

Republic of China, the Court of International Trade vacated the Department of Commerce's scope ruling and entered a judgement order.

Consistent with the decision of the United States Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F.2d 337 (Fed.Cir. 1990), the Department is notifying the public that this decision was "not in harmony" with the Department's original final scope ruling.

**EFFECTIVE DATE:** November 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger at (202) 482-4136 or Rebecca Trainor at (202) 482-4007, Office of Antidumping and Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 19, 1999, the Department of Commerce (the Department) published notice of its amended final determination of less-than-fair-value (LTFV) investigation of certain preserved mushrooms from the People's Republic of China (PRC) and the antidumping duty order. See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Preserved Mushrooms from the People's Republic of China*, 64 FR 8308 (February 19, 1999).

On January 6, 2000, producers/exporters, Mei Wei Food Industry Co, Ltd, Tak Fat Trading Co., Leung Mi International, Tak Yeun Corp., and U.S. importer Genex International Corp. (collectively, Tak Fat), requested that the Department determine that certain marinated or acidified mushrooms produced in the People's Republic of China (PRC) are outside the scope of the antidumping duty order on certain preserved mushrooms. See *Request for Scope Determination: Certain Preserved Mushrooms from the People's Republic of China*, January 6, 2000. The Department made a final ruling on this scope request on June 19, 2000, finding that the "marinated or acidified" mushrooms produced, exported or imported by Tak Fat are within the scope of the antidumping duty order on certain preserved mushrooms from the PRC based on their acetic acid content level.

Tak Fat appealed this ruling to the Court of International Trade (CIT). On October 17, 2003, the CIT issued its decision granting Tak Fat's request to

vacate the scope ruling. See *Tak Fat Trading Company, et al., v. United States*, Slip Op. 03-134.

**Timken Notice**

In its decision in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to 19 USC 1516(e), the Department must publish notice of a decision of the CIT or the CAFC which is "not in harmony" with the Department's determination. Therefore, publication of this notice fulfills this obligation of the Department. In addition, this notice will serve to continue the suspension of liquidation. If this decision is not appealed, or if appealed, if it is upheld, the Department will amend its scope ruling.

Dated: November 3, 2003.

**James Jochum,**

*Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-583-830]

**Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review**

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

**ACTION:** Notice of the Final Rescission of Antidumping Duty Administrative Review of Stainless Steel Plate in Coils from Taiwan.

**SUMMARY:** On June 4, 2003, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary rescission of its administrative review of the antidumping duty order on stainless steel plate in coils from Taiwan. See *Notice of the Preliminary Rescission of Antidumping Duty Administrative Review of Stainless Steel Plate in Coils from Taiwan*, 68 FR 33472 (June 4, 2003) ("Preliminary Rescission"). This review covers two manufacturers of the subject merchandise, Yieh United Steel Corporation ("YUSCO"), a Taiwanese producer of subject merchandise, and Ta Chen Stainless Pipe Co., Ltd. ("Ta Chen"), also a Taiwanese producer of subject merchandise. The period of review ("POR") is May 1, 2001 through April 30, 2002.

We preliminarily rescinded this review based on record evidence supporting the conclusion that there were no entries into the United States of subject merchandise during the POR by respondents. See *Preliminary Rescission*. We are now issuing our final rescission of this review based on evidence on the record indicating that there were no entries into the United States of subject merchandise during the POR from the respondents.

**EFFECTIVE DATE:** November 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bertrand or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3207 or (202) 482-3434 respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 21, 1999, the Department of Commerce ("Department") published the antidumping duty order on stainless steel plate in coils from Taiwan. See *Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan*, 64 FR 27756 (May 21, 1999). On May 6, 2002, the Department published a notice of opportunity to request an administrative review of this order for the period May 1, 2001 through April 30, 2002. See *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 67 FR 30356 (May 6, 2002). On May 7, 2002, Petitioners<sup>1</sup> timely requested that the Department conduct an administrative review of sales by YUSCO, a Taiwan producer and exporter of subject merchandise, and Ta Chen, also a Taiwan producer and exporter of subject merchandise. On June 25, 2002, in accordance with section 751(a) of the Tariff Act of 1930 as amended ("the Act"), the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review of sales by YUSCO and Ta Chen for the period May 1, 2001 through April 30, 2002. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 67 FR 42753 (June 25, 2002).

On July 10, 2002, the Department issued its antidumping duty

<sup>1</sup> Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, United Steelworkers of America, AFL-CIO/CLC, and Zanesville Armco Independent Organization are collectively "Petitioners" for this review.

questionnaire to YUSCO and Ta Chen. On July 15, 2002, Ta Chen stated that it did not have any U.S. sales, shipments or entries of subject merchandise during the POR, and requested that it not be required to answer the Department's questionnaire. On July 18, 2002, YUSCO stated that it did not have any U.S. sales, shipments or entries of subject merchandise during the POR. On October 8, 2002, the Department sent an inquiry to the U.S. Customs and Border Protection ("Customs") to confirm that YUSCO and Ta Chen had no shipments of subject merchandise into the United States during the POR.

On June 4, 2003, the Department preliminarily rescinded the administrative review with respect to Ta Chen and YUSCO based on record evidence and the Customs inquiry, both of which it determined supported the conclusion that there were no entries of subject merchandise during the POR. See *Preliminary Rescission*. On August 15, 2003, Petitioners filed a case brief. Respondents did not file case briefs. On August 21, 2003, Respondent YUSCO filed a rebuttal brief. Respondent Ta Chen did not file a rebuttal brief. Neither Petitioners nor respondents requested a hearing in the instant review.

#### Scope of the Review

For purposes of this review, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this review are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. In addition, certain cold-rolled stainless steel plate in coils is also excluded from the scope of these orders. The excluded cold-rolled stainless steel plate in coils is defined as that merchandise which meets the physical characteristics described above that has undergone a cold-reduction process that reduced the thickness of the steel by 25 percent or more, and has been annealed and pickled after this cold reduction process. The merchandise subject to this

review is currently classifiable in the HTS at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.0070, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80.

Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

#### Period of Review

The POR is May 1, 2001 through April 30, 2002.

#### Analysis of Comments Received

All issues raised in the case brief and rebuttal brief by parties to this administrative review are addressed in the "Issues and Decision Memorandum" ("*Decision Memorandum*") from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, Group III, to James J. Jochum, Assistant Secretary for Import Administration, dated November 3, 2003, which is hereby adopted by this notice. Petitioners argue that the administrative review should not be rescinded because the Department failed to examine the affiliates of YUSCO and did not require Ta Chen to link its POR sales to pre-suspension entries. Respondent YUSCO argues that the administrative review should be rescinded because evidence on the record supports the conclusion that YUSCO had no entries during the POR. We have determined to rescind this administrative review because the Department's interpretation of its statute and regulations, as affirmed by the Court of Appeals for the Federal Circuit, supports not conducting a administrative review when the evidence on the record indicates that respondents had no entries of subject merchandise during the POR. This interpretation is further supported by the fact that the Department has determined that there have been no entries of respondent's merchandise since before the suspension of liquidation, which leads the Department to determine that merchandise resold by respondents during the POR did not constitute subject merchandise.

A complete list of the issues which parties have raised and to which we have responded, are in the *Decision Memorandum* which is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B-099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/summary/list.htm>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

#### Final Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise, as the case may be. In this case the Department is satisfied, after a review of information on the record, that there were no entries of stainless steel plate in coils produced and exported from Ta Chen or YUSCO during the POR. Therefore, we are rescinding this review with respect to Ta Chen and YUSCO in accordance with 19 CFR 351.213(d)(3). The cash deposit rate for YUSCO will remain at 8.02 percent, for Ta Chen the cash deposit rate will remain at 10.20 percent, and for "all other" producers/exporters of the subject merchandise the cash deposit rate will remain at 7.39 percent, the rates established in the most recently completed segment of this proceeding. See *Notice of Final Results and Rescission in Part of Antidumping Duty Administrative Review: Stainless Steel Plate in Coils From Taiwan*, 67 FR 40914 (June 14, 2002). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

#### Changes Since the Preliminary Rescission

We have made no changes from the *Preliminary Rescission*.

#### Notification of Interested Parties

This notice serves as a final 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.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: November 3, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

## APPENDIX I

### LIST OF ISSUES FOR DISCUSSION

#### A. Issues with Respect to Ta Chen

*Comment 1:* Examining Alleged Middleman Dumping of Ta Chen

*Comment 2:* Commerce's Rescission Policy

#### B. Issues with Respect to YUSCO

*Comment 3:* YUSCO's Affiliated Parties

*Comment 4:* Alleged Error in the Selection of the Cash Deposit Rate

#### C. Issues with Respect to Ta Chen and YUSCO

*Comment 5:* Placing Information on the Record

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Request for Nominations

**AGENCY:** International Trade Administration, Trade Development.

**ACTION:** Environmental Technologies Trade Advisory Committee (ETTAC), request for nominations.

**SUMMARY:** The Environmental Technologies Trade Advisory Committee (ETTAC) was established pursuant to provisions under Title IV of the Jobs Through Trade Expansion Act, 22 U.S.C. 2151, and under the Federal Advisory Committee Act, 5 U.S.C. App.2. ETTAC was first chartered on

May 31, 1994. ETTAC serves as an advisory body to the Environmental Trade Working Group of the Trade Promotion Coordinating Committee (TPCC), reporting directly to the Secretary of Commerce in his capacity as Chairman of the TPCC. ETTAC advises on the development and administration of policies and programs to expand United States exports of environmental technologies, goods, and services and products that comply with United States environmental, safety, and related requirements.

Membership in a committee operating under the Federal Advisory Committee Act must be balanced in terms of economic subsector, geographic location, and company size. Committee members serve in a representative capacity, and must be able to generally represent the views and interests of a certain subsector of the U.S. environmental industry. We are seeking senior executive-level company or environmental technologies association candidates. Members of the ETTAC have experience in exporting the full range of environmental technologies products and services including:

- (1) Air Pollution Control/Monitoring Equipment;
- (2) Analytic Services;
- (3) Environmental Energy Sources;
- (4) Environmental Engineering and Consulting Services;
- (5) Financial Services;
- (6) Process and Prevention Technologies;
- (7) Solid and Hazardous Waste Equipment and Management; and
- (8) Water and Wastewater Equipment and Services.

The Secretary of Commerce invites nominations to ETTAC of U.S. citizens who will represent U.S. environmental goods and services companies that trade internationally, or trade associations whose members include U.S. companies that trade internationally. Companies must be at least 51 percent beneficially-owned by U.S. persons. U.S.-based subsidiaries of foreign companies in general do not qualify for representation on the committee.

Nominees will be considered based upon their ability to carry out the goals of ETTAC's enabling legislation as further articulated in its charter. ETTAC's Charter is available on the Internet at <http://www.environment.ita.doc.gov>. Priority will be given to a balanced representation in terms of point of view represented by various sectors, product lines, firm sizes, and geographic areas. Appointments are made without regard to political affiliation.

Nominees must be U.S. citizens, representing U.S. environmental goods and services firms that trade internationally or provide services in direct support of the international trading activities of other entities.

Self-nominations are accepted. If you are interested in nominating someone to become a member of ETTAC, please provide the following information (2 pages maximum):

- (1) Name;
- (2) Title;
- (3) Work Phone, Fax, and, E-mail Address;
- (4) Company or Trade Association Name and Address including Web site Address;
- (5) Short Bio of nominee including credentials; and
- (6) Brief description of the company or trade association and its business activities; company size (number of employees and annual sales); and export markets served.

Please, do not send company or trade association brochures or any other information.

This information may be e-mailed to [Corey\\_Wright@ita.doc.gov](mailto:Corey_Wright@ita.doc.gov) or faxed to the attention of Corey Wright at 202-482-5665, and must be received before the deadline. Nominees selected to ETTAC will be notified.

**Deadline:** This request will be open until December 31, 2003, from the date of publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Corey Wright, Office of Environmental Technologies Industries, Room 1003, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; phone 202-482-5225; fax 202-482-5665; e-mail [Corey\\_Wright@ita.doc.gov](mailto:Corey_Wright@ita.doc.gov).

Dated: November 4, 2003.

**Carlos M. Montouliou,**

*Director, Office of Environmental Technologies Industries.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Environmental Technologies Trade Advisory Committee (ETTAC)

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

**ACTION:** Notice of open meeting.

**DATE:** December 12, 2003.

**TIME:** 9 a.m. to 12 p.m.

**PLACE:** U.S. Department of Commerce, 14th Street and Constitution Avenue,