Information from prior segments of the proceeding constitutes secondary information, and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value (*see* H.R. Doc. 316, Vol. 1 103d Cong., 2d Sess. 870(1994)).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see*, e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

As discussed above, it is not necessary to question the reliability of a calculated margin from a prior segment of the proceeding. Further, there are no circumstances indicating that this margin is inappropriate as facts available. Therefore, we preliminarily find that the 12.07 percent rate is corroborated.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 12.07 percent exists for Roquette for the period April 1, 1998 through March 31, 1999.

Interested parties may submit written comments (case briefs) no later than 30 days after the date of publication. *See* 19 CFR 351.309(c)(1)(ii). Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed no later than 37 days after the date of publication of this notice. *See* 19 CFR 351.309(d)(1). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument, not to exceed five pages in length. Any interested party may request a hearing within 30 days of publication. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held two days after the submission of rebuttal briefs, if any, or the first working day thereafter. *See* 19 CFR 351.310(d). The Department will publish a notice of the final results of the administrative review, which will include the results of its analysis of issues raised by the parties, within 120 days of publication of these preliminary results. *See* 19 CFR 351.213(h).

Cash Deposit

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for Roquette will be the rate established in the final results of this administrative review; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific published for the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 2.90 percent, the ''all others'' rate established in the final determination of sales at LTFV (47 FR 7459, February 12, 1982).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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

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

Dated: December 15, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–33223 Filed 12–21–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–815]

Certain Welded Stainless Steel Pipe From Taiwan: Preliminary Results of Antidumping Administrative Review and Intent To Revoke in Part

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of preliminary results in the antidumping duty administrative review of certain welded stainless steel pipe from Taiwan.

SUMMARY: In response to requests from Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen'') and the domestic industry, the U.S. Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on certain welded stainless steel pipe (''WSSP'') from Taiwan for the period December 1, 1997 through November 30, 1998. The Department preliminarily determines that a *de minimis* dumping margin exists for Ta Chen's sales of WSSP in the United States. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on entries of Ta Chen's merchandise during the period of review, in accordance with the Department's regulations (19 CFR 351.106). The preliminary results are listed in the section titled ''Preliminary Results of Review,'' *infra*.

EFFECTIVE DATE: December 22, 1999.

FOR FURTHER INFORMATION CONTACT: Juanita H. Chen or Robert Bolling, Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: 202–482–0409, or 202–482–3434, respectively.

Applicable Statute and Regulations

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

Background

On December 30, 1992, the Department published in the **Federal Register** (57 FR 62300) the amended antidumping duty order on WSSP from Taiwan. On December 8, 1998, the Department published in the **Federal Register** (63 FR 67646) a notice of opportunity to request administrative review of this order for the period December 1, 1997 through November 30, 1998. On December 29, 1998, Ta Chen, a Taiwan producer and exporter of subject merchandise, requested that the Department conduct a review of its sales and also requested revocation of the Department's antidumping duty order on WSSP from Taiwan. On December 30, 1998, Avesta Sheffield Pipe Co., Damascus Tube Division, Damascus-Bishop Tube Co., and the United Steelworkers of America, AFL–CIO/CLC (collectively ''Petitioners''), on behalf of the domestic industry, requested that the Department conduct an administrative review with respect to Ta Chen. On January 25, 1999, in accordance with section 751(a) of the Act, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review for the period December 1, 1997 through November 30, 1998 (64 FR 3682).

On March 12, 1999, Ta Chen reported that it made sales of subject merchandise to the United States during the period of review in its response to Section A of the Department's questionnaire. On April 5, 1999, Ta Chen submitted its responses to Sections B, C and D of the Department's questionnaire. On July 27, 1999, Petitioners requested that the Department reject Ta Chen's request for revocation. Ta Chen submitted a response on August 3, 1999 to the Department's supplemental questionnaire. On September 22, 1999, Ta Chen requested an extension of time in which to respond to the Department's second supplemental questionnaire due to the earthquake in Taiwan on September 21, 1999. On October 5, 1999, Ta Chen submitted its response to the Department's second supplemental questionnaire. On December 8, 1999, the Department issued a third supplemental questionnaire to Ta Chen, the response to which is due December 23, 1999.

Scope of Review

The merchandise subject to this administrative review is certain welded austenitic stainless steel pipe (''WSSP'') that meets the standards and specifications set forth by the American Society for Testing and Materials (''ASTM'') for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of the order also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A–312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines.

Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5062, 7306.40.5064, 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of this investigation is limited to welded austenitic stainless steel pipes. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this order is dispositive.

Period of Review

The period of review (''POR'') for this administrative review is December 1, 1997 through November 30, 1998.

Verification

Due to administrative constraints, verification prior to the issuance of this notice of preliminary results was not conducted. The Department's regulations stipulate, at section 351.307, that the Department will verify factual information upon which it relies in the final results of an administrative review or in a revocation under section 751(d) of the Act, prior to issuing final results in an administrative review. Accordingly, the Department will verify the information to be used in the final results, after these preliminary results.

Product Comparison

In accordance with section 771(16) of the Act, we considered all WSSP products produced by Ta Chen, covered by the description in the ''Scope of Review'' section of this notice, *supra*, and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to WSSP products sold in the United States. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by Ta Chen as follows (listed in order of preference): specification, grade, size, schedule, and hot/cold rolled. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the February 12, 1999 antidumping duty questionnaire and instructions, or to constructed value (''CV''), as appropriate.

Date of Sale

In the home market and U.S. market, Ta Chen has reported the invoice date as the date of sale. However, the record is unclear as certain information reported in Ta Chen's questionnaire response appears to support the date of the order confirmation as the appropriate date of sale. For instance, for home market sales, Ta Chen reported that between the date of order confirmation and the date of invoice, ''it is rare for the terms to change in that short a period, but sometimes the order quantity changes.'' See Ta Chen's Supplemental Response, at 20 (August 3, 1999). Further, Ta Chen reported that, for its export price (''EP'') sales, it would not expect prices to change much between the time of the order and invoicing, and changes did not often occur. For constructed export price (''CEP'') sales, Ta Chen reported that price usually does not change during this short period but that quantity might change, though that too is rare. As a result of the unclear record and the nature of marketing of these made-to-order products, on December 8, 1999, the Department requested Ta Chen to

provide additional data on its date of sale.

Section 351.401(i) of the Department's regulations states that the Department will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. The preamble to the Final Rules (''Preamble'') provides an explanation of this policy, as well as examples of when the Department may choose to base the date of sale on a date other than the date of invoice. See Antidumping Duties; Countervailing Duties, 62 FR 27296, 27348–49 (May 19, 1997). Ta Chen has reported invoice date, as it understands it to be the Department's preferred approach toward date of sale. See Ta Chen's Section A Response at 8 (March 12, 1999). In accordance with 19 CFR 351.401(i), where appropriate, we based date of sale on invoice dates recorded in the ordinary course of business by the involved sellers and resellers of the subject merchandise. However, we intend to fully verify information concerning Ta Chen's claims that invoice date is the appropriate date of sale. Based on the outcome of our verification, we will determine whether it is appropriate to continue to use the date of invoice as the date of sale. We will consider, among other things, whether, in fact, there were any changes to the material contract terms between the original order confirmation and the date of invoice and, if so, their frequency and relative affected volumes of subject merchandise. See e.g., Notice of Final Results of Antidumping Duty Administrative Review: Canned Pineapple Fruit from Thailand, 63 FR 7392 at 7394–95 (February 13, 1998). However, we note that in past reviews, we have used Ta Chen's date of invoice as the date of sale. In adopting the date of sale regulation, we noted that, because of the risk of double-counting, or of omitting sales from our analysis, we would exercise particular care before switching date of sale methodologies between reviews. *See* 62 FR at 27351.

Export Price/Constructed Export Price

Ta Chen reported both EP and CEP sales of subject merchandise for the POR. See Ta Chen's Section A Response, at 3 (March 12, 1999). We analyzed Ta Chen's sales made to the United States and preliminarily determine that, as reported by Ta Chen, there are both EP and CEP sales in the United States during the POR, as there appears to be a distinction in the level of sales activity which Ta Chen's U.S. affiliate performs between the two types of sales, as described below. We will carefully scrutinize each of the claimed differences at verification.

For certain sales to the United States, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation. We based EP on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for foreign inland freight, U.S. inland freight, foreign brokerage and handling, U.S. brokerage and handling, containerization expenses, marine insurance, harbor construction tax, international freight, U.S. customs duties, and warehousing expenses.

We preliminarily determined that the remaining sales were CEP in accordance with section 772(b) of the Act, because the subject merchandise was first sold by Ta Chen's U.S. affiliate, Ta Chen International (''TCI''), after having been imported into the United States. We based CEP on packed prices to unaffiliated purchasers in the United States. Where appropriate, we made deductions from the starting price for foreign inland freight, U.S. inland freight, foreign brokerage and handling, U.S. brokerage and handling, containerization expenses, marine insurance, harbor construction tax, international freight, U.S. customs duties, and warehousing expenses. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (credit expenses), and indirect selling expenses. For CEP sales, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act. We recalculated credit expenses because the Department has determined that Ta Chen's submitted U.S. short-term interest rate was not based solely on short-term debt. For a further explanation, see Analysis Memo from Juanita Chen to The File, dated December 14, 1999.

With respect to its reported EP sales, Ta Chen states that it considers these sales as EP sales because: (1) The price and quantity are determined before the pipe is imported into the United States; (2) Ta Chen's U.S. subsidiary, TCI, performs no function with respect to the sales other than processing the paperwork and the pipe is shipped direct from Ta Chen to the U.S. customer, without entering a TCI warehouse; and (3) this has been Ta Chen's normal course of business for such sales and the Department has always treated such sales as EP sales. *Id.;* see also, Ta Chen's Second Supplemental Response, at 6–8 (October 5, 1999). Petitioners argue that Ta Chen's EP sales should properly be classified as CEP sales due to TCI's various responsibilities, involvement and activities related to the sales. See Petitioners' letter to the Department, at 5–6 (August 12, 1999).

Where a U.S. affiliate is involved in making a sale, we consider the sale to be CEP unless the record demonstrates that the affiliate's involvement in making the sale is incidental or ancillary. See Certain Welded Stainless Steel Pipe From Taiwan; Final Results of Review (''1995–1996 WSSP Final Results''), 63 FR 38382, 38385 (July 16, 1998), citing Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea (''Steel Flat Product from Korea''), 63 FR 13170, 13177 (March 18, 1998). However, whenever sales are made prior to importation through an affiliated entity in the United States, the Department applies the following three-pronged test in order to determine whether to treat such sales at EP: (1) Whether the merchandise was shipped directly to the unaffiliated buyer, without first being introduced into the affiliated selling agent's inventory; (2) whether direct shipment from the manufacturer to the unaffiliated buyer was the customary channel for sales of this merchandise between the parties involved; and (3) whether the affiliated selling agent located in the United States acts only as a processor of sales-related documentation and communication link between the foreign producer and the unaffiliated purchaser. See Steel Flat Products from Korea, 63 FR at 13177; *see also PQ Corp.* v. *U.S.,* 652 F. Supp. 724, 731 (CIT 1987); *Outokumpu Copper Rolled Products* v. *U.S.,* 829 F. Supp. 1371, 1379 (CIT 1993). Where the requirements for all three prongs are met, the sales are treated as EP.

The first prong is whether the merchandise was shipped directly to the unaffiliated buyer, without first being introduced into the affiliated selling agent's inventory. As in the previous review, for the 1995–1996 administrative review period, no evidence has been presented on the record that contradicts Ta Chen's representation that, in this review, Ta Chen shipped the subject merchandise directly to the unaffiliated U.S. customer without subject merchandise entering a TCI warehouse in the United States. While we note that the verification for the previous review found no evidence to suggest that the merchandise was shipped in any other fashion, we shall nevertheless subject

this statement to verification for this review. Accordingly, the first prong of the EP test is met.

The second prong is whether direct shipment from the manufacturer to the unaffiliated buyer was the customary channel for sales of this merchandise between the parties involved. As with the first prong of the EP test, no evidence has been presented on the record to contradict Ta Chen's representation in this review that direct shipment to the U.S. customer has been its normal course of business with respect to its sales since before this dumping matter began. Accordingly, the second prong of the EP test is met.

The third prong is whether the affiliated selling agent located in the United States acts only as a processor of sales-related documentation and communication link between the foreign producer and the unaffiliated purchaser. The information submitted to the record suggests that TCI's involvement in the sales process remains largely unchanged from the previous administrative review. For the 1995–1996 review period, Ta Chen reported all of its U.S. sales as EP and we determined that ''the evidence on record does not support a reclassification of Ta Chen's U.S. sales from EP to CEP transactions. Nothing in the statute, however, precludes the Department from doing so, where appropriate.'' See 1995–1996 WSSP Final Results, 63 FR at 38385 (July 16, 1998). Ta Chen reports that, for its reported EP sales, TCI merely processes paperwork and serves as a communication link between Ta Chen and the U.S. customer, relaying U.S. customers' price requests to Ta Chen, and relaying the negotiations, acceptances or rejections that follow between the entities. See Ta Chen's Section A Response at 5, 9 (March 12, 1999); Ta Chen's Supplemental Response at 10 (August 3, 1999). Petitioners' argue that TCI issues acceptance or alternative pricing to the U.S. customer. See Petitioners' letter to the Department, at 5 (August 12, 1999). However, Ta Chen has indicated that TCI is merely communicating acceptance or alternative pricing as instructed by Ta Chen. Ta Chen continues to set the base, minimum acceptable price for subject merchandise. See Ta Chen's Supplemental Response at 10, 11 (August 3, 1999). Accordingly, the third prong of the EP test appears to be met for purposes of this preliminary determination, and subject to verification.

The Department takes note that TCI engages in various other functions in the selling process, such as, among others, taking title to subject merchandise, clearing shipment through customs, invoicing the U.S. customer, receiving payment from the U.S. customer (after which TCI pays Ta Chen), paying for ocean shipping, U.S. customs broker charges, and international freight, and issuing credit for returns and errors. In the previous review, we found that three of these activities ''were performed by TCI, but that these activities alone were not sufficient to warrant treatment of such sales as CEP transactions.'' See 1995–1996 WSSP Final Results, 63 FR at 38386 (July 16, 1998). In this review, there is some record evidence that TCI may be performing additional activities. Accordingly, the Department intends to verify closely Ta Chen's description of TCI's activities with respect to its EP sales to evaluate whether TCI's activities rise to the level where they can no longer be considered merely ancillary or incidental to the sale, whereupon such sales should be considered CEP. For our preliminary results, however, the data on the record to date suggests that TCI's involvement in U.S. sales of subject merchandise continues to be minimal, and that the EP sales identified by Ta Chen should remain as such.

Normal Value

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

1. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared Ta Chen's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Because Ta Chen's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. We therefore based NV on home market sales.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the cost of production (''COP''), we based NV on prices to home market customers. We calculated NV based on prices to unaffiliated home market customers. Where appropriate, we deducted early payment discounts, credit expenses, and inland freight. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in CEP comparisons. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Additionally, in accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale observation resulted in difference-in-merchandise adjustments exceeding 20 percent of the cost of manufacturing (''COM'') of 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 if we were unable to find a home market match of identical or similar merchandise. We calculated CV based on the costs of materials and fabrication employed in producing the subject merchandise, selling, general and administrative expenses (''SG&A''), and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expense 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. For selling expenses, we used the weighted-average home market selling expenses. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We deducted from CV the weighted-average home market direct selling expenses.

2. Cost of Production Analysis

Because we disregarded sales below the cost of production in our last administrative review, the most-recently completed segment of these proceedings, we have reasonable grounds to believe or suspect that sales by Ta Chen in its home market were made at prices below the COP, pursuant to section 773(b)(1) of the Act. See 1995–1996 WSSP Final Results, 63 FR 38382; see also section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we conducted a COP analysis of home market sales by Ta Chen.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of Ta Chen's cost of materials and fabrication

for the foreign like product, plus amounts for general and administrative expenses (''G&A''), interest expenses, and packing costs. We relied on the COP data submitted by Ta Chen in its original and supplemental cost questionnaire responses. For these preliminary results, we did not make any adjustments to Ta Chen's submitted costs.

B. Test of Home Market Prices

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

C. Results of the COP Test

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

D. Calculation of Constructed Value

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of Ta Chen's cost of materials, fabrication, G&A (including interest expenses), U.S. packing costs, direct and indirect selling expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by Ta Chen in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses.

Level of Trade

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

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa; 62 FR 61731, 61732 (November 19, 1997).

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

In the home market, Ta Chen reported that it sold to distributors and end users. Ta Chen claimed that its two customer categories constituted a single LOT. Based upon our examination of information supplied by Ta Chen in its original and supplemental questionnaire responses, we agree that only one LOT existed for Ta Chen in the home market. According to Ta Chen, it provided no strategic or economic planning services, market research, business system development assistance, personnel-training, engineering, advertising, procurement services, inventory maintenance, or post-sale warehousing for customers in either category. However, end-user customers did receive slightly higher levels of research and development and technical assistance than did distributors, but this one slight difference is not sufficient to establish discrete LOTs.

In order to determine whether there were different LOTs among sales in the U.S. market, we reviewed the selling activities associated with each channel of distribution. Ta Chen reported both EP and CEP sales in the U.S. market. However, Ta Chen reported for all of its U.S. sales a single customer category (i.e., distributor). Thus, according to Ta Chen, because all of Ta Chen's sales in the U.S. market were made through a distributor there was only one LOT. In determining whether, in fact, a single stage of marketing existed, we examined the selling functions as reflected in the EP and the CEP. In its questionnaire responses, Ta Chen reported it performed only two selling functions for both EP and CEP sales (i.e., packing, and freight and delivery). Ta Chen reported that it performed a small amount of packing for its U.S. sales and a moderate level of freight and delivery for its U.S. sales. We find preliminarily that there are no differences in selling activities for EP and CEP sales and, as a result, we preliminarily agree with Ta Chen that its EP and CEP sales constitute a single LOT. Once again, these issues will be subject to verification.

When we compared the LOT of Ta Chen's U.S. sales to its home market LOT, we found that Ta Chen provided no strategic or economic planning, market research, business system development assistance, personnel-training, engineering, advertising, procurement services, inventory maintenance, or post-sale warehousing at the EP, CEP, or home market LOT. Ta Chen reported that it provided moderate-to-low technical assistance at its home market LOT, while providing none at its EP or CEP level. Additionally, Ta Chen reported that it provided low after sales services at its home market LOT, while providing none at its EP or CEP level. The majority of packing activity at the home market LOT and EP or CEP level was performed by Ta Chen; however, some repacking occurred at the TCI Los Angeles

warehouse. Freight and delivery arrangements varied between the two markets in that U.S. movement expenses on certain U.S. sales were incurred by TCI, while other sales were made on an ''F.O.B.'' basis. Our analysis of the selling functions performed by Ta Chen in both markets leads us to conclude that any differences in selling activities are not significant. Accordingly, we preliminarily find that all sales in the home market and the U.S. market were made at the same LOT. Therefore, we have not made a LOT adjustment because all price comparisons are at the same LOT and an adjustment pursuant to section 773(a)(7)(A) of the Act is not appropriate. Additionally, because we found that the LOT in the home market matched the LOT of the CEP transactions, we did not provide a CEP offset by adjusting normal value under section 773(a)(7)(B) of the Act.

Revocation

The Department's regulations provide for revocation of antidumping orders under section 351.222. On December 29, 1998, Ta Chen, in its capacity as a Taiwan producer and exporter of subject merchandise, requested that the Department revoke the antidumping duty order on WSSP from Taiwan with respect to Ta Chen. Ta Chen stated that it sold the subject merchandise at not less than normal value for a period of at least three consecutive years, including the current period under administrative review, and that it sold the subject merchandise in commercially significant quantities to the United States during each of these three years.[1] Ta Chen also stated that it would not sell the subject merchandise at less than normal value to the United States in the future and agreed to reinstatement of the order against Ta Chen, as long as any exporter or producer is subject to the order, if the Department concludes that Ta Chen sold the subject merchandise at less than normal value, subsequent to the revocation.

The three review periods on which Ta Chen is basing its request for revocation consist of: (1) The period for 12/1/95 through 11/30/96, for which the Department found a de minimis margin of 0.10 percent; (2) the period for 12/1/96 through 11/30/97, for which no administrative review was conducted; and (3) the period for 12/1/97 through 11/30/98, for which the Department is currently conducting an administrative review. On July 27, 1999, Petitioners requested that the Department reject Ta Chen's request for revocation, arguing that: (1) The 12/1/96 through 11/30/97 period should not count towards the three successive years of no significant dumping necessary for revocation; and (2) public information indicates that Ta Chen will continue its dumping practices if granted revocation, and thus, the years of no dumping notwithstanding, application of the order to Ta Chen continues to be necessary to offset dumping.

First, Petitioners argue that while they did not request an administrative review for the 1996–1997 period, such lack of request was not meant to indicate an opinion that Ta Chen did not dump during that period. See also Petitioners' letter to the Department (March 4, 1998). Petitioners state that Ta Chen's past and current behavior indicates its willingness to sell below normal value. Petitioners provide as examples the results in the 1992–1993 and 1993–1994 administrative reviews of WSSP (wherein the Department found that Ta Chen impeded the reviews), as well as the results in administrative reviews of other Ta Chen products for which the Department issued margins ranging from 10.2–34.95 percent, such as stainless steel plate, and stainless steel sheet and strip (wherein Ta Chen provided incomplete information). Petitioners also assert that Ta Chen has continually restructured its selling practices of WSSP, effectively preventing Petitioners from obtaining the necessary information to estimate the extent of Ta Chen's dumping for the period. Accordingly, Petitioners assert that the Department cannot presume that there was no significant dumping during the unreviewed period.

Under § 351.222(d) of our regulations, the Department may revoke a company from an antidumping order based on three years of no dumping even if the middle year was not subject to administrative review. As noted, supra, Ta Chen has provided information indicating that it had sales in commercial quantities during the intervening year. Regarding Petitioners' citation of the margins issued for Ta Chen in stainless steel plate and in stainless steel sheet and strip, these determinations have little to do with the case at hand. Not only do those administrative reviews involve margins for products other than WSSP, they also involve review periods other than the 1996–1997 period. The Department cannot presume that Ta Chen engaged in dumping of WSSP during the 1996–1997 period merely because it was found to have engaged in dumping for other products in other periods. In the immediately preceding review period of 1995–1996, the Department issued a de minimis margin of 0.10 percent. This margin has greater relevance because it is based on more recent data, and in this case there is no basis to consider older margins as being more relevant. The fact that the margin is subject to change from year to year is why the Department provides the opportunity to request administrative reviews. See Antidumping Duties; Countervailing Duties; Final Rule, 62 FR at 27325. Because no administrative review was conducted for the 1996–1997 period, the Department cannot presume a margin exists for that review period. To do so would result in unfairly penalizing the respondent where no review is requested or conducted. As for Petitioners' argument that Ta Chen has restructured its selling practices, Petitioners offer no evidence of how this restructuring has occurred, nor how such restructuring precluded Petitioners from learning about Ta Chen's activities. This is an insufficient basis for the Department to presume that Ta Chen engaged in dumping practices for the 1996–1997 period.

Second, Petitioners argue that trends in pricing, imports and economic factors, as well as Ta Chen's aggressive search for facilities in the United States, indicate that Ta Chen will continue to engage in significant dumping in the future if granted revocation. Petitioners provide three articles discussing the Asian financial crisis in relation to the steel industry. See Petitioners' letter to the Department, at Exhibit 2a (July 27, 1999). However, there is no direct discussion in these articles on the effect the crisis had on Ta Chen and its exports of WSSP. While the first article does discuss the impact of the Asian financial crisis on the Asia-Pacific area, the article focuses only on Japan and Korea; the impact on Taiwan is not discussed. The second article mentions Ta Chen only in the single statement that Ta Chen carries a 6.06 percent margin from the 1992 dumping orders. The third article states that U.S. prices for stainless steel pipe and tube are down after imports to the United States soared from a year earlier. The article Petitioners provide on Ta Chen's alleged search for facilities in the United States (see Petitioners' letter to the Department, at Exhibit 2b (July 27, 1999)) discusses talks between SouthStar Steel Corp. (''SouthStar''), a North Carolina company which imports

[1] On October 12, 1999, the Department requested that Ta Chen provide volume and value data on its exports and sales of subject merchandise for the three consecutive years. Ta Chen provided this data in an October 19, 1999 submission, which supported Ta Chen's statement that it sold subject merchandise in commercially significant quantities to the United States during these three years.

and distributes stainless steel bars, and an undisclosed company identified by industry sources as Ta Chen. The article focuses on SouthStar and how such a partnership would move SouthStar into the coil and sheet business. The article also quotes SouthStar's chairman and chief executive officer as stating that it could be from three weeks to three years before a deal is announced. Thus, the article is both remote and speculative. The remaining reasons Petitioners give to indicate a likelihood that Ta Chen will engage in future dumping are that: (1) The decline of the New Taiwan dollar demonstrates how dumping margins for Ta Chen have been masked due to fluctuations in the exchange rates (see Petitioners' letter to the Department, at Exhibit 2c (July 27, 1999)); and, (2) the pricing of WSSP has declined since 1996 (see Petitioners' letter to the Department, at Exhibit 1 (September 21, 1999)).

Based on the information submitted by Petitioners, there is insufficient support for Petitioners' argument that the Department should reject Ta Chen's request for revocation. The information provided by Petitioners does not indicate a sufficient link between the Asian economic crisis, SouthStar's actions, the decline of the New Taiwan dollar, and/or the pricing of WSSP, and potential future dumping by Ta Chen. We note that the Asian economic crisis reached its peak, and the New Taiwan dollar began its decline during the period covered by the instant review, a period during which our preliminary analysis shows de minimis dumping margins for Ta Chen. Accordingly, a finding by the Department that continued application of the order to Ta Chen is necessary to offset future dumping is too speculative (and effectively presumes dumping by all Asian exporters of stainless steel products), based on the information provided. Accordingly, the Department shall continue to consider Ta Chen's request for revocation, and review the relevant information. Since we preliminarily conclude that all criteria for revocation have been satisfied, we intend to revoke the order as to Ta Chen, subject to verification after this preliminary determination.

Currency Conversion

For purposes of the preliminary results, we made currency conversions in accordance with section 773A of the Act, based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use the daily exchange rate in effect on the date of sale in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. See, e.g., Certain Stainless Steel Wire Rods from France; Preliminary Results of Antidumping Duty Administrative Review, 61 FR 8915, 8918 (March 6, 1998), and Policy Bulletin 96–1: Currency Conversions, 61 FR 9434 (March 8, 1996). The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine a fluctuation exists, we substitute the benchmark for the daily rate.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

CERTAIN WELDED STAINLESS STEEL PIPE

Producer/manufacturer/exporter	Weighted-average margin (percent)
Ta Chen	0.04

The Department will disclose to any party to the proceeding, within ten days of publication of this notice, the calculations performed (19 CFR 351.224). Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice.

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

If the revocation is made final for Ta Chen, it will apply to all unliquidated entries of subject merchandise produced by Ta Chen, exported to the United States and entered, or withdrawn from warehouse, for consumption on or after December 1, 1998, the first day after the period under review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided in section 751(a)(1) of the Act: (1) The cash deposit rate for Ta Chen, the only reviewed company, will be that established in the final results of this review; (2) For previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) If the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established in the most recent period for the manufacturer of the merchandise; and (4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will continue to be the ''all other'' rate established in the LTFV investigation, which was 19.84 percent. See Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Pipe From Taiwan, 57 FR 62300 (December 30, 1992).

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

This administrative review and notice is published in accordance with

sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 15, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 121499A]

Availability of an Environmental Assessment and Receipt of an Application for an Endangered Species Act Incidental Take Permit for the California Department of Fish and Game's Striped Bass Management Program Conservation Plan, for the Sacramento-San Joaquin Estuary, and Delta Rivers

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; Fish and Wildlife Service (FWS), Interior.

ACTION: Notice of availability for public comment and receipt of applications.

SUMMARY: This notice advises the public that the California Department of Fish and Game (CDFG) has applied to NMFS and FWS (the Services) for incidental take permits pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA). The application requests that FWS authorize incidental take of the delta smelt (*Hypomesus transpacificus*), Sacramento splittail (*Pogonichthys macrolepidotus*), and the giant garter snake (*Thamnophis gigas*), all federally listed as threatened, during the implementation of the Striped Bass Management Program (SBMP). The application also requests that NMFS authorize incidental take of the Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*), federally listed as endangered, Central Valley spring-run chinook salmon (*O. tshawytscha*), federally listed as threatened, and the Central Valley steelhead (*O. mykiss*), federally listed as threatened, during the implementation of the SBMP. The proposed NMFS permit also would authorize future incidental take of the Central Valley fall/late fall-run chinook salmon (*O. tshawytscha*) should this species become listed under the Act. The permits would be in effect for 10 years.

The Services also announce the availability of an Environmental Assessment (EA) for the incidental take permit applications. The applications include the proposed Conservation Plan (Plan) fully describing the proposed project and mitigation, and the accompanying Implementing Agreement (Agreement). This notice is provided pursuant to section 10(a) of the ESA and National Environmental Policy Act (NEPA) regulations (40 CFR 1506.6). All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

DATES: Written comments on the permit application, Plan, EA, and Agreement should be received on or before February 22, 2000.

ADDRESSES: Comments regarding the application, Plan, or adequacy of the EA and Agreement with respect to the delta smelt, Sacramento splittail, giant garter snake, or other species for which FWS has responsibility should be addressed to the Field Supervisor, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825. Comments regarding the application, Plan, or adequacy of the EA and Agreement with respect to the Sacramento River winter-run chinook salmon, Central Valley steelhead, Central Valley spring-run chinook salmon, Central Valley fall/late fall-run chinook salmon, or other species for which NMFS has responsibility should be addressed to the National Marine Fisheries Service, Southwest Region, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, Attn: Ms. Penny Ruvelas. General comments or comments applicable to both agencies can be sent to either or both of the above addresses. Individuals wishing copies of the application, Plan, EA, or Agreement for review should contact either of the above offices. Documents also will be available for public inspection, by appointment, during normal business hours at the above addresses.

FOR FURTHER INFORMATION CONTACT: Robert Pine, FWS, Sacramento Fish and Wildlife Office, telephone (916) 414-6620; Penny Ruvelas, NMFS, Long Beach Office, telephone (562) 980–4197.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the ''taking'' of a species listed as endangered or threatened, respectively. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding or sheltering. The Services, under limited circumstances, may issue permits to authorize ''incidental take'' of listed animal species (defined by the Act as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). FWS regulations governing permits for threatened and endangered species, respectively, are found in 50 CFR 17.32 and 50 CFR 17.22. NMFS regulations governing permits for threatened and endangered species are found in 50 CFR Part 222.307.

Background

CDFG seeks coverage for take of the federally listed delta smelt, Sacramento splittail, giant garter snake, Sacramento River winter-run chinook salmon, Central Valley spring-run chinook salmon, Central Valley steelhead, and the unlisted Central Valley fall/late fall-run chinook salmon (collectively ''covered species''), incidental to implementation of the SBMP. The actions proposed to be covered by the Plan and its associated incidental take permits are: (1) annual stocking of 1– and 2-year-old striped bass in the San Francisco Bay/Sacramento-San Joaquin Estuary at numbers sufficient to restore and maintain a striped bass population of 712,000 adults, which is equivalent to the 1994 striped bass population level; (2) possible changes in the striped bass fishing regulations to help reach and maintain the target population level; and (3) monitoring of the overall striped bass population and the success of the stocked fish. Each of these actions may result in take of one or more of the covered species or in circumstances leading to the take of one or more of the covered species. The Plan is designed to include flexibility in its implementation; a series of circumstances or ''thresholds'' are described which would require adjustments to the SBMP. Thresholds triggering adjustments to the Plan include a low delta smelt abundance index, a low cohort replacement rate for winter-run chinook salmon, unanticipated changes in the striped bass population, and, based on monitoring, estimates of striped bass predation on covered species that are higher than those anticipated in the development of the Plan.

As a part of the Plan, CDFG proposes to monitor the striped bass population, the striped bass diet (i.e., predation on