

also reviewed Customs' data available to it. See Memorandum from Laurel LaCivita to the File, *No Shipment Inquiry for Ta Chen Stainless Steel Pipe Co., Ltd. ("Ta Chen")*, dated July 16, 2003. There is no evidence on the record which indicates that Ta Chen made exports of subject merchandise during the POR. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations and consistent with the Department's practice, we are preliminarily rescinding our review with respect to Ta Chen. See e.g., *Certain Welded Carbon Steel Pipe and Tube from Turkey; Final Results and Partial Rescission of Antidumping Administrative Review*, 63 FR 35190, 35191 (June 29, 1998); and *Certain Fresh Cut Flowers from Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 53287, 53288 (October 14, 1997).

#### Facts Available

Section 776(a)(2) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form requested, significantly impedes a proceeding under the antidumping statute, or provides information that cannot be verified, the Department shall use facts available in reaching the applicable determination. In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that a party has failed to cooperate by not acting to the best of its ability to comply with requests for information. See also the Statement of Administrative Action to the URAA, H. Doc. 103-316 (1994) at 870 ("SAA") (further discussing the application of adverse facts available).

For the preliminary results of review, in accordance with section 776(a)(2) of the Act, we have determined that the use of facts available is appropriate for Tung Mung, since it did not respond to the Department's questionnaire. Pursuant to section 782(d) of the Act, after the Department did not receive a response to its questionnaire, we confirmed that Tung Mung did not intend to participate in this review, and that it understood the potential results if it chose not to cooperate further in the administration of the review. See Memorandum from Laurel LaCivita to the File, *Third Administrative Review: Stainless Steel Sheet and Strip from Taiwan*, dated July 16, 2003. Because Tung Mung failed to provide any information on the record for this

administrative review, we have no alternative but to apply total facts available to Tung Mung.

As noted above, in selecting facts otherwise available, pursuant to section 776(b) of the Act, the Department may use an adverse inference if the Department finds that an interested party, such as Tung Mung, failed to cooperate by not acting to the best of its ability to comply with requests for information. Consistent with Department's practice in cases where a respondent fails to participate in an administrative review, as adverse facts available, we have applied a margin based on the highest appropriate margin from this or any prior segment of the proceeding. See *Elemental Sulphur From Canada: Final Results of Antidumping Duty Administrative Review*, 65 FR 11980, 11981 (March 7, 2000).

The Department notes that while the highest margin calculated during this or any prior segment of the proceeding is 34.95 percent, this margin represents a combined rate applied in a channel transaction in the investigation of this proceeding based on middleman dumping by Ta Chen. See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip from Taiwan*, 64 FR 30592, 30623 (June 8, 1999) ("SSSS Investigation"). Where circumstances indicate that a particular margin is not appropriate as adverse facts available, the Department will disregard the margin and determine another, more appropriate one as facts available. See *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin for use as adverse facts available because the margin was based on another company's uncharacteristic business expense, resulting in an unusually high margin). Because the middleman dumping calculated margin would be inappropriate, given that the record does not indicate that any of Tung Mung's exports to the United States during the POR involved a middleman, the Department has applied the highest margin from any segment of the proceeding for a producer's direct exports to the United States, without middleman dumping, which is 21.10 percent.

The rate of 21.10 percent was applied in the first administrative review to another respondent and constitutes secondary information. Section 776(c) of the Act requires the Department, to the extent practicable, to corroborate secondary information from

independent sources that are reasonably at its disposal. The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. As noted in *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, there are no independent sources in this case from which the Department can derive calculated dumping margins. Therefore, unlike other types of information such as input costs or selling expenses, the only source of dumping margins is the calculated dumping margins from previous administrative determinations.

The Department corroborated the information used to establish the 21.10 percent rate in the first administrative review, finding the information to be both reliable and relevant. See *Stainless Steel Sheet and Strip in Coils From Taiwan; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 6682, 6684 (February 13, 2002) and accompanying *Issues and Decision Memorandum at Comment 28*. Nothing on the record of this instant administrative review calls into question the reliability of this rate. Furthermore, with respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. As discussed above, in selecting this margin, the Department considered whether middleman dumping was relevant to Tung Mung and declined to use margins based on middleman dumping. The Department has determined that there is no evidence on the record of this case which would render the application of this selected margin inappropriate. Thus, we find that the rate of 21.10 percent from the first administrative review is sufficiently corroborated for purposes of this administrative review.

#### Affiliation

Petitioners argue that the Department should determine that YUSCO was affiliated with China Steel Corporation ("CSC") during the POR. CSC is not a respondent in this administrative review, but CSC does produce black coil