

Both Liang Feng and Tru Flow submitted a letter on the record stating that they had no sales of subject merchandise during the POR. *See* Letter dated August 30, 2002. To confirm their statements, on September 23, 2002, the Department conducted a Customs inquiry and the record from that inquiry indicates that there were no entries of subject merchandise during the POR. *See* the June 19, 2003 Memorandum to the File.

Therefore, pursuant to 19 CFR 351.213(d)(3), the Department preliminarily intends to rescind this review as to Liang Feng and Tru Flow. The Department may take additional steps to confirm that these companies had no sales, shipments or entries of subject merchandise to the United States.

Scope of the Review

The products subject to this administrative review are certain stainless steel butt-weld pipe fittings, whether finished or unfinished, under 14 inches inside diameter. Certain welded stainless steel butt-weld pipe fittings ("pipe fittings") are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise is used where one or more of the following conditions is a factor 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.

Pipe fittings come in a variety of shapes, with the following five shapes the most basic: "Elbows", "tees", "reducers", "stub ends", and "caps." The edges of finished pipe fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this review. The pipe fittings subject to this review are 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 this review is dispositive. Pipe fittings manufactured to American Society of Testing and Materials specification A774 are included in the scope of this order.

Period of Review

The POR for this administrative review is June 1, 2001 through May 31, 2002.

Product Comparison

For the purpose of determining appropriate product comparisons to pipe fittings sold in the United States, we considered all pipe fittings covered by the scope of review section above, which 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 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 (listed in order of preference): specification, seam, grade, size and schedule.

Since some of Ta Chen's sales were actually produced by other unaffiliated Taiwanese manufacturers, the Department has incorporated that information into the product comparison methodology. Petitioners have argued that the unaffiliated producers should be treated as exporters of subject merchandise to the U.S. *See* Petitioner's comments December 12, 2002, at 26–27. The record shows that Ta Chen both purchased from, and entered into tolling arrangements with, unaffiliated Taiwanese manufacturers of subject merchandise, and the record does not indicate that either manufacturer had knowledge that the subject merchandise would be sold into the United States market. *See* Ta Chen's September 12, 2002 Section A questionnaire response at 2; *see also* Ta Chen's January 28, 2002 Section A supplemental questionnaire response at 1–12. According to Ta Chen's September 12, 2002 Section A response, for subcontracted and resold fittings, Ta Chen labels itself as the producer. We have preliminarily determined that Ta Chen is the sole exporter, and that it is not appropriate to exclude sales of subject merchandise produced by unaffiliated manufacturers from Ta Chen's U.S. sales database.

However, 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, 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 identical or similar products purchased by Ta Chen from the same

unaffiliated producer and resold in the home market.

Date of Sale

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

In the present review, Ta Chen claimed that invoice date should be used as the date of sale in both the home market and U.S. market. *See* Ta Chen's Sections B and C responses dated October 4, 2002. Moreover, Ta Chen did not indicate any industry practice which would warrant the use of a date other than invoice date in determining date of sale.

Accordingly, as we have no information demonstrating that another date is more appropriate, we preliminarily based date of sale on invoice date recorded in the ordinary course of business by the involved sellers and resellers of the subject merchandise in accordance with 19 CFR 351.401(i).

Affiliation

The petitioners assert that Ta Chen was affiliated with its home market customer and vendor, PFP Taiwan ("PFP") during the POR. At the Department's request, Ta Chen submitted information regarding PFP's corporate structure, ownership, and relationship with Ta Chen. The evidence currently on the record indicates that (1) the president of Ta Chen, Robert Shieh, and the head operating manager of PFP, Roger Tsai are distant relatives in that Roger Tsai is the brother of Robert Shieh's older brother's wife; (2) PFP leases office space out of Ta Chen's Taipei sales office, and pays Ta Chen appropriate consideration for the office space; and (3) Roger Tsai and his family members owned stock in Ta Chen as of June 2002 although their collective percentage of Ta Chen ownership is substantially below 5 percent. *See* Ta Chen's April 24, 2003 submission at pages 1–2, 17, and Exhibit 1; *see also* Ta Chen's May 12, 2003 submission at pages 2–3. Despite these connections, the evidence on the record at this time does not show that Robert Shieh, president of Ta Chen, has the ability to exercise control over PFP, or that Roger Tsai, head operating manager of PFP, has the ability to