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December 17, 2002

MEMORANDUM TO: Faryar Shirzad
Assistant Secretary
for Import Administration

FROM: Joseph A. Spetrini
Deputy Assistant Secretary
for Import Administration, Group III

SUBJECT: Issues and Decision Memorandum for the Administrative Review of Stainless Steel Butt-Weld Pipe Fittings from Taiwan: June 1, 2000 through May 31, 2001

SUMMARY:

We have analyzed the case and rebuttal briefs of interested parties in response to Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Preliminary Results and Preliminary Rescission in Part of Antidumping Duty Administrative Review, ("Preliminary Results") 67 FR 45467 (July 9, 2002). As a result of our analysis, we have made changes from the Preliminary Results. The specific calculation changes can be found in our Analysis Memorandum from Amy Ryan: Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Ta Chen Stainless Steel Pipe Co., Ltd. ("Final Analysis Memo"), dated December 17, 2002. We recommend that you approve the positions we have developed in the "Discussion of the Issues" section of this Issues and Decision Memorandum. Below is the complete list of the issues in this administrative review:

General Issues

Comment 1: Inter-Warehouse Transfer Expenses
Comment 2: CEP Profit
Comment 3: Use of Adverse Facts Available
Comment 4: Home Market Credit Expenses
Comment 5: CEP Expenses
Comment 6: CEP Offset
Comment 7: Costs Associated with U.S. Short-Term Borrowings
Comment 8: Reclassification and Contemporaneity of U.S. Indirect Selling Expenses

Comment 9: Home Market Indirect Selling Expenses for U.S. Sales
Comment 10: Home Market Inventory Carrying Costs Related to U.S. Sales
Comment 11: General and Administrative Expenses
Comment 12: Miscellaneous

DISCUSSION OF THE ISSUES:

Comment 1: Inter-Warehouse Transfer Expenses[1]

Ta Chen argues that Ta Chen's actual freight costs on inter-warehouse shipments and cancelled sales should be used in the calculation. Ta Chen states that the total figure identified in the Preliminary Results as Ta Chen International's ("TCI") total freight costs associated with inter-warehouse transfers and cancelled sales are actually the transaction-specific costs of transporting subject merchandise from Taiwan to the United States and then to the U.S. customers. Ta Chen asserts that these costs are already reported in the U.S. sales database on a transaction-specific basis and thus were double-counted in the Preliminary Results. Ta Chen recognizes that the Department is treating inter-warehouse transfer costs as movement expenses, but argues that regardless of how the Department is treating these costs, the actual freight costs on these transfers should be used.

Ta Chen cites TCI's verification report, at Exhibit 5, on page 1802, for TCI's freight expense for return of material during the POR. Ta Chen states that in the minor corrections presented at the TCI verification, it already revised its G&A expenses to include freight expenses for returned materials. Additionally, Ta Chen identifies Exhibit 16 of its January 29, 2002, submission as the worksheet that the Department should use for freight costs incurred by TCI on returned products.

Ta Chen concludes by arguing that the inter-warehouse freight costs were already reported in the U.S. sales database and that the G&A allocation percentage used in the Preliminary Results already includes freight expenses on returned and cancelled sales and adjusts for warehouse expenses, which includes inter-warehouse freight costs. Ta Chen claims that the second adjustment for freight costs associated with returned goods and inter-warehouse shipment made in the Preliminary Results constitutes double-counting.

Petitioners argue that the Department should continue to deduct U.S. inter-warehouse transfer expenses and return product freight expenses as movement expenses and should base those expenses on TCI's verification exhibits. Petitioners maintain that the amount that Ta Chen states is the correct figure for these expenses does not consider all the inter-warehouse freight expenses. Petitioners state

[1] For purposes of this analysis, we are referring to freight costs that TCI incurs when transferring inventory among its warehouses in the United States as inter-warehouse transfer expenses.

that according to Ta Chen, TCI incurred inter-warehouse transfer expenses for six additional warehouses besides the Los Angeles and Houston locations. However, petitioners claim that Ta Chen did not provide inter-warehouse expenses for the six additional warehouses, and thus Ta Chen understated the value of its inter-warehouse expenses.

Additionally, petitioners argue that Ta Chen had prior notice that the Department was going to treat these inter-warehouse expenses as movement expenses based on the Department's determination in the most recently completed review. Therefore, petitioners maintain that Ta Chen should have provided the Department with the necessary information for the deduction. Finally, petitioners argue that the total expense value that the Department relied on in the Preliminary Results for inter-warehouse and returned freight expenses is a reasonable estimate of these costs based on similar inter-warehouse transfer expenses from the 1999-2000 fittings review.

Department's Position: After an additional review of TCI's verification report and the Department's decision in the Preliminary Results, the Department agrees with Ta Chen that the amount we used for inter-warehouse transfer is incorrect. Moreover, we find that double-counting did occur as the total amount of inter-warehouse transfer expense has already been accounted for in the U.S. sales database under warehouse expenses. See TCI's verification report at Exhibit 11 for these expenses.

While the Department considers these transfer costs as a movement expense and would have preferred these to have been reported separately from the other warehouse expenses, the movement expenses for all warehouses have been accounted for in the U.S. sales database. In addition, the movement variables (of which these transfer costs should be a part of) and the warehouse expenses (which transfer costs are reported as under DIRSELU and then USMOVEU) are treated the same when they are deducted from NETPRIU. See lines 542-543 of the final margin program. Therefore, for purposes of this review, we will accept the transfer costs as reported.

Accordingly, for these final results the contents of lines 441 and 442 of the preliminary margin program have been deleted. See Final Analysis Memo at page 2 and Attachment 1 for the actual changes made to the margin program from the Preliminary Results.

Comment 2: CEP Profit

Ta Chen argues that the Department's calculation of CEP profit in the Preliminary Results is not in accordance with law. Ta Chen argues that by ignoring fitting inventory carrying and credit costs, the Department's CEP profit calculation in the Preliminary Results disregards commercial reality, common sense and court decisions. Due to a high average inventory holdover period for fittings, the fact that fittings are a small part of TCI's overall sales, and the fact that U.S. sales of fittings are a high percent of Ta Chen's total sales, Ta Chen asserts that economic costs associated with the time value of money of holding inventory and accounts receivable are significant to the total economic costs related to U.S. fittings sales, and are a significant percentage of the economic cost of goods sold for fittings. The

Department labeled the time value of money from these inventory and credit costs as imputed costs, and did not include them in its calculation of the dumping margin.

Ta Chen argues that the dumping margin from the preliminary finding is contrary to court decisions in which the dumping margin must include "imputed expenses that represent some real, previously unaccounted for, expense." See Thai Pineapple Canning Industrial Corp. V. U.S., Slip Op. 99-42 at 29 (CIT 1999); SNR Roulements v. U.S., 118F. Supp. 2d 1333, 1340-41 (CIT 2000); FAG Italia, S.p.A. v. U.S., Slip Op. 00-154 (CIT Nov. 21, 2000), 2000 WL 1728317 at 6.

Ta Chen also argues that the law requires the Department to determine CEP profit for the specific subject merchandise (fittings), rather than using costs associated with all products. See Import Policy Bulletin No. 97/1, September 4, 1997; Structural Steel Beams from Spain, 66 FR 67207, 67209 (2001); Structural Steel Beams from Italy, 66 FR 67185, 67187 (2001); Large Newspaper Printing Presses from Germany, 66 FR 51375, 51376 (2001) and section 772(f)(2)(C)(i) of the Act (19 U.S.C. § 1677a (f)(2)(C)(i) &(D)).

Ta Chen argues that the Department should include "total actual profit" to calculate an accurate value for CEP profit. Ta Chen asserts that section 772(f)(2)(D) of the statute (19 U.S.C. § 1677a(f)(2)(D)) defines total actual profit as "the total profit earned by the foreign producer, exporter, and affiliated parties... with respect to the sale of the same merchandise for which total expenses are determined." Ta Chen argues that this is contrary to the Department's and petitioners' position that "total actual profit" should not include imputed inventory carrying and credit costs. In addition, Ta Chen maintains that section 351.402(d)(1) of the Department's regulations defines "total actual profit" as "total profit," with "actual" meaning "profit for all subject merchandise."

Ta Chen disputes the Department's determination that imputed costs associated with inventory carrying and credit costs should not be included in the Department's CEP profit calculation because GAAP do not book them as expenses. Ta Chen cites Thai Pineapple Canning Industrial Corporation and Am Silicon , and argues that it is the Department's practice to reject GAAP consistent methodologies when they are distortive, and do not reflect actual costs. See Thai Pineapple Canning Industrial Corp. V. U.S., Slip Op. 99-42 at 29 (CIT 1999); Am Silicon Techs v. U.S., 1999 WL 354415 (CIT 1999). Ta Chen argues that the Department's inclusion of imputed costs associated with inventory and carrying costs overstates CEP profit, and does not reflect the economic reality.

Ta Chen claims that if these imputed costs were included in CEP profit in this review, they would increase the net U.S. price by more than enough to offset the 2.63% dumping margin such that a finding of no dumping would result.

Petitioners claim that the Department's Preliminary Results were consistent with the Act as well as with previous administrative reviews of this case and other cases. Petitioners cite Antidumping Duties: Countervailing Duties, Preamble to the Regulations, 62 FR 27296, 27354 (May 19, 1997) in which the

Department stated that it "does not take imputed expenses into account in calculating cost." The Department's practice of excluding imputed expenses in the calculation of actual profit is articulated in the DOC Policy Bulleting No. 97/1: Calculation of Profit for Constructed Export Price Transactions, September 4, 1997.

Petitioners also counter Ta Chen's arguments by noting that the Department has directly dealt with the CEP profit issue in the previous administrative review. See Issues and Decision Memorandum for the Administrative Review of Stainless Steel Butt-Weld Pipe Fittings from Taiwan: June 1, 1999 through May 31, 2000 66 FR 65899 (December 21, 2001). In the 1999-2000 review, the Department made the following determination:

> The Department notes that the CIT in FAG Italia and SNR Roulements v. United States, 118 F. Supp. 2d 1333 (CIT October 13, 2000) ("SNR") directed the Department to "include all expenses included in 'total United States expenses' in the calculation of "total expenses.'" SNR became final on February 23, 2001. See Slip Op. 2001-17 (CIT February 23, 2001).

While the Department acknowledged the CIT's holding that the Department's treatment of CEP profit was not in accordance with law, the Department determined that it would continue its methodology of excluding imputed expenses when calculating CEP profit until these decisions had been successfully appealed. The Department further cites Ausimont Spa v. U.S., Slip. Op. 01-92 (CIT Aug. 2, 2001), in which the Court sustained the Department's methodology.

Department's Position: We agree with petitioners that the Department directly responded to this issue in the immediately preceding review. As Ta Chen has raised no new argument in this review, the Department reaffirms its determination in the previous review. See Issues and Decision Memorandum for the Administrative Review of Stainless Steel Butt-Weld Pipe Fittings from Taiwan: June 1, 1999 through May 31, 2000 66 FR 65899 (December 21, 2001). It is the Department's practice to calculate the CEP profit ratio based on actual expenses, not imputed expenses. Normal accounting principles only permit the deduction of actual booked expenses, not imputed expenses, in calculating profit. Inventory-carrying costs and credit expenses are imputed expenses, not actual booked expenses, so we have established a practice of not including them in the calculation of total actual profit. See Notice of Final Results for the Administrative Review of Extruded Rubber Thread from Malaysia: October 1, 1998 through September 30, 1999, 66 FR 11254 (February 23, 2001) and accompanying Issues and Decision Memo at Comment 1. The Department acknowledges that the CIT, in two cases, has directed the Department to include all expenses included in total United States expenses in the calculation of total expenses. See FAG Italia Spa v. United States, 97-07-00260-5, Slip. Op. 2000-154 (CIT, Nov. 21, 20000; SNR, Roulements v. United States, 118 F. Supp. 2d 1333 (CIT, 2000); Notice of final Results of Antidumping Review of Circular Welded Non-Alloy Steel from Mexico: November 1, 1998 through October 31, 1999 ("Pipe from Mexico"), 66 FR 21311 (April 30, 2001) and accompanying Issues and Decisions memo at Comment 4.

In both SNR and FAG Italia, the Court held that Commerce's CEP methodology with respect to imputed expenses was not in accordance with law. The United States has appealed both judgements. However, in Ausimont SPA v. United States, Slip. Op. 01-92 (CIT August 2, 2001), the Court sustained Commerce's methodology. Consequently, until such time as these decisions are final, the Department will continue to apply its current methodology in excluding imputed expenses when calculating profit.

Comment 3: Use of Adverse Facts Available

Ta Chen argues that adverse inferences in the Preliminary Results were impermissibly used. Ta Chen states that the use of an adverse inference is permitted if a party did not act to the best of its ability and that the use of adverse inferences based on inadvertence is not permissible. See section 776(b) of the Act and Steel Auth. of India, Ltd. v. United States, 149 F. Supp. 2d 921, 929-31 (CIT 2001). Ta Chen explains that while preparing for verification, TCI officials found that when their North Carolina warehouse was in use, there were in fact, sales of subject merchandise during the POR. Ta Chen notes that these sales only made up 0.0001 percent of all U.S. sales by value made during the POR. Ta Chen argues that the exclusion of these sales was inadvertent and that the sales were reported as soon as they were discovered. Additionally, Ta Chen explains that at verification, the Department found that TCI classified certain U.S. sales as third country sales[2], not as sales to the United States, and that these sales made up only 0.00005 percent of all U.S. sales made during the POR.

Ta Chen states that the Department made no finding that Ta Chen had *not* acted to the best of its ability and therefore the use of an adverse inference is not permissible. Yet, Ta Chen asserts that the Department effectively used an adverse inference by not using a neutral average dumping margin found on Ta Chen sales, and instead used the average dumping margin on the minority of sales where dumping was found. Ta Chen claims that the margin used is almost ten times greater than the average dumping margin found in the Preliminary Results.

Ta Chen explains that when there is no basis for the use of an adverse inference, it is the Department's practice to use the weighted-average dumping margin calculated for all sales, and not just sales where dumping is found, in order to determine the dumping margin for those sales lacking the requisite information. See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan, 63 FR 8909, 8920 (February 23, 1998). Citing Ferro Union v. United States, 44 F. Supp. 2d 1310, 1335 (CIT 1999) and Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Japan, 64 FR 24239, 24254 (1999), Ta Chen argues that the Department cannot reject its established methodology for determining the dumping margin simply

[2] See Analysis Memorandum for Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results of the 2000-2001 Administrative Review, at page 2, dated November 6, 2002, for the identification of this sales destination, which is proprietary.

because it wants a higher margin.

Petitioners argue that the Department should continue to apply an adverse inference to Ta Chen's unreported sales. Petitioners contend that Ta Chen did not submit the required sales and expense information to the Department in a timely manner. Petitioner states that while Ta Chen did identify the unreported sales out of the North Carolina warehouse at the beginning of verification, it failed to provide the necessary information in order for the Department to include the sales in its margin program. In addition, for the incorrectly classified third country sales, petitioners maintain that Ta Chen provided no information besides quantity and value for those sales, and therefore failed to report the required sales and expense data. In their argument, the petitioners cite section 776(b) of the Act, which provides that if the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administrating authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from the among the facts otherwise available. Petitioners conclude that for the final results the Department should find that Ta Chen failed to act to the best of its ability to comply with the Department's request for information regarding U.S. sales of subject merchandise. Petitioners suggest that as adverse facts available the Department should continue to apply the average positive margin of Ta Chen's reported sales.

Department's Position: We agree with Ta Chen. The <u>Preliminary Results</u> makes clear that the Department intended to rely on partial facts available. However, by applying the average <u>positive</u> margin, the Department inadvertently made an implicit adverse inference regarding the sales in question. Although the petitioners argue that the Department should apply an adverse inference, the record does not support the application of an adverse inference due to the extremely small volume, the limited extent of the errors, and the overall completeness of the reported data. Thus, for the final results, the Department has applied as facts available the average margin of all the U.S. sales to these two sets of sales, not the average positive margin. <u>See</u> <u>Final Analysis Memo</u> at page 2 and Attachment 1 for the changes to the margin calculation program.

Comment 4: Home Market Credit Expenses

Citing the preliminary analysis memo at 6, 10 and 11, Ta Chen states that it appears that in the dumping margin calculation home market price has not been reduced for reported imputed credit cost, but U.S. price has. Ta Chen argues that home market price should also be reduced for imputed credit costs.

Citing the Department's model match program, petitioners explain that the Department calculates net home market price to be the home market gross unit price less home market commissions, home market direct selling expenses, home market discount and rebates, home market movement expenses, and home market packing expenses. Petitioners note that in the Department's program, home market direct selling expenses are equal to home market credit expenses, and are thus deducted from the home market price.

Department's Position: We agree with petitioners that the home market credit expenses were properly deducted in the Preliminary Results. At line 399 of the preliminary model match program, we set other direct selling expenses equal to credit expenses. Further, at line 409 of the model match program, other direct selling expenses are deducted from net home market price. As such, the expense is already properly deducted and we made no changes to the preliminary model match program for home market credit expenses in the final results. See also lines 399 and 409 of the final model match program at Attachment 2 of the Final Analysis Memo.

Comment 5: CEP Expenses

Petitioners argue that Ta Chen deliberately failed to report U.S. expenses for CEP sales on an entry-specific basis, even though Ta Chen maintains this information in its normal business records. According to petitioners, the Department verified that Ta Chen has had, and continues to have, the capability to trace CEP sales to specific imports and to specific selling expenses. Moreover, petitioners allege that Ta Chen maintains this information in computerized form that would have allowed for easy access to the required information.

Petitioners explain that in order to report entry-specific expenses, Ta Chen must be able to identify the heat number to product number to mill test report ("MTR"). Petitioners claim that in the most recently completed administrative review, the Department verified that Ta Chen maintains the information necessary to trace the heat number to the product number. Moreover, petitioners assert that at verification in the present review, the Department found that Ta Chen has a computerized system that it could have used in order to report entry-specific expenses.

Petitioners argue that the average CEP direct expenses used by the Department in the Preliminary Results are not as accurate as the actual entry-specific expenses for U.S. sales. Petitioners maintain that to reward Ta Chen for misleading the Department throughout this review on its ability to trace CEP sales to import-specific expenses would only serve to encourage and reward respondents for such tactics. With reference to a key factor considered by the Department regarding this issue in the immediately preceding review, petitioners downplay the consequence of instances in which two possible MTRs are linked to one product/heat number combination, claiming the frequency of this occurrence is insignificant. Petitioners also note that Ta Chen has an established means for dealing with cases with two possible MTRs for a product/heat number combination in which Ta Chen selects the oldest of the two MTRs based on a FIFO inventory accounting system. Petitioners claim that Ta Chen commercially stands behind its certification of the accuracy of each MTR for each sale. Petitioners suggest that for the final results, the Department assign partial facts available to Ta Chen by relying on the highest direct selling expenses submitted by Ta Chen for its EP sales.

Ta Chen argues that its CEP expenses are properly reported and allocated.   Ta Chen claims that tracing sales to specific imports is not possible. Ta Chen notes that petitioners in their case brief admit that at best, TCI can trace a heat number on a product (which the customer would have from the product itself) to one or several MTRs, and then to one or several actual importations that are associated with each MTR. Ta Chen argues that even the petitioners admit that a single heat number therefore may trace to multiple MTRs. Consequently, according to Ta Chen, petitioners recognize that the specific import identification is not known via the traceability of MTRs.

Ta Chen further argues that its inventory accounting system is sufficient for its customers to identify the characteristics of a product with a particular heat number, but its purpose is not to trace TCI sales to specific importations for the purposes of the Department's review. Ta Chen explains that because all products with the same heat number are the same, it does not matter which MTR Ta Chen gives to the customer as long as the multiple MTRs have the same heat number. However, Ta Chen states that if the objective is to trace TCI U.S. warehouse sales to specific importations, then it is critical to link the actual applicable MTR among several with the same heat number to the product sold.

Ta Chen rejects petitioners' claims that the CEP allocations are inaccurate. According to Ta Chen, the petitioners claim that the reported TC Taiwan freight to Taiwan port, Taiwan brokerage, ocean freight, ocean containerization, marine insurance, U.S. import duties, and Taiwan bank charges are 20-80% lower for TCI's U.S. warehouse sales than for identical costs reported for TC's back-to-back sales, involving TC Taiwan's shipment to unaffiliated U.S. customers with invoicing through TCI. Ta Chen charges that petitioners have not provided any record support for their claims. Ta Chen argues that a number of the movement expenses at issue are fixed costs. Shipments to TCI for TCI U.S. warehouse sales involve greater quantities than direct shipments to U.S. customers so the per-unit expense is less, and Ta Chen ships to many ports on the West Coast and East Coast so the movement costs are different to each port. Ta Chen also states that the Department found no errors in Ta Chen Taiwan's U.S. movements costs on TCI U.S. warehouse sales. Finally, Ta Chen notes that in the previous review, the Department rejected petitioners' arguments on the basis that import-specific tracing was unnecessarily burdensome for Ta Chen, with no indication of greater accuracy.

Department's Position: We disagree with petitioners. While the Department shares petitioners' conviction that entry-specific expenses for U.S. sales are more accurate, and therefore preferable, in general, the Department does not find that it is practicable or possible to determine entry-specific expenses in this instance. One reason is that, as Department officials noted at this review's verification, TCI's MTR system is not linked to any of their other automated systems, including the accounting system. Therefore, each MTR can only be manually printed out, resulting in an impracticably burdensome analysis. The Department determined in the immediately preceding review that although "Ta Chen could report direct sales expenses for a majority of samples done by the Department at verification, we determined that this process would be too burdensome for Ta Chen to make a complete report." Therefore, the Department decided to continue to use the weight-averaged calculation for all expenses. See Issues and Decision Memorandum for the Administrative Review of

Stainless Steel Butt-Weld Pipe Fittings from Taiwan: June 1, 1999 through May 31, 2000, 66 FR 65899 (December 21, 2001) at Comment 4. Second, the petitioners' argument heavily relies on evidence from the immediately preceding review to argue that TCI was able to trace its expenses for CEP sales. The Department acknowledges that in the immediately preceding review, it found that TCI was able to trace only a certain percentage of those sales to their exact expenses. The remaining percentage still had to be calculated by a weight-averaged methodology.

For this review, there is no evidence on the record to show that Ta Chen *can* trace all of its CEP expenses to specific imports absent a manual analysis, or that the result of such an analysis would eliminate the need to allocate a certain percentage of the expense. In fact, the evidence that does exist in the verification report suggests that it is not possible for Ta Chen to make this link between its CEP sales and specific importations. Therefore, we will accept Ta Chen's weight-averaged methodology as a reasonable way of calculating CEP expenses.

Comment 6: CEP Offset

Petitioners argue that Ta Chen is not entitled to a CEP offset claim because Ta Chen's home market sales are not at a more advanced level of trade. The petitioners compare the selling functions that Ta Chen provided to its U.S. sales with the selling functions it provided to its home market sales. Based on this comparison, the petitioners argue that Ta Chen provided additional services for its U.S. sales than it provided to its home market sales. Accordingly, the petitioners argue that the Level of Trade ("LOT") in the U.S. market is at the same level as the home market.

Petitioners claim that in the 1998-99 and the 1999-2000 administrative reviews of this case, the Department rejected Ta Chen's CEP offset requests. Petitioners argue that Ta Chen's responses to the Department's questionnaires regarding the matter were nearly identical as under the current review, and therefore, argues that there is no valid reason for the Department to deny this offset. See Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results of Antidumping Duty Administrative Review, 66 FR 65899 (December 21, 1999); Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results of Antidumping Duty Administrative Review, 65 FR 81827 (December 21, 2000). Petitioners argue that if the Department were to allow the CEP profit offset, it would be departing from its practice in the two immediately preceding reviews.

In response, Ta Chen argues that the CEP offset is appropriate and mandated by statute where home market sales are at a LOT representing a more advanced stage of distribution than in the U.S. See section 773(a)(7)(B) of the Act. Ta Chen claims that the relevant U.S. LOT is between Ta Chen and TCI. See section 773(a)(B)(1) of the Act. Ta Chen argues that it performed more selling functions for its home market customers than for its U.S. affiliate, TCI, and therefore, its home market sales are at a more advanced LOT than its U.S. sales. Ta Chen explains that it sells to distributors and end-users in the home market, while Ta Chen's U.S. sales are made to TCI, which is a master distributor that in turn sells to other distributors. For its customers in the home market, Ta Chen handles customer complaints, freight and delivery arrangements, engages in all selling efforts for home market sales, and provides technical services to clients in its home market. For its U.S. sales, Ta Chen maintains that these functions are performed by TCI, which, in turn, incurs the costs for these sales functions.

In support of its argument, Ta Chen cites Steel Concrete Reinforcing Bars from Turkey, 66 FR 56274, 56275 (2001), in which the Department granted a CEP offset for a less advanced LOT to a U.S. subsidiary (as compared with the LOT of home market sales), that maintained inventory, secured delivery/pickup, and billed customers. Ta Chen maintains that this case is equivalent to the instant review.

Ta Chen further argues the selling functions (i.e. freight, freight insurance, brokerage, freight containerization, packing for shipment, and extension of credit) that the petitioners claim are provided on an equal or higher basis to U.S. sales than the home market sales, are either not selling functions or are already separately included in the dumping margin calculation, and therefore, should not preclude Ta Chen from claiming a CEP offset.

Department's Position: We disagree with petitioners. The Department's analysis of Ta Chen's sections B and C questionnaire responses from September 7, 2001, shows that there are more significant sales functions in the home market than in the U.S. market in contrast to prior review periods. At Page B-14 of Ta Chen's September 7, 2001, submission, Ta Chen states the following: "For home market sales, Ta Chen Taiwan maintains inventory, packing, after-sales service, freight and delivery arrangements and selling efforts. None of these selling functions are performed by Ta Chen Taiwan for the U.S. market as Ta Chen just ships its products to its U.S. subsidiary, TCI. TCI, not Ta Chen Taiwan, deals with and negotiates the U.S. sales with unaffiliated U.S. customers and bears the risk of nonpayment." Thus, the key sales functions of dealing with and negotiating with unaffiliated customers are performed by Ta Chen Taiwan for its unaffiliated home market sales, but not for its unaffiliated U.S. customers, as TCI handles these functions. While the petitioners listed a number of activities that Ta Chen performs for U.S. sales, half of these enumerated activities are more properly described as moving and packing activities rather than sales functions. Even though Ta Chen Taiwan does perform post-sales functions for both U.S. and home market sales, the fact remains that Ta Chen Taiwan does not perform the key task of negotiating with the customer for its U.S. sales, and TCI does. Since Ta Chen Taiwan performs these functions for its home market sales and not its U.S. sales, we cannot reasonably conclude that Ta Chen Taiwan's sales functions are the same in both markets, especially since there would be no sale at all unless the negotiation with the customer was successful. Based on the evidence in the record, it is clear that Ta Chen performs more sales functions in its home market than in its U.S. market. Accordingly, the Department will continue to grant Ta Chen a CEP offset.

Comment 7: Costs Associated with U.S. Short-Term Borrowings

Petitioners argue that the U.S. short-term interest rate applied to the U.S. credit expense calculation and the U.S. inventory carrying cost calculation for Ta Chen is understated and should be corrected for the final results. Citing to Verification Exhibit 4, petitioners assert that Ta Chen failed to include certain additional borrowing costs incurred by Ta Chen in connection with its U.S. short-term loans. Petitioners assert that the Department should recalculate the U.S. short-term rate to reflect all expenses and fees associated with Ta Chen's U.S. borrowings, and should recalculate the U.S. credit expenses and inventory carrying costs accordingly.

Petitioners further argue that Ta Chen understated its short-term borrowings rate because it failed to consider all other expenses related to short-term U.S. dollar loans. Specifically, the petitioners argue that the short-term interest rate calculation should be revised to include some of the "consulting fees" that were related to U.S. short term dollar loans (see Ta Chen's, January 29, 2002, submission at Exhibit 6). The petitioners further argue that Ta Chen failed to consider loan guarantees and compensating balances in the U.S. short-term interest rate calculation. In addition, petitioners identify an inter-company loan to TCI from TCI's affiliate, BVI, that carried no interest charge. Petitioners argue that Ta Chen stated that it reported the BVI POR loan amount times TCI's short-term borrowing rate to get an imputed interest amount, but this interest expense was not included in Ta Chen's Section C sales listing, or in its cost of U.S. short-term borrowing (Verification Exhibit 4). Id. Petitioners argue that such costs of free financing of inter-company loans from BVI is also a cost of obtaining credit in the United States, and should therefore be included in the U.S. short-term interest rate calculation.

Ta Chen argues that it considered all costs associated with U.S. short-term borrowing. Ta Chen claims that the charges cited by petitioners, such as legal fees, audit fees, and inventory appraisal charges, are already included in G&A expenses, and have been reported in the questionnaire response under TCI's indirect selling expense. Further, Ta Chen claims that these are fixed costs and do not reflect TCI's cost of borrowing money. Also, Ta Chen maintains that loan guarantees between Ta Chen and TCI are irrelevant and were ineffective at obtaining competitive credit rates. Ta Chen states that TCI's POR borrowing rate exceeds short-term borrowing rates in the U.S. during the POR as indicated by the Federal Reserve Bulletin. Ta Chen also notes that the Department made no requests to account for the loan guarantees.

Regarding the zero percent interest inter-company loan from BVI to TCI, Ta Chen calculates that increasing the reported TCI interest cost and average loan balance due to BVI inter-company loans does not change the calculated TCI short-term cost of borrowing to the second decimal point level.

Department's Position: We disagree with petitioners, and have not made any adjustments to the calculation of the U.S. short-term interest rate. Regarding petitioners' first argument that certain expenses related to a loan (i.e. including legal fees, audit fees, and inventory appraisal charges) should have been included in the calculation of the U.S. short-term interest rate, we disagree. These expenses are general and administrative expenses and have been appropriately reported by Ta Chen as such. Regarding the consulting fees, petitioners have failed to identify which of these fees (see list of consulting fees at Ta Chen's January 29, 2002 submission at Exhibit 6) they believe are connected to credit or loan expenses. Second, the Department reviewed this list of over 100 consulting fees and found that none of these fees appears to have any connection to credit or loan expenses. Therefore, the Department is not revising the short-term interest rate calculation to include these consulting fees.

In addition, we agree with Ta Chen that including the imputed interest expense for the BVI loan to TCI will not change the calculated short-term cost of borrowing before the fourth decimal place. Therefore, we did not add in the BVI data provided to us by Ta Chen as this issue has no effect. See the Department's comparison calculation in the Final Analysis Memo at Attachment 3.

In the immediately preceding review, we addressed the issue of loan guarantees and compensating balances, and concluded that they should not be included in the calculation of the short-term interest rate. See Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results of Antidumping Duty Administrative Review, 66 FR 65899 (December 21, 2001) and accompanying Issues and Decision Memorandum at Comment 5. The loan guarantees,
which take the form of promissory notes between Ta Chen and TCI, should not be included because Ta Chen paid no interest on the promissory note, and therefore, there was no amount to consider in the calculation of the interest rate. See id. In addition, it is inappropriate to include compensating balances because there is no indication that Ta Chen lost title to any portion of compensating balance during the POR, and therefore, the compensating balance is not viewed as an interest payment. See id. Accordingly, the Department will not add any portion of the loan guarantee or compensating balances to the U.S. short-term interest rate.

Comment 8: Reclassification and Contemporaneity of U.S. Indirect Selling Expenses

Petitioners argue that the Department should reclassify certain expenses from U.S. indirect selling expenses to other direct selling expenses as they are directly related to U.S. sales. Petitioners contend that some of the "consulting fees" reported in Ta Chen's response are directly related to U.S. sales as they are related to payments made to U.S. sales vendors. See Ta Chen's January 29, 2002, submission at Exhibit 6. Petitioners explain that formerly, TCI paid certain sales representatives a sales-based commission, but has since changed to a fixed monthly payment regardless of sales figures. Citing Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof, From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Dumping Administrative Review, 63 FR 33320, 33329 (June 18, 1998), petitioners claim that these sales representative expenses meet the definition of other direct selling expenses. Petitioners explain that Ta Chen only incurs these expenses because these parties sell its merchandise in the United States and that while Ta Chen has changed the form of payment, the substance of the services provided by the U.S. sales vendors has not changed.

Petitioners also argue that the Department should correct TCI's U.S. indirect selling expenses to rely on the most contemporaneous financial statement. Petitioners claim that the Department has ignored its longstanding policy of using the financial statements that most closely represent the POR . See Memorandum to Richard W. Moreland, Acting Assistant Secretary for Import Administration, regarding Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Carbon Polyester Staple Fiber from the Republic of Korea, March 22, 2000 at Comment 8 and Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Final Results of Antidumping Duty Administrative Reviews, 62 FR 18448, 18456 (April 15, 1997). Petitioners maintain that the Department should use 2001 financial statements in order to carry out its legal mandate to calculate the most accurate dumping margin possible, citing Badger-Powhattan, A Div. Of Figgie Intern v. United States, 633 F. Supp. 1364, 1373 (CIT1986); appeal dismissed, 808 F.2d. 823 (Fed. Cir. 1986) and Koyo Seiko Co., Ltd. V. United States, 746 F. Supp. 1108, 1110 (CIT 1990). Petitioners also assert that in its indirect selling expense calculation for fiscal year 2000 Ta Chen failed to account for TCI's financing costs.

Countering petitioners' claim that certain expenses were improperly classified as indirect selling expenses, rather than other direct selling expenses, Ta Chen claims the "consulting fees" were payments for marketing and research, and occur whether or not there is a sale, and are thus indirect selling expenses.

In response to petitioners' request to use fiscal 2001 statements to calculate indirect selling expenses, rather than 2000 statements, Ta Chen notes that the 2001 fiscal year includes seven months that fall after the POR, and thus cannot be directly associated with TCI's sales during the period. Ta Chen contends that in prior reviews, the Department used TCI's indirect selling costs for TCI's fiscal year statements that most closely corresponded to the POR, but not extending beyond the POR. Ta Chen notes that if the Department were to use TCI's 2001 Financial Statements, TCI's indirect selling expenses in the financial statement must be adjusted to exclude costs reported elsewhere in section C sales listing and attorney fees for anti-dumping cases. Ta Chen claims that petitioners' request is too late because Department deadlines have already passed to make the requested adjustments. Finally, with respect to petitioners' argument that Ta Chen did not include TCI's interest expenses in the TCI U.S. indirect selling expense, Ta Chen asserts that the Preliminary Results include imputed credit costs for interest costs associated with U.S. sales, and that it would be double-counting to include these interest costs absent the adjustment to CEP profit.

Department's Position: We disagree with petitioners in part. With regard to reclassification of certain reported indirect selling expenses, we do not find that these consulting fees should be reclassified as direct selling expenses. The record clearly indicates that TCI "... switched to paying (the sales representatives) a fixed monthly payment no matter what sales they made." See Ta Chen's January 29, 2002, submission at page 11. Petitioners are correct that these are proper sales expenses. However, because these sales expenses cannot be directly tied to individual sales, they cannot be considered as direct selling expense. Therefore, we find that Ta Chen has properly classified consulting fees as indirect selling expense.

With regard to the contemporaneity of financial statements to the POR, we disagree with petitioners that accepting the "older, less relevant fiscal year 2000" would somehow diminish the accuracy of the dumping margin calculation. In the Preliminary Results, the Department used TCI's FY 2000 operating costs to calculate its U.S. indirect selling expenses, which included greater time overlap with the POR. Since fiscal year 2001 covers five months of the POR and Ta Chen has not been given the opportunity to adjust the fiscal year 2001 financial data, as it normally does for antidumping purposes, we have continued to base our U.S. indirect selling expense calculation on fiscal year 2000 data.

With regard to the inclusion of financial expenses in the calculation of U.S. indirect selling expenses, it is the Department's practice to include interest expenses incurred by the U.S. affiliate in the total pool of U.S. indirect selling expenses under section 772(d)(1)(D) of the Act. See, e.g., Notice of Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea, 66 FR 3540 (January 16, 2001) and accompanying Issues and Decision Memorandum at Comment 1 and Notice of Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea ("CR and COR from Korea 99/00"), 67 FR 11976 (March 18, 2002) and accompanying Issues and Decision Memorandum at Comment 1. Nevertheless, we agree with Ta Chen that a certain measure of double-counting will occur if we deduct U.S. interest expenses, imputed U.S. credit costs and U.S. inventory carrying costs from the starting price. It is our policy to offset interest expenses included in indirect selling expenses by the amount of subject-merchandise-related imputed expenses. See CR and COR from Korea 99/00 and accompanying Issues and Decision Memorandum at Comment 1. We recalculated the indirect selling expense ratio using the same methodology as articulated in the 99/00 administrative review of cold-rolled and corrosion-resistant carbon steel flat products from Korea. See id. Beginning with Ta Chen's provided indirect selling expense amount provided by Ta Chen, we calculated a preliminary indirect selling expense ratio by dividing the indirect selling expense amount by the total sales amount. Additionally, we calculated an interest expense ratio. To do this, we calculated the ratio of U.S. sales of subject merchandise to total sales and applied it to the total interest expense, as reported by Ta Chen. This yields a subject merchandise-specific interest expense amount. This allocation is appropriate to ensure that the deduction for double counting is taken from a pool of expenses at the same level as the offset, e.g., subject merchandise. This more accurately ensures that no non-subject merchandise interest or imputed expenses are applied to subject merchandise. From this amount, we then deducted the sum of imputed expenses, creating a new net interest expense amount. Because the new net interest expense was zero (i.e., the difference between these two figures was negative), no adjustment to the U.S. indirect selling expense ratio was necessary. See Final Analysis Memo at 3.

Comment 9: Home Market Indirect Selling Expenses for U.S. Sales

Petitioners argue that the Department should reject Ta Chen's home market indirect selling expenses for U.S. sales because those expenses are wrong. Petitioners assert that the calculation of U.S. indirect selling expenses neglects to include a portion of salary and benefits, insurance and other expenses incurred at Ta Chen Taiwan. Secondly, petitioners also argue that certain other expenses, including interest expense and other items, such as telephone, rent, office equipment, supplies, and other general & administrative expenses are missing from Ta Chen Taiwan's calculation of U.S. indirect selling expenses. Petitioners maintain that these same expenses were included in Ta Chen's calculations of home market indirect selling expenses. See Ta Chen's September 7, 2001 submission at Exhibit B-3. Petitioners contend that Ta Chen has attempted to artificially limit the amount of home market indirect selling expenses that are associated with U.S. sales. Moreover, petitioners allege that the Department has provided Ta Chen ample opportunity to remedy this problem. As partial facts available, petitioners propose that the Department reject Ta Chen Taiwan's indirect selling expenses for U.S. sales. In addition, petitioners argue that the Department should also add the full value of the "President's Department," "Administrative Department," and "Financial Department" for the fiscal year ended October 31, 2000 to certain other expenses submitted by Ta Chen.

Ta Chen argues that it correctly reported home market indirect selling expense for U.S. sales. Responding to petitioners' claim that invoice processing expenses related to the sales office, administrative group, and accounting were not included, Ta Chen maintains that petitioners' requested adjustment only changes the overall adjustment factor from one *de minimis* factor to another. Moreover, Ta Chen explains that it has already presented this information in prior reviews and the Department has not made an adjustment for invoice processing costs in those prior reviews. Ta Chen suggests that this could be due to the fact that the adjustment is *de minimis* or because this is not economic activity occurring in the United States and thus the adjustment should not be done.

Ta Chen characterizes the petitioners' claim that a comparison of salaries/benefits of Ta Chen Taiwan employees that are related to U.S. sales versus home market sales indicates that Ta Chen devotes a much larger staff to U.S. sales as highly misleading. Ta Chen argues that petitioners fail to note that sales to the United States are enormous compared to home market sales and the relatively low pay of those individuals who are doing clerical invoice processing work on TC Taiwan sales to TCI as compared to the higher pay of salesmen actually selling the product. See Ta Chen's January 29, 2002 submission at Exhibit 9. See also Ta Chen's September 25, 2001, submission at 7.

Department's Position: We disagree with petitioners. With respect to the Petitioners' argument regarding Ta Chen's allocation of salaries, benefits, insurance and certain other costs, we disagree. As noted by Ta Chen, the allocation methodology used to report these expenses has been accepted and verified by the Department in previous reviews of this order. Specifically, in the most recently completed review of this order we addressed this same issue, concluding that "there is no factual basis in the record to support petitioners' allegation, and so, no basis to adjust U.S. indirect selling expenses on these grounds. Therefore, we did not adjust any portion of either Ta Chen's reported home market or U.S. indirect selling expenses." See Notice of Final Results of Antidumping Administrative Review:

Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results of Antidumping Duty Administrative Review and Accompanying Issues and Decision Memorandum, 65 FR 81827 (December 21, 2000) at Comment 8. In the instant case, we continue to accept Ta Chen's allocation methodology with respect to salaries, benefits, insurance and certain other costs as a reliable approach as the underlying conditions are unchanged.

With respect to the petitioners' second argument that certain other expenses, such as interest expense, telephone, rent, office equipment, supplies, and other general & administrative expenses should be added to Ta Chen Taiwan's calculation of U.S. indirect selling expenses, we disagree. As properly noted by Ta Chen, the Department's regulations at 19 CFR 351.402(b) provide that "[i]n establishing constructed export price under section 772(d) of the Act, the Secretary will make adjustments for expenses associated with commercial activities in the United States that relate to the sale to an unaffiliated purchaser, no matter where or when paid." See also the Statement of Administrative Action of the Uruguay Round Agreements Act, H.R. Doc. No. 103-316 (1994) at 823, which states that "constructed export price will be calculated by reducing the price of the first sale to an unaffiliated customer in the United States by the amount of the following expenses (and profit) associated with economic activities occurring in the United States." Consequently, the invoice processing expenses at issue are incurred in Taiwan and relate to the sale to TCI, and thus, no adjustment to the CEP is appropriate. Accordingly, for these final results we have not made any adjustments to home market indirect selling expenses for U.S. sales, nor adjusted any portion of either Ta Chen's reported home market or U.S. indirect selling expenses.

Comment 10: Home Market Inventory Carrying Costs Related to U.S. Sales

Petitioners argue that the Department should properly account for home market inventory carrying costs related to U.S. sales. Petitioners claim that Ta Chen Taiwan's average days in inventory figure includes and accounts for all finished goods inventory, including goods destined for the United States. Petitioners explain that Ta Chen did not report this inventory carrying cost for U.S. sales expenses because Ta Chen claims that merchandise destined to the United States is shipped immediately. Petitioners maintain that the Department should apply these Taiwanese inventory carrying costs in both U.S. and home market sales expenses.

Ta Chen asserts that it ships U.S. goods immediately to the United States, thus not incurring any inventory-carrying cost in Taiwan for U.S. goods. See Ta Chen's January 29, 2002, September 25, 2001, and May 13, 2002, submissions. Ta Chen explains that there is a time lapse between the U.S. order and the shipment from Taiwan due to production time. Ta Chen argues that the Department should apply indirect selling costs associated with economic activity in the United States only to the dumping margin. See Stainless Steel Butt-Weld Pipe Fittings from Taiwan, 65 FR 81827 (2000) at comment 3 of the Issues and Decision Memorandum; Stainless Steel Butt-Weld Pipe Fittings from Taiwan, 63 FR 67855, 67856 (1998); Antifriction Bearings from France, 64 FR 35590, 35619 (1999); and Thai Pineapple Canning Industrial Corp. v. United States, Slip Op. 99-42 at 24 (CIT

May 5, 1999).

Department's Position: We agree with Ta Chen. The Department's regulations at 19 CFR 351.402(b) state that "[i]n establishing constructed export price under section 772(d) of the Act, the Secretary will make adjustments for expenses associated with commercial activities in the United States that relate to the sale to an unaffiliated purchaser, no matter where or when paid." See also the Statement of Administrative Action of the Uruguay Round Agreements Act, H.R. Doc. No. 103-316 (1994) at 823, which states that "constructed export price will be calculated by reducing the price of the first sale to an unaffiliated customer in the United States by the amount of the following expenses (and profit) associated with economic activities occurring in the United States." As the inventory carrying expense is incurred in Taiwan while related to the sale to TCI, any expense associated with holding inventory for goods destined for the United States in Taiwan is not economic activity associated with the sale to an unaffiliated purchaser, and accordingly we will not take those days into account for Ta Chen's sales to the United States.

Comment 11: General and Administrative Expenses

Petitioners argue that the Department should increase Ta Chen's general and a dministrative ("G&A") expenses to account for bonuses paid to employees, supervisors, and directors. Petitioners note that in its financial statement, Ta Chen Taiwan listed "bonuses to employees – cash" and "bonuses to directors and supervisors" that were paid directly from the stockholder's equity. Petitioners explain that because these expenditures are excluded from Ta Chen's profit and loss statement, they are excluded from Ta Chen's cost of production response to the Department. Citing Notice of Final Determination of Sales at Less Than Fair Value: Dynamic Random Access Memory Semiconductor, Of One Megabit and Above ("DRAMs") From Taiwan ("DRAMs from Taiwan"), 64 FR 56308, 56321 (October 19, 1999), petitioners argue that the Department has found that Taiwan GAAP's treatment of allowing a direct reduction to stockholder's equity for employee bonuses is distortive and a reportable cost for the Department's below-cost test. Petitioners argue that the Department should increase Ta Chen's G&A expenses to include the bonus payments to employees and officers.

Ta Chen argues that the bonuses paid to employees and management were not paid during this POR. Citing their May 13, 2002, submission at 12, Ta Chen explains that the bonuses were paid on April 25, 2000, before the current POR. Further, Ta Chen claims that the bonuses were for appropriations from Ta Chen Taiwan's fiscal year November 1998 to October 1999, which precedes the POR in this review. Finally, Ta Chen asserts that no bonuses were paid for the fiscal year covering the current POR since Ta Chen incurred a loss. Thus, Ta Chen concludes that the Preliminary Results were correct and no adjustments should be made for bonuses.

Department's Position: We agree with petitioners. The record evidence clearly establishes that bonuses to employees, supervisors, and directors were paid from stockholder's equity, and that these expenditures were not included in Ta Chen's profit and loss statement. See Ta Chen's May 13, 2002, submission at 12-13. As the Department explained in Static Random Access Memory Semiconductors from Taiwan, the amounts distributed by a company to its directors, supervisors, and employees, whether in the form of stock or cash, represent compensation for services which the individual has provided to the company. See Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan ("SRAMs from Taiwan"), 63 FR 8909, 8922-23 (February 23, 1998). In SRAMs from Taiwan, we further found that Taiwan GAAP's treatment of allowing a direct reduction to stockholder's equity for employee bonuses is contrary to the requirements of section 773(f)(1)(A), and that it is appropriate to include these amounts in the calculation of cost. See id. at 63 FR 8922 and DRAMs from Taiwan 64 FR at 56321. Consequently, we find that it is appropriate to include bonuses paid by Ta Chen to its employees, supervisors, and directors in the calculation of cost because the bonuses are a cost within the meaning of section 773(f)(1)(A) of the Act.

With respect to Ta Chen's argument that no adjustment to Ta Chen's G&A is necessary because the bonuses were paid before the POR, and related to appropriations from Ta Chen Taiwan's fiscal year November 1998 through October 1999, which is well before the current POR, we disagree. Ta Chen has stated that the bonuses were paid on April 25, 2000, which was during the fiscal year November 1999 through October 2000, the fiscal year upon which Ta Chen based its calculation of the G&A expense ratio (see Ta Chen's September 10, 2001, submission at Exhibit D-3). Therefore, for purposes of the final results, we have recalculated Ta Chen's G&A to include bonuses to employees, supervisors, and directors paid from stockholder's equity. For recalculation, see Final Analysis Memo at 3.

Comment 12: Miscellaneous

a. Revoking the AD order as to Ta Chen

Ta Chen requests the revocation of the anti-dumping order against it. Ta Chen maintains that for the last three years it has not sold at less than fair value into the United States, and that the ongoing court appeals will vindicate that belief.

b. Revising the Public Versions of Ta Chen's Case Brief

Petitioners argue that the Department should require Ta Chen to place in the record a meaningful public version of its case brief with appropriately ranged data consistent with section 351.304(c)(1) of the Department's regulations.

Department's Position: We disagree with Ta Chen that this order should be revoked as to Ta Chen, because the past two reviews and this review each resulted in the calculation of a dumping margin for Ta Chen in excess of 0.5 percent. As three years of no dumping are necessary for revocation, Ta Chen is not eligible for revocation in ths review.

We agree with petitioners that the public version of Ta Chen's case brief in this review was incorrectly summarized. On August 21, 2002, the Department issued a letter to Ta Chen's counsel requesting that they resubmit a corrected public version of its case brief. Ta Chen's counsel resubmitted a corrected public case brief to the Department in a timely manner on August 23, 2002.

RECOMMENDATION:

Based on our analysis of both the comments received and our own findings, we recommend adopting all of the above changes and positions and adjusting the model match and margin calculation programs, accordingly. If these recommendations are accepted, we will publish our final results of review, including Ta Chen's final weight-averaged dumping margin in the Federal Register.

AGREE____ DISAGREE____

____

Bernard T. Carreau
Acting Assistant Secretary
for Import Administration

____

Date