Ludlum Corp., et al.*, Slip Op. 01-83 (CIT 2001); citing *INA Walzlager Schaeffler KG v. United States*, 957 F. Supp. 251 (1997). Conversely, if the producer knew or should have known the merchandise that it sold to home market customers was not for home market consumption, it should exclude such sales from its home market sales database. Even though a producer may sell merchandise destined for exportation by a home market customer, if that merchandise is used to produce non-subject merchandise in the home market, it is consumed in the home market and such sales will be considered to be home market sales. See *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Plate Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Korea*, 58 FR 37176, 37182 (July 9, 1993).

The issue of whether respondents have properly reported home market sales has arisen in each of the prior segments of the instant proceeding. It is also an issue in the instant administrative review.

### YUSCO

Throughout the instant administrative review, petitioners have questioned the accuracy of YUSCO's home market sales database. Specifically, petitioners claim that YUSCO has not properly addressed the very important part of the Department's knowledge test - consumption of YUSCO's merchandise in Taiwan before exportation. As a result, petitioners maintain that the Department cannot rely upon the sales databases submitted by YUSCO and must base the company's dumping

margin on total AFA. See petitioners' April 14, 2005, and April 28, 2005, submissions to the Department.

For these preliminary results, we have not rejected YUSCO's sales databases in favor of total AFA because information on the record indicates that YUSCO knew, or should have known, the merchandise that it sold was for consumption in the home market based upon the particular facts and circumstances surrounding the sales. Thus, there is information on the record that allows the Department to identify YUSCO's home market sales. Specifically, YUSCO reported that it sold SSSS to a certain home market customer who was planning to further process the SSSS into non-subject merchandise and then export the merchandise. Further, YUSCO delivered the merchandise to this customer at a location that had facilities to further process the SSSS into non-subject merchandise. YUSCO reported these sales in its HM3 database. See YUSCO's April 4, 2005, supplemental questionnaire response at 11. Because the record indicates that YUSCO knew at the time of sale that this merchandise would be consumed in the home market, the Department has preliminarily considered sales to this home market customer to be home market sales. In its HM4 database YUSCO reported its sales to an affiliated home market customer, who has the ability to further process the SSSS into non-subject merchandise but did not inform YUSCO about its plans regarding possible further manufacturing prior to exportation. YUSCO delivered these sales to the affiliated customer's processing plant. See YUSCO's November 22, 2004, Sections B-C questionnaire response at 2, 3. Consistent with the approach taken in the prior administrative review of this order, we have considered YUSCO's sales to an affiliated home market customer delivered to the customer's further processing plant to be home market sales.

### Chia Far

In its November 15, 2004, questionnaire response, Chia Far stated that it has reason to believe that some of the home market customers to whom it sold SSSS during the POR may have exported the merchandise. Specifically, Chia Far indicated that it shipped some of the SSSS it sold to home market customers during the POR to a container yard or placed the SSSS in an ocean shipping container at the home market customer's request. Chia Far stated that even though the merchandise was containerized or sent to a container

yard, it could not prove the merchandise was exported to a third country, and therefore, it included those sales in its reported home market sales. Although Chia Far stated that it does not definitively know whether the SSSS in question will be exported, the Department has preliminarily determined that, based on the fact that these sales were sent to a container yard or placed in a container by Chia Far at the request of the home market customer, Chia Far should have known that the SSSS in question was not for consumption in the home market. Therefore, the Department has preliminarily excluded these sales from Chia Far's home market sales database.

### Comparison Methodology

In order to determine whether the respondents sold SSSS to the United States at prices less than NV, the Department compared the EP and CEP of individual U.S. sales to the monthly weighted-average NV of sales of the foreign like product made in the ordinary course of trade. See section 777A(d)(2) of the Act; see also section 773(a)(1)(B)(i) of the Act. Section 771(16) of the Act defines foreign like product as merchandise that is identical or similar to subject merchandise and produced by the same person and in the same country as the subject merchandise. Thus, we considered all products covered by the scope of the order, that were produced by the same person and in the same country as the subject merchandise, and sold by YUSCO and Chia Far in the comparison market during the POR, to be foreign like products, for the purpose of determining appropriate product comparisons to SSSS sold in the United States. During the POR, Chia Far sold subject merchandise and foreign like product that it made from hot- and cold-rolled stainless steel coils (products covered by the scope of the order) purchased from unaffiliated parties. Chia Far further processed the hot- and cold-rolled stainless steel coils by performing one or more of the following procedures: cold-rolling, bright annealing, surface finishing/shaping, slitting. We did not consider Chia Far to be the producer of the merchandise under review if it performed insignificant processing on the coils (e.g., annealing, slitting, surface finishing). See *Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 69 FR 74495 (December 14, 2004) and the accompanying *Issues and Decision Memorandum* at Comment 4 (listing painting, slitting, finishing, pickling,

oiling, and annealing as minor processing for flat-rolled products). Furthermore, we did not consider Chia Far to be the producer of the cold-rolled products that it sold if it was not the first party to cold roll the coils. The cold-rolling process changes the surface quality and mechanical properties of the product and produces useful combinations of hardness, strength, stiffness, and ductility. Further cold-rolling does not appear to change the fundamental character of a product that has already been cold-rolled. Thus, we considered the original party that cold-rolled the product to be its producer.

The Department compared U.S. sales to sales made in the comparison market within the contemporaneous window period, which extends from three months prior to the U.S. sale until two months after the sale. Where there were no sales of identical merchandise made in the comparison market in the ordinary course of trade, the Department compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making product comparisons, the Department selected identical and most similar foreign like products based on the physical characteristics reported by the respondents in the following order of importance: grade, hot- or cold-rolled, gauge, surface finish, metallic coating, non-metallic coating, width, temper, and edge. Where there were no appropriate sales of the foreign like product to compare to a U.S. sale, we compared the price of the U.S. sale to constructed value ("CV"), in accordance with section 773(a)(4) of the Act.

#### Export Price and Constructed Export Price

The Department based the price of each of YUSCO's U.S. sales of subject merchandise on EP, as defined in section 772(a) of the Act, because the merchandise was sold, prior to importation, to unaffiliated purchasers in the United States, and CEP was not otherwise warranted based on the facts of the record. We calculated EP using packed prices to unaffiliated purchasers in the United States from which we deducted, where applicable, inland freight expenses (from YUSCO's plant to the port of exportation), international freight expenses, brokerage and handling charges, container handling fees, and certification fees in accordance with section 772(c) of the Act.

We based the price of Chia Far's U.S. sales of subject merchandise on EP or CEP, as appropriate. Specifically, when Chia Far sold subject merchandise to unaffiliated purchasers in the United States prior to importation, and CEP was

not otherwise warranted based on the facts of the record, we based the price of the sale on EP, in accordance with section 772 (a) of the Act. On the other hand, when Chia Far sold subject merchandise to unaffiliated purchasers in the United States after importation through its U.S. affiliate, Lucky Medsup, we based the price of the sale on CEP, in accordance with section 773(b) of the Act. Although Chia Far based the date of sale for its EP and CEP transactions on the order confirmation date, in response to questions from the Department, Chia Far reported information showing that the material terms of U.S. sales changed after the order confirmation date (e.g., changes to the ordered quantity in excess of the allowable variation). See Chia Far's March 18, 2005, supplemental questionnaire response at page 5 and attachment C-21. See also Chia Far's December 13, 2004, supplemental questionnaire response at page 6 where Chia Far indicated the material terms of U.S. sales can change after the initial agreement.

Normally, the Department considers the respondent's invoice date as recorded in its business records to be the date of sale unless a date other than the invoice date better reflects the date on which the company establishes the material terms of sale. See 19 C.F.R. § 351.401(i). Given that changes to the material terms of sale occurred after the order confirmation date, the record does not support using the reported date of sale. Therefore, we have preliminarily used invoice date as the date of sale for Chia Far's EP and CEP transactions. However, consistent with the Department's practice, where the invoice was issued after the date of shipment to the first unaffiliated U.S. customer, we relied upon the date of shipment as the date of sale. See *Certain Cold-Rolled and Corrosion Resistant Carbon Steel Flat Products From Korea; Final Results of Antidumping Duty Administrative Reviews*, 64 FR 12927, 12935 (March 16, 1999), citing *Certain Cold-Rolled and Corrosion Resistant Carbon Steel Flat Products From Korea; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170, 13172-73 (March 18, 1998) ("in these final results we have followed the Department's methodology from the final results of the third reviews, and have based date of sale on invoice date from the U.S. affiliate, unless that date was subsequent to the date of shipment from Korea, in which case that shipment date is the date of sale.").

We calculated EP using packed prices to unaffiliated purchasers in the United States from which we deducted, where

applicable, foreign inland freight expense (from Chia Far's plant to the port of exportation), brokerage and handling expense, international ocean freight expense, marine insurance expense, container handling charges, and harbor construction fees. Additionally, we added to the starting price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act. We calculated CEP using packed prices to the first unaffiliated purchaser in the United States from which we deducted foreign inland freight expense (from Chia Far's plant to the port of exportation), brokerage and handling expense, international ocean freight expense, marine and inland insurance expense, container handling charges, harbor construction fees, other U.S. transportation expenses and U.S. duty. Additionally, we added to the starting price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act. In accordance with section 772(d)(1) of the Act, we deducted from the starting price selling expenses associated with economic activities occurring in the United States, including direct and indirect selling expenses. Furthermore, we deducted from the starting price the profit allocated to expenses deducted under sections 772(d)(1) and (d)(2) of the Act in accordance with sections 772(d)(3) and 772(f) of the Act. We computed profit by deducting from total revenue realized on sales in both the U.S. and comparison markets, all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and comparison markets.

#### Normal Value

After testing home market viability, whether comparison-market sales to affiliates were at arm's-length prices, and whether comparison-market sales were at below-cost prices, we calculated NV as noted in the "Price-to-Price Comparisons" and "Price-to-CV Comparisons" sections of this notice.

##### 1. Home Market Viability

In accordance with section 773(a)(1)(B) 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 separately compared the aggregate volume of YUSCO's and Chia Far's home market sales of the foreign like



product to the aggregate volume of their U.S. sales of subject merchandise. Because the aggregate volume of YUSCO's and Chia Far's home market sales of the foreign like product is greater than five percent of the aggregate volume of their respective U.S. sales of subject merchandise, we determined that the home market is viable for each of these respondents and have used the home market as the comparison market.

## 2. Arm's-Length Test

YUSCO reported that it made sales in the home market to affiliated and unaffiliated end users and distributors/retailers. The Department will calculate NV based on sales to an affiliated party only if it is satisfied that the prices charged to the affiliated party are comparable to the prices charged to parties not affiliated with the producer, i.e., the sales are at arm's-length. See section 773(f)(2) of the Act and 19 C.F.R. § 351.403(c). Where the home market prices charged to an affiliated customer were, on average, found not to be arm's-length prices, sales to the affiliated customer were excluded from our analysis. To test whether YUSCO's sales to affiliates were made at arm's-length prices, the Department compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Pursuant to 19 C.F.R. § 351.403(c), and in accordance with the Department's practice, when the prices charged to affiliated parties were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length prices. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). YUSCO's affiliated home market customer did not pass the arm's-length test. Therefore, we have disregarded YUSCO's sales to its affiliated home market customer in favor of that customer's downstream sales of foreign like product to its first unaffiliated customer.

## 3. Cost of Production ("COP") Analysis

In the previous administrative review in this proceeding, the Department determined that YUSCO and Chia Far sold the foreign like product in the home market at prices below the cost of producing the merchandise and excluded such sales from the calculation of NV. Based on the results of the previous administrative review, the Department determined that there are reasonable grounds to believe or

suspect that during the instant POR, YUSCO and Chia Far sold the foreign like product in the home market at prices below the cost of producing the merchandise. See section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a COP inquiry for both YUSCO and Chia Far.

### A. Calculation of COP

In accordance with section 773(b)(3) of the Act, for each unique foreign like product sold by the respondents during the POR, we calculated a weighted-average COP based on the sum of the respondent's materials and fabrication costs, home market selling general and administrative ("SG&A") expenses, including interest expenses, and packing costs. We made the following adjustments to YUSCO's cost data: (1) we increased the reported cost of inputs purchased from affiliated suppliers to reflect the higher of the transfer price or market price as required by section 773(f)(2) of the Act, and (2) we adjusted YUSCO's reported general and administrative (G&A) expense ratio to exclude certain income. See Analysis Memorandum for the Preliminary Results of Review for Stainless Steel Sheet and Strip in Coils From Taiwan Yieh United Steel Corp., Ltd. (August 1, 2005) ("YUSCO Preliminary Analysis Memorandum"). See also Analysis Memorandum for the Preliminary Results of Review for Stainless Steel Sheet and Strip in Coils From Taiwan - Chia Far Industrial Factory Co., Ltd. (August 1, 2005) ("Chia Far Preliminary Analysis Memorandum").

### B. Test of Home Market Prices

In order to determine whether sales were made at prices below the COP, on a product-specific basis we compared each respondent's weighted-average COPs, adjusted as noted above, to the prices of its home market sales of foreign like product, as required under section 773(b) of the Act. In accordance with section 773(b)(1)(A) and (B) of the Act, in determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales were made: (1) in substantial quantities within an extended period of time, and (2) at prices which permitted the recovery of all costs within a reasonable period of time. We compared the COP to home market sales prices, less any applicable movement charges and discounts.

### C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were made at prices less than the COP,

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

### Price-to-Price Comparisons

Where it was appropriate to base NV on prices, we used the prices at which the foreign like product was first sold for consumption in Taiwan, in usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same level of trade ("LOT") as the comparison EP or CEP sale.

We based NV on the prices of home market sales to unaffiliated customers and to affiliated customers to whom sales were made at arm's-length prices. We excluded from our analysis home market sales of merchandise identified by the Department as having been manufactured by parties other than the respondents. Merchandise manufactured by parties other than the respondents was not sold in the U.S. market during the POR. We made price adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In accordance with sections 773(a)(6)(A), (B), and (C) of the Act, where appropriate, we deducted from the starting price rebates, warranty expenses, movement expenses, home market packing costs, credit expenses and other direct selling expenses and added U.S. packing costs and, for NVs compared to EPs, credit expenses, and other direct selling expenses. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale resulted in difference-in-merchandise adjustments exceeding 20 percent of the cost of manufacturing the U.S. product, we based NV on CV.

### Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we based NV on CV when



we were unable to compare the U.S. sale to a home market sale of an identical or similar product. For each unique SSSS product sold by the respondents in the United States during the POR, we calculated a weighted-average CV based on the sum of the respondent's materials and fabrication costs, SG&A expenses, including interest expenses, packing costs, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in Taiwan. We based selling expenses on weighted-average actual home market direct and indirect selling expenses. In calculating CV, we adjusted the reported costs as described in the COP section above.

#### Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same LOT as the EP or CEP sales. For NV, the LOT is based upon the level 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 EP sales, the U.S. LOT is also based upon the level of the starting price sale, which is usually from the exporter to the importer. For CEP sales, it is the level of the constructed sale from the exporter to the importer. The Department adjusts CEP, pursuant to section 772(d) of the Act, prior to performing the LOT analysis, as articulated by 19 C.F.R. § 351.412. *See Micron Technology, Inc. v. United States*, 243 F.3d, 1301, 1315 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than the EP or CEP sales, 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 a 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 the 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 Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In determining whether separate LOTs exist, we obtained information from YUSCO and Chia Far regarding the marketing stages for the reported U.S. and home market sales, including a description of the selling activities performed by YUSCO and Chia Far for each channel of distribution. Generally, if the reported LOTs are the same, the functions and activities of the seller at each level should be similar. Conversely, if a party reports that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group should be dissimilar.

YUSCO reported that it sold foreign like product in the home market through one channel of distribution and at one LOT. *See YUSCO's November 22, 2004, Questionnaire Response at B-29.* In this channel of distribution, YUSCO provided the following selling functions: inland freight, invoicing, packing, warranty services, and technical advice. Because there is only one sales channel in the home market involving similar functions for all sales, we preliminarily determine that there is one LOT in the home market.

In addition, YUSCO reported that it sold subject merchandise to customers in the United States through one channel of distribution and at one LOT. *See YUSCO's November 15, 2004, Questionnaire Response at A-14.* In this channel of distribution, YUSCO provided the following selling functions: arranging freight and delivery, invoicing, and packing. YUSCO did not incur any other expenses in the United States for its U.S. sales. Because the one sales channel in the United States involves similar functions for all sales, we preliminarily determine that there is one LOT in the United States.

Based upon our analysis of the selling functions performed by YUSCO, we preliminarily determine that YUSCO sold the foreign like product and subject merchandise at the same LOT. Although YUSCO provided technical advice and warranty services in the home market, but not in the U.S. market, these services were rarely provided in the home market and thus, there is no significant difference between the selling functions performed in the home and U.S. markets. Therefore, we preliminarily determine that a LOT adjustment is not warranted.

Chia Far reported that it sold subject merchandise in the home market to two

types of customers, distributors and end users, through one channel of distribution. Chia Far provided the same selling functions for home market sales to both customer categories, such as providing technical advice, making freight and delivery arrangements, processing orders, providing after-sale warehousing, providing after-sale packing services, performing warranty services, and post-sale processing. *See Chia Far's September 22, 2004, Section A Questionnaire Response at Exhibit A-6.* Based on the similarity of the selling functions and the fact that one channel of distribution serviced the two types of customers, we preliminarily determine that there is one LOT in the home market.

For the U.S. market, Chia Far reported that it made sales to unaffiliated distributors directly and through its U.S. affiliate, Lucky Medsup. Since the Department bases the LOT of CEP sales on the price in the United States after making CEP deductions under section 772(d) of the Act, we based the LOT of Chia Far's CEP sales on the price after deducting selling expenses.

Chia Far performed the same selling functions, such as arranging freight and delivery, providing after-sale packing services, processing orders, providing technical advice, and performing warranty services for all U.S. customers, including Lucky Medsup's customers. *See Chia Far's September 22, 2004, Section A Questionnaire Response at Exhibit A-6.* Based on the similarity of selling functions to the same customer type, we preliminarily determine that there is one LOT in the United States.

To determine whether NV is at a different LOT than the U.S. transactions, the Department compared home market selling activities with those for EP and CEP transactions. The Department made the comparison after deducting expenses associated with selling activities occurring in the United States from the CEP. *See section 772(d) of the Act.* Chia Far engaged in the following selling activities for both the home and U.S. markets: providing technical advice, warranty services, freight and delivery arrangements, packing, and order processing. *See AQR at Exhibit A-6 and A-7.* Chia Far's selling activities in the home and U.S. markets differed in that additional activity was required to ship subject merchandise to U.S. customers (*i.e.*, arranging international freight and marine insurance) and it engaged in post-sale processing and post-sale warehousing in the home market, but not the U.S. market. While Chia Far may have engaged in certain selling activities in the home market that it did not perform in the U.S.

market, according to Chia Far, the significance of these activities is minimal. Based on the foregoing, the Department determined that the differences between the home and U.S. market selling activities do not support a finding that Chia Far's sales in the home market were made at a different LOT than U.S. sales.

In its questionnaire response, Chia Far requested a CEP offset (noting that there is only one LOT in the home market). See AQR at A-14. The Department will grant a CEP offset if NV is at a more advanced LOT than the CEP transactions and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability (e.g., a LOT adjustment is not possible because there is only one LOT in the home market). Here, the Department has not found the NV LOT to be more advanced than the CEP LOT and thus, it has not granted Chia Far a CEP offset.

#### Currency Conversion

Pursuant to section 773A(a) of the Act, we converted amounts expressed in foreign currencies into U.S. dollar amounts based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

#### Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margins exist for the period July 1, 2003, through June 30, 2004:

Manufacturer/Exporter/ Reseller	Weighted-Average Margin (percentage)
Yieh United Steel Corporation ("YUSCO") ..	0.00
Chia Far Industrial Factory Co., Ltd. ("Chia Far") .....	1.37
Goang Jau Shing Enterprise Co., Ltd. ....	21.10
PFP Taiwan Co., Ltd. ...	21.10
Yieh Trading Corporation .....	21.10
Chien Shing Stainless Steel Company Ltd. ..	21.10

#### Assessment Rates

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 C.F.R. § 351.212(b)(1), where possible, the Department calculated importer-specific assessment rates for merchandise subject to this review. Where the importer-specific assessment rate is above *de minimis*, we will

instruct CBP to assess the importer-specific rate uniformly on the entered customs value of all entries of subject merchandise made by the importer during the POR. Since YUSCO did not report the entered value of its sales, we calculated per-unit assessment rates for its merchandise by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the per-unit duty assessment rates were *de minimis* (i.e., less than 0.50 percent *ad valorem*), in accordance with the requirement set forth in 19 C.F.R. § 351.106(c)(2), we calculated importer-specific *ad valorem* ratios based on the export prices. For the respondents receiving dumping margins based upon AFA, the Department will instruct CBP to liquidate entries according to the AFA *ad valorem* rate. The Department will issue appropriate appraisal instructions directly to CBP within 15 days of publication of the final results of review.

#### Cash Deposit Rates

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for each of the reviewed companies will be the rate listed in the final results of this review (except if the rate for a particular company is *de minimis*, i.e., less than 0.5 percent, no cash deposit will be required for that company), (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent review period, (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise, and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 12.61 percent, the "all others" rate established in the LTFV investigation. See *Final Determination*, 64 FR 30592. These required cash deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Public Comment

According to 19 C.F.R. § 351.224(b), the Department will disclose any calculations performed in connection with the preliminary results of review within 10 days of publicly announcing the preliminary results of review. Any interested party may request a hearing within 30 days of publication of this notice. See 19 C.F.R. § 351.310(c). If requested, a hearing will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties are invited to comment on the preliminary results. The Department will consider case briefs filed by interested parties within 30 days after the date of publication of this notice. Also, interested parties may file rebuttal briefs, limited to issues raised in case briefs. The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, we request that parties submitting written comments provide the Department with a diskette containing the public version of those comments. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 C.F.R. § 351.402(f)(2) 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.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 1, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-4306 Filed 8-8-05; 8:45 am]

(Billing Code: 3510-DS-S)

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### Notice of Workshop To Participate in the Development of Software Assurance Metrics

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice of workshop.

**SUMMARY:** The National Institute of Standards and Technology (NIST) announces the first in a series of planned workshops being held in support of NIST's Software Assurance Metrics and Tool Evaluation (SAMATE) project. NIST is working with industry, academia, and users:

- To identify deficiencies in software assurance (SA) methods and tools
- To develop metrics for the effectiveness of SA tools.

NIST invites parties interested in these issues to contribute to the specification of such metrics and to the development of reference data sets capable of testing the effectiveness of SA tools. These reference data sets, when used during an SA tool's development, can aid in building a correct implementation with regard to these metrics.

The first workshop "Defining the State of the Art in Software Security Tools" is being held at NIST Gaithersburg August 10 and 11. Future Workshops will be announced on the Project's Web site <http://samate.nist.gov/> and on other SA forums.

**DATES:** The first workshop is being held at NIST Gaithersburg August 10, 9 a.m. to 5 p.m. and August 11, 2005, 9 a.m. to 1 p.m.

**FOR FURTHER INFORMATION CONTACT:** For further information, you may visit the Software Assurance Metrics Project Website at <http://samate.nist.gov/>. In addition, you may telephone Dr. Paul E. Black at (301) 975-4794, or by e-mail at [paul.black@nist.gov](mailto:paul.black@nist.gov).

**SUPPLEMENTARY INFORMATION:** In support of its Software Assurance Metrics and Tool Evaluation (SAMATE) project, NIST is working with industry, academia, and users:

- To identify deficiencies in software assurance (SA) methods and tools

- To develop metrics for the effectiveness of SA tools.

The SA Metrics Project surveys current SA tools and develops a classification scheme, grouping SA tools with similar functionality or capability. A set of metrics and tests are developed for each tool class. Source/object code vulnerability scanners are an example of one possible class. A series of Workshops will be used to:

- Validate the tool classes.
- Establish priorities for the order in which SA tool classes are tested.
- Help determine the required and optional functionality for each class of SA tools.

After a tool class is selected, requirements, metrics, and tests for these functionalities are developed. Classification and testing activities can proceed simultaneously. As a result, a draft specification and test methodology for the highest priority tool class is developed. Further information on the project, including the Project Plan, may be found at the Project's Web site <http://samate.nist.gov/> and on other SA forums.

Dated: August 3, 2005.

**Matthew Heyman,**

*Chief of Staff.*

[FR Doc. 05-15724 Filed 8-8-05; 8:45 am]

BILLING CODE 3510-13-P

### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

#### Information Collection; Submission for OMB Emergency Review, Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the "Corporation"), has submitted a public information collection request (ICR) entitled AmeriCorps Application Instructions: State Competitive, State Education Award, National Direct, National Direct Education Award, National Professional Corps, Indian Tribes, States and Territories without Commissions, and National Planning, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Pub. L. 104-13, (44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Corporation for National and Community Service, AmeriCorps, Amy Borgstrom, Associate Director of

Policy, (202) 606-6930, or by e-mail at [ABorgstrom@cns.gov](mailto:ABorgstrom@cns.gov). Individuals who use a telecommunications device for the deaf (TTY-TDD) may call (202) 565-2799 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

**ADDRESSES:** Comments may be submitted, identified by the title of the information collection activity, to (1) Corporation for National and Community Service, and (2) the Office of Information and Regulatory Affairs. Please send comments to:

1. Corporation for National and Community Service, Attn: Amy Borgstrom, Associate Director of Policy for AmeriCorps, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

(a) By fax to: (202) 606-3476, Attention: Amy Borgstrom, Associate Director of Policy for AmeriCorps; and  
(b) Electronically by e-mail to: [ABorgstrom@cns.gov](mailto:ABorgstrom@cns.gov); and

2. Office of Information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

(a) By fax to: (202) 395-6974, Attention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and  
(b) Electronically by e-mail to: [Katherine\\_T\\_Astrich@omb.eop.gov](mailto:Katherine_T_Astrich@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

#### Comments

*Description:* Since the President's Call to Service, many Americans have