

Dated: May 7, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97-12798 Filed 5-14-97; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 38-97]

Foreign-Trade Zone 181—Akron-Canton, Ohio Area; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Akron-Canton Regional Airport Authority, grantee of FTZ 181, requesting authority to expand its zone to include an additional site in Mansfield, Ohio, adjacent to the Cleveland/Akron Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 28, 1997.

FTZ 181 was approved on December 23, 1991 (Board Order 546, 57 FR 41, 1/2/92). The general-purpose zone currently consists of a site (158 acres) within the 2,121-acre Akron-Canton Regional Airport in North Canton, Ohio. Two other applications are currently pending with the Board to expand the zone at sites in northeastern Ohio (Docket Nos. 56-96 and 74-96).

This application requests authority to further expand the general-purpose zone to include an additional site at the Mansfield Lahm Airport complex (2,347 acres), located on State Route 13 at South Airport Road, Mansfield. The complex includes the airport facility's four industrial parks and airport fueling facilities. The City of Mansfield owns the complex, except for one of the industrial parks which is owned by Armco Inc. The City plans to serve as operator of the zone site. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 14, 1997. Rebuttal

comments in response to material submitted during the foregoing period may be submitted during the subsequent 15 day period (to July 29, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Clerk of Council's Office, City Administration Building, 3rd Floor, 30 North Diamond Street, Mansfield, Ohio 44902

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: May 8, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97-12796 Filed 5-14-97; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 9-97]

Foreign-Trade Zone 21—Charleston, South Carolina; Application for Subzone Status, Bayer Corporation (Rubber Chemicals), Goose Creek, South Carolina; Amendment of Application

Notice is hereby given that the application of the South Carolina State Ports Authority, grantee of FTZ 21, requesting special-purpose subzone status for the rubber chemicals manufacturing plant of Bayer Corporation, in Goose Creek, South Carolina (Doc. 9-97, 62 FR 9159, 2/28/97) has been amended to expand the boundary of the plant site for which subzone status is requested.

The original application indicated that the plant, located within the Bushy Park Industrial Complex, Highway 501 in Goose Creek (Berkeley County), South Carolina, consisted of 100,000 square feet on 4.4 acres. The amendment requests to include within the subzone boundary an adjacent company-owned parcel (approx. 190,000 sq. ft. on 4.4 acres) east of the Bayer plant for the storage of raw material tanks.

The application otherwise remains unchanged.

The comment period is extended until June 16, 1997. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below.

A copy of the application and the amendment and accompanying exhibits

are available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 81 Mary St., Charleston, South Carolina 29403
Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: May 5, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97-12797 Filed 5-14-97; 8:45 am]

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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 preliminary results of administrative review.

SUMMARY: In response to a request by respondent Ta Chen Stainless Pipe Co., Ltd. (Ta Chen), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings (pipe fittings) from Taiwan. This review covers one manufacturer/exporter of the subject merchandise to the United States during the period December 23, 1992 through May 31, 1994.

We preliminarily determine that Ta Chen made sales of pipe fittings below the foreign market value (FMV) for this period of review (POR). 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 equal to the difference between United States price (USP) and the FMV.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument.

EFFECTIVE DATE: May 15, 1997.

FOR FURTHER INFORMATION CONTACT: Robert James at (202) 482-5222 or John Kugelman at (202) 483-0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1993, the Department published in the **Federal Register** the antidumping duty order on pipe fittings from Taiwan (58 FR 33250). On June 7, 1994, the Department published the notice of "Opportunity to Request Administrative Review" for the period December 23, 1992 through May 31, 1994 (59 FR 29411). In accordance with 19 CFR 353.22(a)(1), Ta Chen requested that we conduct a review of its sales for this period. On July 15, 1994, we published in the **Federal Register** a notice of initiation of an antidumping duty administrative review covering the period December 23, 1992 through May 31, 1994 (59 FR 36160). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act.

Scope of the Review

The products subject to this antidumping duty order 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: (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; (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 antidumping duty order. The pipe fittings subject to this order are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States (HTS).

Although the HTS subheading is provided for convenience and Customs purposes, our written description of the scope of this order remains dispositive.

Use of Best Information Available

We preliminarily determine that the use of best information otherwise available (BIA), in accordance with section 776(c) of the Tariff Act, is appropriate for Ta Chen for the period December 23, 1992 through May 31, 1994. We find that in this review Ta Chen mischaracterized and failed to fully disclose its relationships with certain U.S. customers and, as a result, did not report its first U.S. sale to an unrelated party. Therefore, Ta Chen failed to provide the Department with the U.S. sales data necessary to calculate margins in this review. Although the bases for this determination are discussed below, much of the relevant information is proprietary in nature and cannot be discussed in this public notice. A more detailed analysis is found in the Department's proprietary Analysis Memorandum, on file in Room B-099 of the Main Commerce Building.

The Department's definition of related parties is found at section 771(13) of the Tariff Act. Section 771(13) states, *inter alia*, that:

for purposes of determining United States price, the term "exporter" includes the person by whom or for whose account the merchandise is imported into the United States if—

* * * * *

(B) Such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer;

(C) The exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business conducted by such person * * *

See Section 771(13) of the Tariff Act (emphasis added).

Throughout this administrative review Ta Chen insisted that it was not related to any U.S. customer. However, in a supplemental questionnaire response submitted in a companion case¹ (relevant portions of which have been incorporated into the record of this review), Ta Chen for the first time disclosed considerable new information concerning the instant review period which indicates that Ta Chen was related to two U.S. customers within the meaning of section 771(13) of the Tariff

¹ This document is Ta Chen's November 12, 1996 supplemental questionnaire response submitted in the 1994-1995 administrative review of welded stainless steel pipe from Taiwan, case number A-583-815.

Act. Section 771(13)(C) holds that the term "exporter" includes the person by whom or for whose account the merchandise is imported into the United States if the exporter "controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business conducted by such person." The record evidence leads us to conclude that Ta Chen exercised *de facto* operational control over these U.S. customers.

Our discussion below focuses on two parties, referred to here as Company A and Company B, which Ta Chen reported as unrelated customers. Prior to June, 1992 Ta Chen had sold pipe from the U.S. inventory of its wholly-owned subsidiary, Ta Chen International (TCI). In June 1992, after Ta Chen decided to stop selling its products from TCI's inventory, TCI and Company A (a U.S. company established in 1988 by the president of a Taiwanese firm), signed an agreement whereby Company A would purchase all of TCI's considerable U.S. inventory and would effectively replace TCI as the principal distributor of Ta Chen pipe products in the United States. In a separate June 1992 agreement between Ta Chen and Company A, Company A also committed itself to purchasing very substantial, and rapidly increasing, dollar values of Ta Chen products over the following two years. In September 1993, a member of Ta Chen's board of directors sold all of his stock in Ta Chen, allegedly severed all ties with Ta Chen, and incorporated a new entity, Company B. This new Company B purchased all of Company A's assets, including inventory, and assumed all of Company A's obligations regarding its lease of space from Ta Chen's president, purchase commitments, credit arrangements, etc.

During the instant period of review Ta Chen controlled both Company A's and then Company B's disbursements through physical custody of their signature stamps, whereby officials of TCI were authorized to execute checks and other instruments on behalf of Company A and Company B. Ta Chen also shared common sales department personnel and office equipment with Company A and Company B. Furthermore, Ta Chen's sales manager also served as sales manager for both Company A and Company B. Ta Chen also had full and unrestricted access, via a dedicated telephone connection, to Company A's and Company B's computer accounting systems, including their accounts receivable, accounts payable, payroll, and other company books. Ta Chen indicated that it was the sole supplier of stainless steel pipe and

pipe fittings to Company A and Company B and, further, that its president participated directly in negotiating the terms of certain sales Company A and Company B made to subsequent purchasers of pipe fittings in the United States. Finally, first Company A and, later, Company B, pledged their accounts receivable and inventory as security for a sizable line of credit obtained from a local bank by TCI. These companies also pledged their full cooperation in enforcing this lien in the event Ta Chen defaulted on its debt.

In addition, we note that for the instant period of review, record evidence strongly indicates that Ta Chen and Company B were related parties as defined by section 771(13)(B) of the Tariff Act. At least for some portion of 1992 until the end of September 1993 (*i.e.*, during the first POR), Ta Chen's board member simultaneously owned Company B and held equity interest in Ta Chen. Petitioners in the stainless steel pipe case have supplied a Dun & Bradstreet report on Company B and a supporting affidavit which indicates that while Company B was incorporated in 1993, the board member actually founded the company and made sales in 1992.

Based on this evidence of Ta Chen's connections with Company A and Company B, in particular its control over operational functions such as disbursements, sales personnel, and Ta Chen's involvement in Company A's and Company B's sales activities, we preliminarily determine that Ta Chen had a substantial interest in Company A and Company B during the 1992-1994 POR. Therefore, Ta Chen was related to Company A and Company B within the meaning of section 771(13) of the Tariff Act. Because Ta Chen reported U.S. sales to Company A and Company B instead of the first sale to an unrelated party, the use of best information otherwise available is warranted.

In selecting BIA, the Department has established a "two-tier" hierarchy:

1. When a company refuses to cooperate with the Department or otherwise significantly impedes the proceedings we use as BIA the higher of (a) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the LTFV investigation or a prior administrative review, or (b) the highest rate found in this review for any firm for the same class or kind of merchandise in the same country of origin.

2. When a company substantially cooperated with our requests for information, but failed to provide the information in a timely manner or in the

form required, we use as BIA the higher of (a) the highest rate (including the "all others" rate) ever applicable to the firm for the same class or kind of merchandise from either the LTFV investigation or a prior administrative review, or (b) the highest rate calculated in this review for any firm for the class or kind of merchandise in the same country of origin. See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews 57 FR 28360, 28379 (June 24, 1992); see also *Allied Signal v. United States*, 996 F.2d 1195 (Fed. Cir. 1993).

We find that because Ta Chen failed to provide accurate information on its relationships to other companies and misreported its sales in this administrative review, Ta Chen failed to cooperate with the Department and has significantly impeded these proceedings. Accordingly, we are assigning Ta Chen a margin based on "first-tier," or uncooperative, BIA.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average margin for Ta Chen for the period December 23, 1992 through May 31, 1994 to be 76.20 percent, *i.e.*, the highest margin found for any respondent in the LTFV investigation. See Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Butt-Weld Pipe Fittings From Taiwan, 58 FR 33250 (June 16, 1993).

Parties to these proceedings may request disclosure within five days of publication of this notice and may request a hearing within ten days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first business day thereafter. Interested parties may submit case briefs or written comments, or both, no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be submitted no later than 37 days after the date of publication of this notice. Parties who submit arguments in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument. The Department will issue final results of these administrative reviews, including the results of our analysis of the issues in any such written comments or at a hearing.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate

entries. Individual differences between U.S. price and FMV may vary from the percentage stated above. The Department will issue appraisal instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of welded stainless steel pipe fittings from Taiwan 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 Tariff Act:

(1) The cash deposit rate for Ta Chen will be the rate established in the final results of this administrative review;

(2) For previously reviewed or investigated companies other than Ta Chen, 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, or the 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 merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any other review conducted by the Department, the cash deposit rate will be 51.01 percent. See Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Butt-Weld Pipe Fittings From Taiwan, 58 FR 33250 (June 16, 1993).

This notice serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during each 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 this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 8, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

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