submitted in accordance with 19 CFR 353.31(e) and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g). Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

This notice is in accordance with sections 751 (b)(1) and (d) of the Act and sections 353.22(f) and 353.25(d) of the Department's regulations.

Dated: December 31, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–631 Filed 1–9–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–583–815]

Certain Welded Stainless Steel Pipe From Taiwan; Preliminary Results of Administrative Review

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

ACTION: Notice of Preliminary Results of Administrative Review.

SUMMARY: In response to a request by respondent Ta Chen Stainless Pipe Co., Ltd. (Ta Chen), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain welded stainless steel pipe from Taiwan (A–583–815). This review covers one manufacturer/exporter of the subject merchandise to the United States during the period December 1, 1994 through November 30, 1995.

We preliminarily determine that sales of welded stainless steel pipe (WSSP) have been made below the normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between United States price and NV. Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with the argument: (1) A statement of the issues; and (2) a brief summary of the argument.

EFFECTIVE DATE: January 10, 1997.

FOR FURTHER INFORMATION CONTACT: Robert James at (202) 482–5222 or John Kugelman at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1992, the Department published in the Federal Register the antidumping duty order on WSSP from Taiwan (57 FR 62300). On December 4, 1995, the Department published the notice of ''Opportunity to Request Administrative Review'' for the period December 1, 1994 through November 30, 1995 (60 FR 62070). In accordance with 19 CFR 353.22(a)(1) (1995), Ta Chen requested that we conduct a review of its sales. On February 1, 1996, we published in the Federal Register a notice of initiation of this antidumping duty administrative review covering the period December 1, 1994 through November 30, 1995 (61 FR 3670).

Because it was not practicable to complete this review within the normal time frame, on September 12, 1996, we published in the Federal Register our notice of extension of time limits for this review (61 FR 48126). As a result, we extended the deadline for these preliminary results to December 30, 1996. The deadline for the final results will continue to be 120 days after publication of these preliminary results.

Scope of the Review

The merchandise subject to this administrative review is certain welded austenitic stainless steel pipe (WSSP) that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of the order also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A–312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines.

Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTS) subheadings: 7306.40.5005, 7306.04.5015, 7306.40.5040, 7306.40.5065, and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of this investigation is limited to welded austenitic stainless steel pipes. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of this order is dispositive.

The period for this review is December 1, 1994 through November 30, 1995. This review covers one manufacturer/exporter, Ta Chen.

Use of Facts Available

We preliminarily determine that the use of facts available is appropriate for a portion of Ta Chen's U.S. sales, in accordance with section 776(a) of the Tariff Act, because Ta Chen mischaracterized a portion of its U.S. sales as EP sales when, in fact, these are properly considered Constructed Export Price (CEP) sales. Ta Chen reported in its initial questionnaire response of April 30, 1996 that all of its U.S. sales were EP sales with each reported sale being made to an unaffiliated customer. However, in its November 12, 1996, supplemental questionnaire response, Ta Chen provided additional information with respect to one U.S. customer which clearly indicates that Ta Chen and this customer were affiliated within the meaning of section 771(33) of the Tariff Act.

Section 771(33)(G) of the Tariff Act holds that two parties shall be considered ''affiliated'' if one party ''controls'' the other. One party controls another if the party ''is legally or operationally in a position to exercise restraint or direction over the other person.'' From the information provided by Ta Chen, we have preliminarily determined that Ta Chen was ''operationally in a position to exercise restraint or direction over'' the U.S. customer at issue. Ta Chen reported that it controlled this customer's disbursements and had physical custody of its signature stamp used to

execute checks and other instruments. The two parties also shared common sales department personnel. Further, Ta Chen had full and complete access, via computer modem, to this customer's accounting system, including its accounts receivable, accounts payable, payroll, and other company books. Ta Chen also indicated that its president participated directly in negotiating the terms of certain sales this customer made to subsequent purchasers of WSSP in the United States. Finally, this customer offered its accounts receivable and inventory as security for a line of credit obtained from a local bank by Ta Chen International (TCI), Ta Chen's wholly-owned U.S. subsidiary. Thus, this customer placed its continued ability to operate in the hands of a putatively unaffiliated party, TCI. Based upon the totality of evidence before the Department in this matter, we preliminarily determine that Ta Chen effectively exercised operational control over this putatively unaffiliated customer. *See* the public version of the Department's Preliminary Analysis Memorandum to the File, on file in Room B–099 of the Main Commerce Building.

Since Ta Chen reported its sales prices to this affiliated customer, and not the customer's sales prices to the first unaffiliated customer in the United States, Ta Chen failed to provide the Department with a complete and reliable listing of its U.S. sales. We preliminarily determine, therefore, pursuant to section 776(a)(2) of the Tariff Act, that Ta Chen withheld information requested by the Department by failing to report all of its sales to its first unaffiliated customers in the United States. In selecting the facts available, section 776(b) of the Tariff Act provides that where, as here, an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference that is adverse to the interests of that party in selecting among the facts available. Section 776(b) also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Because information from prior proceedings constitutes secondary information, section 776(c) of the Tariff Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) notes that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value (*see* H. Doc. 316, Vol. 1, 103d Cong., 2d Sess. 870 (1996)). To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike for other types of information, such as input costs or selling expenses, there are no independent sources for dumping margins. Thus, when in an administrative review the Department chooses as facts available a dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for the time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. In this case, there are no circumstances present to indicate that the selected margin is not appropriate as facts available. In this case, we have used the highest rate from any prior segment of the proceeding, 31.9 percent, the highest rate from the less-than-fair-value (LTFV) determination, for Ta Chen's sales made through this particular U.S. customer.

Export Price

Ta Chen reported in its initial and supplemental questionnaire responses that all of its U.S. sales were first sold to unrelated purchasers prior to importation into the United States. A substantial portion of these sales were made through Ta Chen's U.S. subsidiary, TCI. Ta Chen claims that for each of these sales, TCI acted merely as a ''facilitator,'' handling sales- and Customs-related paper work. In each instance, according to Ta Chen, the price and quantity of the U.S. sale were determined prior to importation into the United States. The remainder of Ta Chen's U.S. sales were to an unrelated importer, who subsequently resold the merchandise after importation into the United States. Therefore, with the exception noted above under ''Use of Facts Available,'' in calculating U.S. price we used export price (EP) for all of Ta Chen's sales, as defined in section 772(a) of the Tariff Act. We calculated EP as the packed, delivered or ex-U.S. port price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Tariff Act, we reduced this price by Taiwanese pre-sale inland freight, international ocean freight, marine insurance, Taiwanese brokerage and handling, U.S. brokerage and handling, U.S. duty, and U.S. inland freight. Where appropriate, we also reduced the EP by Taiwanese and U.S. bank charges.

Duty Absorption

On July 16, 1996, petitioners requested that the Department determine whether Ta Chen had absorbed antidumping duties during the period of review (POR) pursuant to section 751(a)(4) of the Tariff Act. Section 751(a)(4) requires the Department, if requested, to determine, during an administrative review initiated two years or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order, if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 751(a)(4) was added to the Tariff Act by the URAA. The Department's interim regulations do not address this provision of the Tariff Act.

For transition orders as defined in section 751(c)(6)(C) of the Tariff Act, *i.e.*, orders in effect as of January 1, 1995, section 351.213(j)(2) of the Department's proposed antidumping regulations provides that the Department will make a duty absorption determination, if requested, for any administrative review initiated in 1996 or 1998. *See Notice of Proposed Rulemaking*, 61 FR 7308, 7366 (February 27, 1996). The preamble to the proposed antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year. *Id.* at 7317. Although these proposed antidumping regulations are not yet binding upon the Department, they do constitute a public statement of how the Department expects to proceed in applying section 751(a)(4) of the amended statute. This approach assures that interested parties will have the opportunity to request a duty absorption determination on entries for which the second and fourth years following an order have already passed, prior to the time for sunset review of the order under section 751(c). Because the order on WSSP from Taiwan has been in effect since 1992, this qualifies as a transition order. Therefore, based on the policy stated above, the Department will first consider a request for an absorption determination during a review initiated in 1996. This being a review initiated in 1996, we are making a duty-absorption determination as part of this segment of the proceeding.

The statute provides for a determination on duty absorption if the

subject merchandise is sold in the United States through an affiliated importer. In this case, TCI, Ta Chen's wholly owned subsidiary, is the importer of record for a majority of Ta Chen's U.S. sales, *i.e.,* the exporter and the importer are the same entity. Therefore, the importer and the exporter are ''affiliated'' within the meaning of 751(a)(4). Furthermore, we have preliminarily determined that there is a dumping margin for Ta Chen on 13.47 percent (by quantity) of its U.S. sales during the POR. In addition, we cannot conclude from the record that the unaffiliated purchaser in the United States will pay the ultimately assessed duty. Under these circumstances, therefore, we preliminarily find that antidumping duties have been absorbed by Ta Chen on 13.57 percent of its U.S. sales.

Normal Value

A. Viability

Based upon (i) our comparison of the aggregate quantity of home market and U.S. sales, (ii) the absence of any information that a particular marketing situation in Taiwan does not permit a proper comparison, and (iii) the fact that Ta Chen's quantity of sales in the home market exceeded five percent of its sales to the U.S. market, we determined that the quantity of foreign like product Ta Chen sold in Taiwan was sufficient to permit a proper comparison with the sales of subject merchandise to the United States pursuant to section 773(a) of the Tariff Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Tariff Act, we based NV on the prices at which the foreign like products were first sold for consumption in the exporting market, *i.e.,* Taiwan.

B. Cost-of-Production Analysis

Because we disregarded sales below the cost of production in the LTFV investigation (the most-recently completed segment of these proceedings), we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for determining NV in this review may have been at prices below the cost of production (COP), as provided in section 773(b)(2)(A)(ii) of the Tariff Act (see Final Determination of Sales at Less Than Fair Value; Certain Welded Stainless Steel Pipe from Taiwan, 57 FR 53705 (November 12, 1992)). Therefore, pursuant to section 773(b)(1) of the Tariff Act, we initiated a COP investigation of sales by Ta Chen (see Memorandum to the File, dated February 13, 1996, available in Room B–099 of the Main Commerce Building).

In accordance with section 773(b)(3) of the Tariff Act, we calculated COP based on the sum of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A) and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment. We relied on the home market sales and COP information Ta Chen provided in its questionnaire responses.

After calculating COP, we tested whether home market sales of subject WSSP were made at prices below COP within an extended period of time and whether such prices permit the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, and post-sale price adjustments (reported as discounts).

Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than twenty percent of Ta Chen's home market sales for a model were at prices less than the COP, we did not disregard any below-cost sales of that model because we determined that the below cost sales were not made within an extended period of time in ''substantial quantities.'' Where twenty percent or more of Ta Chen's home market sales were at prices less than the COP, we determined that such sales were made within an extended period of time in substantial quantities in accordance with section 773(b)(2) (B) and (C) of the Tariff Act. To determine whether such sales were at prices which would not permit the full recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act, we compared home market prices to the weighted-average COPs for the POR.

The results of our cost test for Ta Chen indicated that for certain home market models less than twenty percent of the sales of the model were at prices below COP. We therefore retained all sales of these models in our analysis and used them as the basis for determining NV. Our cost test for Ta Chen also indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Tariff Act) for certain other home market models more than twenty percent of the home market sales were at prices below COP which would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Tariff Act, we therefore excluded the below-cost sales of these models from our analysis and used the remaining above-cost sales as the basis for determining NV.

C. Product Comparisons

We compared Ta Chen's U.S. sales with contemporaneous sales of the foreign like product in the home market. We considered pipe identical based on product nomenclature and considered specifications/alloy, nominal pipe size, and wall thickness in determining the most similar types of pipe. We used a twenty percent cap in reported differences in merchandise as the maximum difference in cost allowable for similar merchandise. For purposes of these preliminary results, we have used the difference-in-merchandise information Ta Chen submitted with its supplemental questionnaire response of November 12, 1996.

D. Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Tariff Act and in the SAA at 829 through 831, to the extent practicable, the Department will calculate NV based on sales at the same level of trade as the U.S. sales. When we are unable to find sales of the foreign like product in the comparison market at the same level of trade as the U.S. sale, we may compare U.S. sales to sales at a different level of trade in the comparison market.

In accordance with section 773(a)(7)(A) of the Tariff Act, if sales at allegedly different levels of trade are compared, we will adjust the NV to account for the difference in levels of trade if two conditions are met. First, there must be differences between the actual selling activities performed by the exporter at the level of trade of the U.S. sale and the level of trade of the comparison market sale used to determine NV. Second, the differences between levels of trade must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the market in which NV is determined.

In order to determine that there is a difference in level of trade, the Department must find that two sales have been made at different stages of marketing, or the equivalent. Different stages of marketing necessarily involve differences in selling functions, but differences in selling functions (even substantial differences) are not, in and of themselves, sufficient to establish a difference in the level of trade. Similarly, seller and customer descriptions (such as ''distributor'' and ''wholesaler''), while useful in identifying different levels of trade, are insufficient to establish that there is, in fact, a difference in the level of trade.

To implement these principles in this review, we asked Ta Chen to provide detailed information regarding its selling activities/functions at each phase of marketing, and to establish any claimed level of trade based on these activities. In order to determine whether separate levels of trade actually existed within or between the U.S. and home markets, we reviewed the selling activities associated with each phase of marketing claimed by Ta Chen. Pursuant to section 773(a)(1)(B)(i) of the Tariff Act and the SAA at 827, in identifying levels of trade for EP and home market sales we considered the selling functions reflected in the starting price before any adjustments.

We considered all types of selling activities performed by Ta Chen in our review of Ta Chen's questionnaire responses. We found that no single selling function in the pipe industry was sufficient to indicate that a separate level of trade existed (see Notice of Proposed Rulemaking and Request for Public Comments, 61 FR 7307, 7348 (February 27, 1996)). In addition, in determining whether separate levels of trade existed in or between the U.S. and home markets, we analyzed the selling activities associated with the stages of marketing Ta Chen reported and expected the functions and activities of the seller to be similar if, as in the instant review, Ta Chen claimed the levels of trade to be the same.

Ta Chen reported two stages of marketing in the home market (to unrelated distributors and end users) and a single phase of marketing in the United States (to unrelated distributors). With respect to the home market, Ta Chen claimed that its two stages of marketing constituted a single level of trade. Based upon our examination of information supplied by Ta Chen in its original and supplemental questionnaire responses, we agree that only one level of trade existed for Ta Chen in the home market.

For its U.S. sales, Ta Chen reported a single stage of marketing, i.e., distributors. In determining whether, in fact, a single stage of marketing existed, we examined the selling functions as reflected in the starting price to the unaffiliated U.S. customer. While TCI processed the paperwork and provided certain selling functions for the majority of Ta Chen's U.S. sales, the remainder of these sales involved direct contact between the unaffiliated U.S. customer and Ta Chen without TCI's ''facilitation.'' We find preliminarily, however, that TCI provided very limited selling functions for those sales TCI facilitated and, therefore, found no significant differences in selling functions between sales through either channel. As a result, we preliminarily agree with Ta Chen that Ta Chen's EP sales constitute a single level of trade. We have requested additional clarification from Ta Chen on this point, and will incorporate this information in our final results of review.

When we compared Ta Chen's sales at its EP level of trade to its home market level of trade, we found that the record indicated that Ta Chen provided little or no strategic or economic planning, market research, engineering services, advertising, after-sales services, or post-sale warehousing at either the EP or home market level of trade. Ta Chen reported that it provided the ''same'' degree of technical assistance at both the EP and home market level of trade. All packing expenses at either level were borne by Ta Chen; freight and delivery arrangements varied between the two markets in that U.S. movement expenses on certain U.S. sales were incurred by TCI. Based upon our analysis of the selling functions performed by Ta Chen in both markets, the similarities lead us to agree preliminarily that the level of trade of Ta Chen's EP and home market sales is the same.

E. Home Market Price

While we found below-cost home market sales for Ta Chen in this review, Ta Chen's remaining home market sales at or above cost were sufficient to serve as the basis for NV.

We based home market prices on the packed, ex-factory or delivered prices to unaffiliated purchasers in the home market. We made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Tariff Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Tariff Act, and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act and 19 CFR 353.56. We made further adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. Finally, where the comparison EP sale involved a commission, we increased home market price by the amount of this commission and subtracted home market indirect selling expenses up to the amount of the U.S. commission, as provided at 19 CFR 353.56(b).

Fair Value Comparison

To determine whether Ta Chen made sales of subject WSSP in the United States at prices that were less than fair value, we compared the EP to NV, as described in the ''United States Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Tariff Act, we calculated monthly weighted-average prices for NV and compared these monthly averages to individual U.S. sales transactions.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average margin for Ta Chen for the period December 1, 1994 through November 30, 1995 is 2.65 percent.

Parties to these proceedings may request disclosure within five days of the date of publication of this notice and may request a hearing within ten days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first business day thereafter. Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be submitted no later than 37 days after the date of publication of this notice. Parties who submit arguments in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument. The Department will issue final results of these administrative reviews, including the results of our analysis of the issues in any such written comments or at a hearing, within 180 days of issuance of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and NV may vary from the percentage stated above. The Department will issue appraisement instructions directly to Customs.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of WSSP from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided in section 751(a)(1) of the Tariff Act:

(1) The cash deposit rate for Ta Chen will be the rate established in the final results of this administrative review;

(2) For previously reviewed or investigated companies other than Ta Chen, the cash deposit rate will

continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 19.84 percent. See Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Pipe From Taiwan, 57 FR 62300 (December 30, 1992).

All U.S. sales by the respondent Ta Chen will be subject to one deposit rate according to the proceeding. The cash deposit rate has been determined on the basis of the selling price to the first unrelated customer in the United States. For appraisement purposes, where information is available, we will use the entered value of the subject merchandise to determine the appraisement rate.

This notice serves as preliminary reminder to importers of their responsibility 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 administrative review and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 30, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–633 Filed 1–9–97; 8:45 am]

BILLING CODE 3510–DS–P

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews; Decision of Binational Panel

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of Binational Panel.

SUMMARY: On December 16, 1996, the Binational Panel issued its decision in the matter of Fresh Cut Flowers from Mexico, Secretariat File No. USA–95–1904–05.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the Federal Register on February 23, 1994 (59 FR 8686). The panel review in this matter was conducted in accordance with these Rules.

Background Information

On October 26, 1995, Rancho El Aguaje, Rancho El Toro and Rancho Guacatay filed a First Request for Panel Review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the Final Results of Antidumping Duty Administrative Review made by the International Trade Administration respecting Fresh Cut Flowers from Mexico. This determination was published in the Federal Register on September 26, 1995 (60 FR 49569). The request was assigned File No. USA–95–1904–05.

Panel Decision

The Panel decided that the Department properly determined that the Complainants provided misleading and evasive statements concerning their respective tax statuses and that the Department properly invoked BIA given the substantial evidence on the record in this action. However, the first-tier BIA rate imposed by the Department was not justified by substantial evidence on the record and was not otherwise in accordance with law. Based upon the substantial evidence on the record, the Panel remanded the action with instructions to assign a second-tier rate of 18.20 percent, which is taken from the Department's original investigation and takes into account the substantial cooperation provided by the Ranches.

The Panel ordered the Department to issue a determination on remand consistent with the instructions and findings set forth in the Panel's decision. The determination on remand shall be issued within forty-five (45) days of the date of the Order (not later than January 30, 1997).

Dated: December 18, 1996.

James R. Holbein,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 97–509 Filed 1–9–97; 8:45 am]

BILLING CODE 3510–GT–M

National Oceanic and Atmospheric Administration

Federal Approval of the Texas Coastal Management Program

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service.

ACTION: Notice of the National Oceanic and Atmospheric Administration, National Ocean Services's approval of the Texas Coastal Management Program pursuant to the Coastal Zone Management Act of 1972, as amended 16 U.S.C. 1451 *et seq.*

SUMMARY: Notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA) approved the Texas Coastal Management Program (TCMP) on December 23, 1996, pursuant to the provisions of section 306 of the Federal Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1455 (CZMA). The TCMP is described in the Texas Coastal Management Program and Final Environmental Impact Statement (P/FEIS) published in August 1996.

Texas is the 30th state to receive federal approval of its coastal management program and the first state program to be approved by NOAA in ten years. Texas submitted a proposed coastal program to NOAA in October 1995. Upon reaching a preliminary decision that the program met the requirements of the CZMA, and in order to meet its responsibilities under the National Environmental Policy Act, NOAA published the Texas Coastal Management Program and Draft Environmental Impact Statement (P/DEIS) for public review on June 23, 1996. NOAA published the P/FEIS including public comments on the P/DEIS and responses to those comments on August 23, 1996. NOAA has also fulfilled its responsibilities under the Endangered Species Act through