Office of Export Enforcement, may take action to name persons related to a Respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business in order to prevent evasion of a denial order. Tern Tabib, a/k/a Tern Repic is Reza Tabib's wife and business partner. Tern Tabib pled guilty to violating 18 U.S.C. 1001 in connection with the attempted export by Reza Tabib of F–14 aircraft parts to Iran, specifically for willfully failing to file the Shipper's Export Declaration required for the export, and was placed on probation for two years. Tern Tabib is related to Reza Tabib by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. BIS believes that naming Tern Tabib as a person related to Reza Tabib is necessary to avoid evasion of the denial order against Reza Tabib.

As provided in Section 766.23 of the Regulations, I gave notice to Tern Tabib that her export privileges under the Regulations could be denied for up to 10 years due to her relationship with Reza Tabib and that BIS believes naming her as a person related to Reza Tabib would be necessary to prevent evasion of a denial order imposed against Reza Tabib. In providing such notice, I gave Tern Tabib an opportunity to oppose her addition to the Reza Tabib Denial Order as a related party. Having received no submission from Tern Tabib, I have decided, following consultations with the Office of Export Enforcement, including its Director, to name Tern Tabib as a Related Person to the Reza Tabib Denial Order, thereby denying her export privileges for five years from the date of Reza Tabib's conviction.

I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which the Related Person had an interest at the time of Reza Tabib's conviction. The five-year denial period will end on May 8, 2012.

Accordingly, *it is hereby ordered:*

I. Until May 8, 2012, Reza Mohammed Tabib, a/k/a Re Tabib and a/k/a Reza Tabib, 31848 Via Del Paso, Winchester, CA 92596, when acting for or on behalf of Tabib, his representatives, assigns, agents or employees, (''the Denied Person'') and the following person related to the Denied Person as defined by Section 766.23 of the Regulations: Tern Tabib, a/k/a Tern Repic, 31848 Via Del Paso, Winchester, CA 92596, and when acting for or on her behalf, her employees, agents or representatives, (''the Related Person'') (together, the Denied Person and the Related Person are ''Persons Subject To This Order'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Persons Subject To This Order any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Persons Subject To This Order of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Persons Subject To This Order acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Persons Subject To This Order of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Persons Subject To This Order in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Persons Subject To This Order, or service any item, of whatever origin, that is owned, possessed or controlled by the Persons Subject To This Order if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. In addition to the Related Person named above, after notice and opportunity for comment as provided in section 76623 of the Regulations, any other person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until May 8, 2012.

VI. In accordance with Part 756 of the Regulations, Reza Tabib may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. In accordance with Part 756 of the Regulations, the Related Person may also file an appeal of this Order with the Under Secretary of Commerce for Industry and Security.

VIII. A copy of this Order shall be delivered to the Denied Person and the Related Person. This Order shall be published in the **Federal Register**.

Dated: June 23, 2008.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. E8–15306 Filed 7–7–08; 8:45 am]

BILLING CODE 3510–DT–M

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 and Notice of Intent to Rescind in Part

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

SUMMARY: In response to requests from respondent Ta Chen Stainless Pipe Co., Ltd. (Ta Chen or respondent) and from Flowline Division of Markovitz

Enterprises, Inc. (Flowline Division), Gerlin, Inc., Shaw Alloy Piping Products, Inc., and Taylor Forge Stainless, Inc., (collectively, petitioners), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain stainless steel butt–weld pipe fittings (SSBWPFs) from Taiwan. Petitioners requested that the Department conduct an administrative review of Ta Chen, Liang Feng Stainless Steel Fitting Co., Ltd. (Liang Feng), Tru–Flow Industrial Co., Ltd. (Tru–Flow), Censor International Corporation (Censor), and PFP Taiwan Co., Ltd. (PFP).

With regard to Ta Chen, the Department preliminarily determines that sales of SSBWPFs from Taiwan have been sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act).

On September 10, 2007, Tru–Flow, Liang Feng, Censor, and PFP certified that they had no sales or shipments of subject merchandise to the United States during the period of review (POR). Based on Tru–Flow's, Liang Feng's, Censor's, and PFP's certified statements, information from U.S. Customs and Border Protection (CBP) indicating that these companies had no shipments to the United States of the subject merchandise during the POR, and the Department's verification of Liang Feng (as explained below), we hereby give notice that we intend to rescind the review regarding these four companies. For a full discussion of the intent to rescind with respect to Liang Feng, Tru–Flow, Censor, and PFP, see the ''Notice of Intent to Rescind in Part'' section of this notice.

If these preliminary results of review of Ta Chen's sales are adopted in the final results, we will instruct CBP to assess antidumping duties on appropriate entries based on the difference between the constructed export price (CEP) and the normal value (NV). Interested parties are invited to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with the argument: 1) a statement of the issues, 2) a brief summary of the argument, and 3) a table of authorities.

EFFECTIVE DATE: July 8, 2008.

FOR FURTHER INFORMATION CONTACT: John Drury or Judy Lao, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–7924, respectively.

SUPPLEMENTARY INFORMATION:

Period of Review

The POR for this administrative review is June 1, 2006, through May 31, 2007.

Background

On June 16, 1993, the Department published in the **Federal Register** the antidumping duty order on SSBWPFs from Taiwan. See Amended Final Determination and Antidumping Duty Order: Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan, 58 FR 33250 (June 16, 1993). On June 1, 2007, the Department published a notice of opportunity to request administrative review for the period June 1, 2006, through May 31, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 30542 (June 1, 2007).

In accordance with 19 CFR 351.213(b)(1) and (2), on June 28, 2007, petitioners requested an antidumping duty administrative review for Ta Chen, Liang Feng, Tru–Flow, Censor, and PFP. On June 28, 2007, Ta Chen requested an administrative review in accordance with 19 CFR 351.213(b)(1) and (2). On July 26, 2007, the Department published the notice of initiation of this administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation In Part*, 72 FR 41057 (July 26, 2007).

On August 6, 2007, the Department issued its antidumping duty questionnaire to Ta Chen, Liang Feng, Tru–Flow, Censor, and PFP. On September 10, 2007, the Department received statements from Liang Feng, Tru–Flow, Censor, and PFP, certifying that they had neither sales nor exports of subject SSBWPFs to the United States during the POR. On September 11, 2007, Ta Chen submitted its response to section A of the Department's questionnaire. On September 24, 2007, Ta Chen submitted its responses to sections B, C, and D of the Department's questionnaire.

On October 10, 2007, petitioners submitted comments regarding Ta Chen's section A response, primarily regarding alleged affiliation issues. On October 31, 2007, petitioners submitted comments on Ta Chen's section B and C responses. On November 29, 2007, petitioners submitted comments regarding Ta Chen's section D response. On December 28, 2007, the Department issued a supplemental section A through D questionnaire to Ta Chen. Ta Chen responded to the Department's section A through D supplemental questionnaire on January 28, 2008. On February 4 and 5, 2008, the Department issued additional A through D supplemental questionnaires requesting minor corrections and additional information to respondent's January 28, 2008 submission. On February 7, 2008, respondent submitted the information requested by the Department in its February 4 and 5, 2008, supplemental questionnaires. On February 28, 2008, and March 6, 2008, the Department issued additional supplemental questionnaires.

On March 7, 2008, the Department extended the time limit for the preliminary results of this administrative review by 120 days, to not later than June 30, 2007. *See Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review*, 73 FR 12375 (March 7, 2008).

Ta Chen submitted a response to the Department's February 28, 2008, questionnaire on March 13, 2008. In addition, on March 13, 2008, respondent submitted a response to petitioners' affiliation allegations made on October 10, 2007. This submission was rejected by the Department on March 27, 2008, for being untimely filed. *See* Memorandum to the File from John Drury entitled ''2006–2007 Administrative Review of Stainless Steel Butt–Weld Pipe Fittings from Taiwan: E–mail conversation between counsel for Ta Chen and the Department of Commerce'' dated March 27, 2008. On March 14, 2008, respondent submitted a response to the Department's March 6, 2008 questionnaire. In addition, on March 14, 2008, the Department issued its verification agenda outlining the general procedures for the Department's verification of Ta Chen's information in Taiwan. On March 18, 2008, respondent submitted a revised section D database to the Department. On March 19, 2008, the Department issued an addendum to its March 14, 2008, verification agenda for Ta Chen. On March 19, 2008, the Department issued verification agendas for Liang Feng Stainless Steel Fitting Co. Ltd., and Liang Feng Enterprise, outlining the general procedures for its verifications of those companies in Taiwan. On March 24, 2008, petitioners submitted a letter in response to

respondent's March 14, 2008 comments.[1]

The Department verified Ta Chen's home market sales, partial U.S. sales, and cost information as submitted on the record, in Tainan, Taiwan from March 24, 2008, through April 4, 2008. The Department verified information regarding Liang Feng Stainless Steel Fitting Co. Ltd., and Liang Feng Enterprise on April 1, 2008. *See* Verification of the Questionnaire Responses of Ta Chen Stainless Pipe Co., Ltd. in the Antidumping Review of Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan (Ta Chen Verification Report), June 10, 2008, and Verification of the Sales Questionnaire Response of Liang Feng Stainless Steel Co., Ltd. in the Antidumping Review of Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan (Liang Feng Verification Report). On March 25, 2008, Ta Chen submitted its minor corrections presented at verification.

On April 4, 2008, the Department issued Ta Chen a verification agenda outlining the general procedures for verification of its sales made through its U.S. affiliate, Ta Chen International (TCI). The Department verified TCI's U.S. sales from April 14, 2008, through April 17, 2008, in Long Beach, California. On April 14, 2008, Ta Chen submitted a response to petitioners' April 1, 2008, submission. On April 21, 2008, Ta Chen submitted its minor corrections presented at its U.S. verification. On May 8, 2008, Ta Chen submitted corrections to its minor correction presented at its U.S. verification, as requested by the Department.

On June 12, 2008, the Department received comments from petitioners regarding Ta Chen's selling activities and the Department's findings regarding Ta Chen's selling activities in the home and U.S. markets. On June 18, 2008, both petitioners and respondent filed comments regarding the Department's verification reports. On June 20, 2008, respondent filed comments in response to petitioners' June 12, 2008, comments.

Notice of Intent to Rescind Review in Part

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Secretary concludes that there were no entries, exports, or sales of the subject merchandise during the POR. *See, e.g.*, Certain Oil Country Tubular Goods from Mexico: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission, 71 FR 27676–78 (May 12, 2006); *Stainless Steel Sheet and Strip in Coils from Japan: Final Rescission of Antidumping Duty Administrative Review*, 71 FR 26041 (May 3, 2006).

On September 10, 2007, Liang Feng, Tru–Flow, PFP, and Censor each submitted letters on the record certifying that their firms had no sales, entries, or exports of SSBWPFs to the United States during the POR. To confirm their statements, the Department conducted a CBP data inquiry and determined that there were no identifiable entries of SSBWPFs during the POR manufactured or exported by Liang Feng, Tru–Flow, PFP or Censor. *See* Memorandum to the File, through Angelica Mendoza, Program Manager from Judy Lao, Analyst: Ta Chen Stainless Pipe Co., Ltd. No Shipments Inquiry dated May 29, 2008. Based on the Department's verification of Liang Feng on April 1, 2008, the Department preliminarily determines that Liang Feng's certification of no shipments is correct. *See* the Analysis Memorandum dated June 30, 2008, for further information. Therefore, in accordance with 19 CFR 351.213(d)(3), the Department preliminarily intends to rescind this review with respect to Liang Feng, Tru–Flow, PFP and Censor.

Scope of the Order

The products covered by this 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 are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise is used where one or more of the following conditions is a factor in designing the piping system: (1) corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; and (5) high pressures are contained within the system.

SSBWPFs 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 SSBWPFs are beveled. Threaded, grooved, and bolted fittings are excluded from the order. The SSBWPFs subject to the order are currently classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States (HTSUS).

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the review is dispositive. SSBWPFs manufactured to American Society of Testing and Materials specification A774 are included in the scope of this order.

Affiliation

Petitioners claim that Ta Chen and its U.S. subsidiary, Ta Chen International (TCI), have several related parties that were not disclosed in its financial statements. Therefore, petitioners contend that Ta Chen's and TCI's financial statements (and thus its underlying accounting records) should not be relied upon for the purposes of these preliminary results. For the preliminary results, we have determined that the evidence on the record does not warrant a finding that the Department should disregard Ta Chen's or TCI's financial statements.

With respect to petitioners' argument that Ta Chen withheld from the Department the identities of a significant number of companies documented as Ta Chen affiliates, but not acknowledged as such by Ta Chen, the Department addressed this issue in the most recently completed antidumping duty administrative review for this order. *See Notice of Final Results and Final Rescission in Part of Antidumping Duty Administrative Review: Certain Stainless Steel Butt–Weld Pipe Fittings From Taiwan*, 73 FR 1202 (January 7, 2008), and accompanying Issues and Decision Memorandum at Comment 1, (*Ta Chen* 05–06). In addressing the issues of affiliation raised by petitioners, the Department noted that on May 30, 2007, the United States Court of International Trade (CIT) issued a decision and remand with respect to a number of identical issues raised by petitioners for the 2002–2003 administrative review of stainless steel butt–weld pipe fittings from Taiwan. *See Ta Chen Stainless Steel Pipe Co., Ltd. v. United States*, Consol. Court No. 05–00094, Slip Op. 07–87 (CIT May 30, 2007) (*Ta Chen v. United States* 2007). Based on the remand decision in *Ta Chen v. United States* 2007, the Department undertook an exhaustive review of Ta Chen's affiliated parties, and determined that Ta Chen had been a cooperative respondent and had accurately reported its affiliated parties as defined under section 771(33) of the Act (or 19 U.S.C. § 1677(33)). *See Final Results of Redetermination Pursuant to Court*

[1] On March 28, 2008, the Department rejected petitioners' March 24, 2008, submission on the basis that it contained new information, and stated that petitioners could revise and resubmit its letter by redacting all new information. Per the Department's request, petitioners re-submitted its March 24, 2008, letter on April 1, 2008.

Remand, Ta Chen Stainless Steel Pipe Co., Ltd. v. United States, Consol. Court No. 05–00094, Slip Op. 07–87 (CIT May 30, 2007), October 2, 2007.

On September 11, 2007, Ta Chen provided its response to the Department's section A antidumping duty questionnaire and reported a number of affiliated parties. *See* Ta Chen's section A questionnaire response dated September 11, 2007, at pages 7—12. In a supplemental questionnaire response, Ta Chen stated that it had reported all affiliated parties. *See* Ta Chen's supplemental questionnaire response dated January 28, 2008, at page 9. Based on an analysis of the information on the record, the Department preliminarily determines that Ta Chen's reported affiliates, and the relationships between Ta Chen and the reported affiliates, have not changed since the Department's analysis in Ta Chen 05–06. Additionally, the Department notes that in *Alloy Piping Products, Inc. v. United States*, Ct. No. 06–00454, Slip Op. 08–30 (CIT March 13, 2008), the CIT held that because ''the language of the Act and the regulations restrict antidumping reviews to cases where the foreign producer or affiliated parties deal in the subject merchandise, Commerce need not make a finding of affiliation for each company that does not actually sell the subject merchandise'' *Id.* at 10. Based on the decisions of the CIT, and the analysis of the evidence on the record, the Department preliminarily determines that Ta Chen has been a cooperative respondent with respect to the issue of reporting affiliated parties, and that Ta Chen accurately reported its affiliated parties as defined under section 771(33) of the Act.

Product Comparisons

For the purpose of determining appropriate product comparisons to SSBWPFs sold in the United States, we considered all SSBWPFs covered by the scope that were sold by Ta Chen in the home market during the POR to be ''foreign like products,'' in accordance with section 771(16) of the Act. Where there were no contemporaneous sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the physical characteristics reported by Ta Chen, as follows: specification, seam, grade, size and schedule.

The record shows that Ta Chen both purchased from and entered into tolling arrangements with unaffiliated Taiwanese manufacturers of SSBWPFs. We have preliminarily determined that Ta Chen is the sole exporter of the SSBWPFs under review, as the record evidence does not indicate that these manufacturers had knowledge that the purchased SSBWPFs would be exported to the United States. *See* Analysis Memorandum for the Preliminary Results of Administrative Review of Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Ta Chen Stainless Pipe Co., Ltd. (June 30, 2008). Therefore, knowledge that the SSBWPFs would also be sold to the United States cannot be imputed to those unaffiliated manufacturers. *See* 19 CFR 351.401(h).

Section 771(16)(A) of the Act defines ''foreign like product'' to be ''{t}he subject merchandise and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, that merchandise.'' Thus, consistent with the Department's past practice in reviews under this order, for products that Ta Chen has identified with certainty that it purchased from a particular unaffiliated producer and resold in the U.S. market, we have restricted the matching of products to products purchased by Ta Chen from the same unaffiliated producer and resold in the home market. *See, e.g.*, Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part, 72 FR 35970 (July 2, 2007) and *Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 71 FR 39663 (July 13, 2006). For those products which Ta Chen cannot identify with certainty from which producers the merchandise was purchased, the Department has applied adverse facts available. *See* the ''Application of Facts Available and Adverse Facts Available'' section below.

Date of Sale

The Department's regulations state that it will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. *See* 19 CFR 351.401(i). If the Department can establish ''a different date {that} better reflects the date on which the exporter or producer establishes the material terms of sale,'' the Department may choose a different date. *Id.*

In the present review, Ta Chen claimed that invoice date should be used as the date of sale for its sales in the home market and to the United States. *See* Ta Chen's section A questionnaire response at 20–22 (Sept. 11, 2007). For home market (HM) sales, the Department examined whether the date Ta Chen issued its *pro forma* invoice or its actual invoice best reflects the date of sale. Based upon our review of the record evidence, we have preliminarily determined that actual invoice date should be the sale date because the material terms are set on the invoice date, and can potentially be changed up until the point of invoice date. This methodology is consistent with the practice in all the previous reviews of this proceeding. *See* Ta Chen's section B through D questionnaire response at B8–B9 and C9–C–10 (September 24, 2007). For U.S. sales, Ta Chen reported only constructed export price (CEP) sales, and we used the invoice date for sales to the first unaffiliated U.S. customer as changes to the terms of the sale may occur up to the issuance of the invoice. *See* Verification of the Sales Responses of Ta Chen International, United States Affiliate of Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen'') in the Antidumping Review of Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan (TCI Verification Report), June 10, 2008, at page 10.

Fair Value Comparisons

To determine whether sales of SSBWPFs by Ta Chen to the United States were made at prices below NV, we compared CEP to NV, as described below. Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual U.S. transactions to the monthly weighted–average NV of the foreign like product.

Constructed Export Price

Section 772(b) of the Act defines CEP as ''the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter '' Consistent with recent past reviews, pursuant to section 772(b) of the Act, we calculated the price of Ta Chen's sales based on CEP because the sale to the first unaffiliated U.S. customer was made by Ta Chen's U.S. affiliate, TCI. See the Analysis Memorandum dated June 30, 2008, for further information. Ta Chen has two channels of distribution for U.S. sales: 1) Ta Chen ships the merchandise to TCI for inventory in its warehouses and subsequent resale to unaffiliated buyers (stock sales), and 2) Ta Chen ships the merchandise directly to TCI's U.S. customer (indent sales). The Department

finds that both stock and indent sales qualify as CEP sales because the original sale is between TCI and the U.S. customer. In addition, TCI handles all communication with the U.S. customer, from customer order to receipt of payment, and incurs the risk of non–payment. In addition, TCI handles customer complaints concerning issues such as product quality, specifications, delivery, and product returns. TCI is also responsible for payment of the ocean freight for all U.S. sales, while Ta Chen arranges the ocean freight logistics and paperwork. *See* Ta Chen's section A questionnaire response at A18 (Sept. 11, 2006).

We calculated CEP based on ex–warehouse or delivered prices to unaffiliated purchasers in the United States and, where appropriate, we added billing adjustments and deducted discounts. In accordance with section 772(d)(1) of the Act, the Department deducted direct and indirect selling expenses, including inventory carrying costs incurred by TCI for stock sales, related to commercial activity in the United States. We also made deductions for movement expenses, which include foreign inland freight, foreign brokerage and handling, ocean freight, containerization expense, Taiwan harbor construction tax, marine insurance, U.S. inland freight, U.S. brokerage and handling, and U.S. customs duties. Finally, in accordance with sections 772(d)(3) and 772(f) of the Act, we deducted CEP profit.

Normal Value

1. Home Market Viability

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Ta Chen's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. As 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. *See* Ta Chen's Section A Resp., at 2 and Exhibit 1 (September 11, 2007).

2. Cost of Production Analysis

Because we disregarded sales below the cost of production (COP) in the prior administrative review, we have reasonable grounds to believe or suspect that sales by Ta Chen in its home market were made at prices below the COP, pursuant to sections 773(b)(1) and 773(b)(2)(A)(ii) of the Act. *See Certain Stainless Steel Butt–Weld Pipe Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 72 FR 35972–35973 (July 2, 2007), and *Notice of Final Results and Final Rescission in Part of Antidumping Duty Administrative Review: Certain Stainless Steel Butt–Weld Pipe Fittings From Taiwan*, 73 FR 1202 (January 7, 2008).

Therefore, pursuant to section 773(b) 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 COP based on the sum of the respondent's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses, financial expenses and all costs and expenses incidental to packing the merchandise. *See* the ''Test of Home Market Sales Prices'' section below for treatment of home market selling expenses. In our COP analysis, we relied on the COP data submitted by Ta Chen in its original and supplemental cost questionnaire responses, and adjusted the reported direct materials costs based on our findings at verification. *See* below.

B. Test of Home Market Prices

We compared the weighted–average COP 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 within an extended period of time in substantial quantities, and were not at prices that permitted the recovery of all costs within a reasonable period of time, in accordance with sections 773(b)(1)(A) and 773(b)(1)(B) of the Act.

C. Results of COP Test

In accordance with section 773(b)(1) of the Act, when 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, as defined by section 773(b)(2)(C) of the Act. When 20 percent or more of Ta Chen's sales of a given product during the POR were at prices less than the COP, we determined that such sales have been made in ''substantial quantities'' within an extended period of time, in accordance with sections 773(b)(2)(B) and 773(b)(2)(C) of the Act. In such cases, because we use POR average costs, we also determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we appropriately disregarded below–cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

3. Price-to-Price Comparisons

As there were sales at prices above the COP for all product comparisons, we based NV on prices to home market customers. We deducted credit expenses and added interest revenue. In addition, we made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Finally, in accordance with section 773(a)(6) of the Act, we also deducted home market packing costs and added U.S. packing costs.

Application of Facts Available

Pursuant to section 776(a)(2)(D) of the Act, the Department finds that the use of facts available (''FA'') is appropriate with regard to Ta Chen's reported costs of production. The Department preliminarily finds that Ta Chen significantly under–reported the direct material costs used in the cost of production of the subject merchandise. Furthermore, pursuant section 776(a)(2)(D) of the Act, the Department preliminarily finds that the application of FA is warranted with regard to Ta Chen's sales in the United States of merchandise purchased from other Taiwanese producers because the Department is unable to identify with certainty the actual producer of the merchandise being sold by Ta Chen.

Section 776(a)(2) of the Act, provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that the Department must inform the interested party of the nature of any deficiency in its response and, to the extent practicable, allow the interested party to remedy or explain such deficiency. We

find that pursuant to section 776(a)(2)(D) of the Act, the application of FA is warranted for the calculation of Ta Chen's costs of production because Ta Chen provided information that could not be fully verified. Furthermore, we find that pursuant to section 776(a)(2)(D) of the Act, the application of FA is warranted because Ta Chen failed to identify with certainty the manufacturer for certain sales of SSBWPFs made by Ta Chen.

A. Cost of Production/Direct Materials Adjustment

Ta Chen purchases stainless steel coils to produce pipe, which it in turn processes into pipe fittings. *See* Ta Chen's sections B—D questionnaire response, September 27, 2007, at D–5. At verification, the Department found that Ta Chen's per–unit pipe fittings direct material cost (*i.e.*, the standard cost of pipe, plus the variance) inexplicably rose much more slowly throughout the POR than the price of Ta Chen's raw material input for making pipes (*i.e.*, stainless steel coils). *See* Ta Chen Verification Report, June 10, 2008, Section XIV at page 72. Normally, if raw material prices increase significantly then either the standard cost must increase significantly or the variance between actual and standard cost must increase significantly. For Ta Chen, neither of these increases appears to have occurred, with the result being that for some months the recorded cost of the input stainless steel coils used to produce the pipe exceeded Ta Chen's reported direct materials costs for fittings. Company officials could not explain this discrepancy at verification. *Id.* Therefore, the Department preliminarily determines that an adjustment is necessary to correct for this unexplained difference.

To adjust for the under–reporting of direct materials costs, the Department estimated direct material cost for the two sample products reviewed at verification (*i.e.*, one 304L and one 316L), yielded for pipe making and fittings fabrication. To adjust for the apparent underestimation of reported pipe costs, the Department first calculated estimated pipe input (coil) costs by using per kilogram (kg) coil purchase costs (for which data are available on the record for both coil grades, 304L and 316L, for all months of the POR). *See* Ta Chen's March 13, 2008, supplemental response at Exhibit 4th Supp.-18. The Department applied the per–kg. coil costs to the total reported weight of the pieces produced, by month. *See* Ta Chen Verification Report at Verification Exhibits 4 and 19. The Department then added to the estimated pipe input (coil) costs additional adjustments to account for yield loss from coil to pipe, yield loss from pipe to fittings, and pipe conversion costs. These additional adjustments were based upon the company's reported standard costs. *Id.* We compared the results of our calculation to Ta Chen's reported costs to calculate the adjustment to cost. We then applied these adjusted costs to Ta Chen's reported costs for merchandise produced and toll–produced by others for Ta Chen.

Pursuant to section 776(a) of the Act, we determine that these adjustments are an appropriate application of FA to direct materials cost. Ta Chen could not provide an explanation of the discrepancies between the reported per–unit costs and other verified information, the Department determines that the application of FA is warranted. Also, we preliminarily conclude that Ta Chen did not fail to act to the best of its ability because the underlying data verified and Ta Chen provided the information that highlighted the apparent discrepancies. As such, the Department determines that adverse FA pursuant to section 776(b) of the Act is not warranted in this instance. Therefore as noted above, we are adjusting the costs of production. *See* the Analysis Memo for a more detailed discussion of the calculations.

B. Identity of Manufacturers

Ta Chen not only manufactures subject fittings, but it also purchases completed fittings and has some toll processing performed by other unaffiliated Taiwanese manufacturers. *See* Ta Chen's section A questionnaire response dated September 11, 2007, at page 30. Ta Chen indicated that it reported itself (*i.e.*, Ta Chen) as the manufacturer for sales observations which it produced or which were toll processed. In instances where the sale was made of fittings purchased from a supplier, Ta Chen stated that it reported the supplier as the manufacturer in its sales databases.

However, during verification the Department found that Ta Chen had reported the other manufacturers' names in the manufacturing field for the sales database for all fittings that were purchased as well as toll processed. The Department also found that Ta Chen was apparently unable to distinguish between the manufacturers that toll process from those that supply certain types of subject fittings that Ta Chen re–sells, once the fittings that are toll–produced or purchased enter into Ta Chen's inventory system. *See* Ta Chen Verification Report at Section V, page 24.

For all fittings, the cost test and the DIFMER data must be manufacturer specific. The cost database does not distinguish control numbers (CONNUMs) by supplier. However, we can distinguish between toll processed and purchased merchandise by CONNUM in the cost database as the Department found at verification that CONNUMs of merchandise purchased by Ta Chen were unique. *See* Ta Chen's supplemental questionnaire response, March 13, 2008, at page 4. For the sales database, as stated above, for merchandise not identified as manufactured by Ta Chen, we are unable to distinguish between sales of toll processed merchandise from sales of merchandise purchased from other producers.

During verification, Ta Chen stated that in the normal course of business, it does not keep track of each specific manufacturer for each sale of fittings once the fittings enter into Ta Chen's inventory system. Ta Chen stated that the manufacturer identity of fittings that are toll processed and supplied is lost within its inventory before they are sold. *See* Ta Chen Verification Report at Section V, page 24. Ta Chen claims that companies that toll process and supply it fittings are not knowledgeable of Ta Chen's final customer or destination for the fittings. Although Ta Chen was able to identify which products it had purchased or toll processed during the POR for purposes of reporting its cost database, it is allegedly unable to link those with its sales database because of the loss of the manufacturer's identity that takes place when the subject fittings are commingled in inventory.

In examining the issue of manufacturer further at verification, Ta Chen informed the Department that for merchandise supplied by other manufacturers, ''when the fittings were supplied to Ta Chen Taiwan it knew which supplier had supplied the merchandise, but once the fittings entered into its inventory it could no longer distinguish'' who the manufacturer was. Id. With respect to the toll–processed merchandise, Ta Chen stated that ''when the fittings were shipped to Ta Chen Taiwan it knew which subcontractor had toll processed the fittings, but once the fittings entered into its inventory it could no longer distinguish which subcontractor had done the toll processing.'' *Id.* In response to questions about merchandise quality issues, Ta Chen stated that its ''quality control department checks the merchandise. The company stated that if there are

problems with the merchandise, the subcontractor or supplier would have to return to pick it up. The company said that in theory a mill test certificate would be provided to Ta Chen Taiwan by the subcontractors and suppliers.'' *Id*. at 26. Finally, the Department examined the system by which Ta Chen records purchases of fittings, and noted that there are codes available to denote the manufacturer from which fittings are purchased. *Id*. at 26–27.

The Department preliminarily determines, contrary to Ta Chen's statements at verification, that it is able to segregate those sales which were toll–produced on behalf of Ta Chen from those sales of merchandise which were purchased from unrelated manufacturers. *See* the Analysis Memorandum dated June 30, 2008, for further information. Additionally, while Ta Chen did not report the actual manufacturer of certain sales of SSBWPFs as requested by the Department, claiming that it was unable to distinguish from which producer it purchased certain fittings, the Department found at verification that Ta Chen was aware of the individual manufacturer of fittings both for quality assurance purposes and at least before the merchandise entered into Ta Chen's inventory system.

As noted above, section 776(a)(2) of the Act provides that, *inter alia*, if an interested party or any other person withholds information that has been requested by the Department or significantly impedes a proceeding under the antidumping statute, the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

We preliminarily find that the use of FA is warranted in accordance with section 776(a)(2)(D) of the Act, because Ta Chen did not specifically identify the manufacturer of the subject merchandise, as requested by the Department in its antidumping duty questionnaire and in its March 6, 2008, supplemental questionnaire. Consistent with Section 782(d) of the Act, the Department requested clarification of Ta Chen's reporting of the manufacturers' identities with respect to the purchased fittings. However, Ta Chen reported that it ''is unable to discern which company manufactured the fitting.'' *See* Ta Chen's supplemental questionnaire response dated March 13, 2008, at page 1. At verification, Ta Chen again stated to Department officials that it was unable to discern which company manufactured the purchased fittings. *See* Ta Chen Verification Report, Section V at pages 23—28. *See also* TCI Verification Report, Section IV at page 8 and Section IX.A.30 at page 21. Additionally, at verification, the Department found that Ta Chen had not reported toll–processed merchandise as being produced by Ta Chen, as it had previously indicated to the Department. *See* Ta Chen's section B–D response, September 24, 2007, at pages B–31 and C–53 and 54. Instead, Ta Chen had reported the toll–producer as the manufacturer, rather than Ta Chen. The Department also found that the toll–producers were the same companies from which Ta Chen also purchased fittings. *Id*. at 24.

Pursuant to section 776(a) of the Act, we determine that an application of FA to those sales identified as purchased from other manufacturers is appropriate. Despite Ta Chen's claims to the contrary, the Department found numerous instances where it appears that Ta Chen could segregate toll–produced and purchased material according to manufacturer. However, because Ta Chen has stated that it is unable segregate merchandise once it enters into its accounting system, the Department will apply FA to those sales of merchandise purchased from other sources. The Department intends to examine this issue more closely for the final results of this review. Therefore the Department will apply as FA to those sales identified as sales of purchased merchandise the average rate calculated for all merchandise produced or toll processed by Ta Chen.

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 level of trade (LOT) as the CEP transaction. The NV LOT is that of the starting–price sales in the comparison market. For CEP, it is the level of the constructed sale from the exporter to the importer. To determine whether NV sales are at a different LOT than CEP sales, we examine different 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, where possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales for which we are unable to quantify an LOT adjustment, 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 sales affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision).

Ta Chen reported two channels of distribution in the home market: unaffiliated distributors and end–users. We examined the selling activities reported for each channel of distribution and organized the reported selling activities into the following four selling functions: sales process and marketing support, freight and delivery, inventory maintenance and warehousing, and warranty and technical services. We found that Ta Chen's level of selling functions to its home market customers for each of the four selling functions did not vary significantly by channel of distribution. *See* Ta Chen's section A Resp., at 16–25 (Sept. 11, 2007); *see also* Ta Chen's supplemental questionnaire response, at 6 and Exhibit 8, (January 28, 2008). Therefore, we preliminarily conclude that the selling functions for the reported channels of distribution constitute one LOT in the comparison market.

For CEP sales, we examined the selling activities related to each of the selling functions between Ta Chen and its U.S. affiliate, TCI. Ta Chen reported that all of its sales to the United States are CEP sales made through TCI, *i.e.*, through one channel of distribution, and claimed that there is only one LOT. We examined the four selling functions and found that Ta Chen's selling functions for sales to TCI are performed regardless of whether shipments are going to TCI or directly to the unaffiliated customer. Therefore, we preliminary determine that Ta Chen's U.S. sales constitute a single LOT.

We then compared the selling functions Ta Chen provided in the home market LOT with the selling functions provided to the U.S. LOT. In the home market, Ta Chen provides significant selling functions related to the sales process and marketing support, warranty and technical service, inventory maintenance, and some technical services in the comparison market, which it does not for the U.S. LOT. On this basis, we determined that the HM LOT is at a more advanced level than Ta Chen's U.S. LOT. However, since we have preliminarily determined that there is only one LOT in the home market, we are unable to calculate a LOT adjustment. Because we have preliminarily determined that NV is established at a LOT that is at a more advanced stage of distribution than the LOT of the CEP transactions, and we are unable to quantify a LOT adjustment

pursuant to section 773(a)(7)(A) of the Act. Therefore, for these preliminary results, we have applied a CEP offset to the NV–CEP comparisons, in accordance with section 773(a)(7)(B) of the Act.

The Department intends to examine this issue fully for the final results in light of comments by parties on this issue.

Currency Conversion

For purposes of the preliminary results, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Act.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the weighted–average dumping margin for the producer/exporter listed below for the period June 1, 2006, through May 31, 2007, to be as follows:

Weighted–Average Margin

Ta Chen Stainless Pipe Co., Ltd

2.93%

Disclosure and Public Comment

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. *See* 19 CFR 351.224(b). Pursuant to 19 CFR 351.309, interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding 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.

Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: 1) the party's name, address and telephone number; 2) the number of participants; and, 3) a list of issues to be discussed. *See* 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of the administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of this review the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer–specific ad valorem rate for merchandise exported by Ta Chen which is subject to this review. The Department intends to issue assessment instructions to CBP 15 days after the publication of final results of this review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the period of review produced by Ta Chen or by any of the companies for which we are rescinding this review and for which Ta Chen or each no–shipment respondent did not know its merchandise would be exported by another company to the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit

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 of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed company will be the rate listed in the final results of review; (2) for previously investigated companies not listed above, 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 for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 51.01 percent, which is the ''all others'' rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 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 the 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: June 30, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–15475 Filed 7–7–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–831

Fresh Garlic from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews

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

EFFECTIVE DATE: July 8, 2008.

SUMMARY: The Department of Commerce (Department) has determined that six timely requests for new shipper reviews (NSRs) of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) meet the statutory and regulatory requirements for initiation. For three of the six NSRs which the Department is initiating, the period of review (POR) is November 1, 2007 through April 30, 2008. For the remaining three NSRs where the shipments entered after the POR, the Department is initiating and extending the POR by forty days, pursuant to 19 CFR 351.214(f)(2)(ii).

FOR FURTHER INFORMATION CONTACT: Martha Douthit or Elfi Blum, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–0197, respectively.

SUPPLEMENTARY INFORMATION: