initiation of the requested review, the Secretary will rescind the review. Although Cyrus Marketing's request for withdrawal was made after the 90-day deadline, in accordance with 19 CFR 351.213(d)(1), the Secretary may extend this time limit if the Secretary decides it is reasonable to do so. Given that we have received no submissions opposing Cyrus Marketing's request for withdrawal of the administrative review and Cyrus Marketing was the only party to request the administrative review, we find it reasonable to accept the withdrawal request. Therefore, we are rescinding this review of the antidumping duty order on certain in-shell pistachios from Iran covering the period July 1, 1999 through June 30, 2000.

This notice is issued and published in accordance with section 777(i) of the Act and 19 CFR 351.213(d)(4).

Dated: April 2, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–8821 Filed 4–9–01; 8:45 am]

BILLING CODE 3510–DS–P

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 final rescission of antidumping duty administrative review.

SUMMARY: In response to timely requests from petitioners and Yieh United Steel Corporation (''YUSCO'') [1], a Taiwan producer and exporter of subject merchandise, on July 7, 2000, in accordance with section 751(a) of 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 Stainless Pipe, Ltd. (''Ta Chen'') for the period November 4, 1998 through April 30, 2000. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part,* 65 FR 41942 (July 7, 2000). On December 4, 2000, the Department of Commerce published a notice of preliminary rescission of this review as a result of the absence of entries into the United States of subject merchandise during the period of review (65 FR 75760). The Department is now publishing its final determination to rescind this review.

Petitioners are Allegheny Ludlum, AK Steel Corporation, Butler Armco Independent Union, J&L Specialty Steel, Inc., North American Stainless, United Steelworkers of America, AFL–CIO/CLC, and Zanesville Armco Independent Organization.

EFFECTIVE DATE: April 10, 2001.

FOR FURTHER INFORMATION CONTACT: Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3818.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's regulations are to 19 CFR part 351 (2000).

Background

On July 10, 2000, the Department issued its antidumping duty questionnaire to YUSCO and Ta Chen. On July 19, 2000, along with withdrawing its request for an administrative review, YUSCO requested that the Department rescind this review, claiming it made no entries of subject merchandise into the United States during the POR. On July 27, 2000, the Department solicited comments on YUSCO's request for rescission. *See Memo to the File from Juanita H. Chen* (July 27, 2000). On August 8, 2000, YUSCO submitted its Section A response to the Department's questionnaire. YUSCO reiterated its request for rescission on August 16, 2000. Also on that date, petitioners filed comments opposing YUSCO's request for rescission, which included references to the original investigation indicating that Ta Chen's U.S. affiliate, Ta Chen International (CA) Corp. (''TCI''), made sales of YUSCO's merchandise during the POR and had additional inventory not yet sold. On July 31, 2000, 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 August 1, 2000, the Department asked Ta Chen a supplemental question regarding shipments in the POR falling under a certain Harmonized Tariff Schedule of the United States (''HTS'') number, and gave Ta Chen an extension of time in which to respond to the antidumping duty questionnaire. On August 9, 2000, Ta Chen repeated its statement that it did not have any U.S. sales, shipments or entries during the POR, stated that imports under the HTS number were cut-to-length stainless steel plate and not subject merchandise, and repeated its request not to have to answer the Department's questionnaire. On August 24, 2000, the Department denied Ta Chen's request that it not be required to answer the questionnaire, and issued supplemental questions to Ta Chen. On August 31 and September 5, 2000, Ta Chen responded to the Department's supplemental questions, stating that of TCI's sales of YUSCO's merchandise from TCI's U.S. warehouse inventory during the POR, all merchandise entered before the POR. Ta Chen also stated that while there was a sale of subject merchandise from YUSCO to TCI during the POR, such subject merchandise entered the United States and was resold after the POR. Ta Chen also stated that, for these reasons, it did not intend to answer the Department's questionnaire.

On September 12, 2000, petitioners submitted comments on Ta Chen's response to the Department's supplemental questions, arguing that the Department should review TCI's resales of YUSCO's merchandise as constructed export price (''CEP'') sales, citing to *Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review*, 59 FR 42806 (August 19, 1994). On September 26, 2000, the Department informed Ta Chen of its intention to conduct a review of TCI's sales, and asked that Ta Chen submit its response no later than October 10, 2000. Ta Chen failed to submit a response. On September 19, 2000, the Department conducted an inspection of Customs documentation at the U.S. Customs Service (''Customs'') in Long Beach, California. A review of a random sampling of entries during the POR revealed that none of the entries were of subject merchandise. *See Memo to the File from Carrie Blozy and Juanita H. Chen* (October 19, 2000). On October 24, 2000, the Department informed petitioners that as a result of this inspection, as well as a separate Customs inquiry, the Department intended to revisit the issue of whether

[1] YUSCO withdrew its request for review on July 19, 2000.

it is appropriate to continue this administrative review. *See Memo to the File from Juanita H. Chen through Edward Yang* (October 25, 2000).

On December 4, 2000, the Department published a notice of preliminary rescission of antidumping duty administrative review on stainless steel plate in coils from Taiwan with respect to YUSCO and Ta Chen (65 FR 75670), based on record evidence indicating that there were no entries into the United States of subject merchandise during the POR.

On December 18, 2000, petitioners filed comments objecting to the Department's preliminary findings. Neither YUSCO nor Ta Chen filed comments. *See ''Interested Party Comments''* below.

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.

Interested Party Comments

Comment 1: Petitioners request that the Department reconsider its policy of considering merchandise entered into the United States prior to suspension of liquidation under an antidumping duty order not to constitute subject merchandise within the meaning of section 771(25) of the Act. Petitioners recognize that this policy is explicitly stated in the preamble to the Department's regulations and has been followed in prior determinations by the Department. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27314 (May 19, 1997) (''*Preamble*''); *Certain Stainless Steel Wire Rods from France*, 61 FR 47874, 47875 (September 11, 1996) (''*French Wire Rod*''). However, petitioners argue that the statute defines subject merchandise as the class or kind of merchandise within the scope of an investigation and order and not by when the merchandise enters the United States. Petitioners argue that the merchandise Ta Chen resold during the period of the first administrative review, but that apparently entered the United States prior to the period of review, is subject merchandise of the class or kind under order under the ''classic'' standards listed in the Department's regulations at 19 CFR 351.225(k). *See also Diversified Products Corp.* v. *United States*, 572 F. Supp. 883, 887 (CIT 1983) (''*Diversified Products*'').

Petitioners therefore argue that the Department should proceed with an administrative review of Ta Chen's CEP sales for the purposes of setting a cash deposit rate. While petitioners recognize that no entries will be liquidated at the new rate, they argue that neither the statute nor the legislative history indicate that a review should be rescinded unless there are entries to be liquidated as well as a cash deposit rate to be established. In fact, petitioners assert that conducting a review to establish cash deposit rates is consistent with the goal highlighted in *Rhone Poulenc, Inc.* v. *United States*, 899 F. 2d 1185, 1191 (Fed. Cir. 1990) (*Rhone Poulenc*) of maintaining current, accurate dumping margins as much as possible. Petitioners stress that the significance of the cash deposit requirement should not be lost or minimized, as recognized, for example, by the court in *Badger-Powhatan, A Div. of Figgie Intern.* v. *United States*, 633 F. Supp. 1364 (CIT 1986). Moreover, petitioners maintain that there is nothing to suggest that dumping margins for cash deposits must include or reflect margins based upon U.S. sales prices of entered goods to some extent, and refer to the Department's approach in *Torrington Co.* v. *United States*, 44 F.3d 1572, 1578 (Fed. Cir. 1995) as an example of establishing a cash deposit rate based on information other than traceable entries during the period of review.

Petitioners also argue that the Department's regulations, at 19 CFR 351.213(e)(1)(ii), support review of Ta Chen's CEP sales. Specifically, petitioners maintain that a reasonable interpretation of the Department's regulations is that the Department will conduct an administrative review as long as there are any entries, exports, *or* sales {petitioners' emphasis}.

Finally, petitioners add that the Department has reviewed sales which entered the United States prior to suspension of liquidation in past cases, and has been upheld by the court in doing so (as long as those sales were not assessed antidumping duties), citing, *e.g., Ad Hoc Committee of S. Ca. Producers* v. *United States*, 914 F. Supp. 535 (CIT 1995), and *STC Corp.* v. *United States*, 990 F. Supp. 829 (CIT 1997) (''*STC Corp.*''). However, in citing *STC Corp.* petitioners take issue with the Court's agreement with Commerce that a link must be established between sales and entries (that is, that sales will not be reviewed if they are linked to entries occurring prior to suspension of liquidation). Specifically, the court noted that it found ''that the employment of Commerce's link test results in a more accurate administration of the dumping statute because it properly excludes irrelevant sales from the dumping determination.'' Petitioners argue that the legality of the Department's linking policy does not appear to have been before the court for decision, and the court's comments do not seem to have been necessary to the court's holding that the plaintiff had not established the link with respect to the single U.S. sale that it wanted not to be considered in the Department's dumping calculations. Petitioners continue that the court ''simply assumed'' that ESP (now CEP) sales made during a first review period are irrelevant when their entries occur before suspension of liquidation.

Department's Position: We disagree with petitioners. As the Department stated in the preliminary rescission notice, the Department has previously

determined that ''(s)ales of merchandise that can be demonstrably linked with entries prior to the suspension of liquidation are not subject merchandise and therefore are not subject to review by the Department.'' *See French Wire Rod* at 47875; *see also Preamble* at 27314. This long-standing practice is based on the Department's interpretation of the statute and various policy considerations. Petitioners have not presented convincing arguments warranting a change in this practice.

Petitioners have disputed the Department's description of merchandise which entered prior to suspension of liquidation as being ''not subject merchandise within the meaning of 771(25) of the Act.'' *See French Wire Rod* at 47875. We disagree with petitioners. Section 771(25) of the Act defines ''subject merchandise'' as meaning ''the class or kind of merchandise that is within the scope of an investigation, a review, a suspension agreement, an order under this subtitle or section 1303 of this title, or a finding under the Antidumping Act, 1921.'' 19 USC 1677(25). Therefore, if merchandise is not within the scope of the order (or, as the case may be, the investigation, review, or suspension agreement), it is not subject merchandise. While we do not disagree with petitioners that the sales in question are of merchandise physically meeting the scope of the order, we believe that the statute's reference to ''an investigation, a review, a suspension agreement, an order'' necessarily limits the definition of subject merchandise to that merchandise which is subject to an investigation, a review, a suspension agreement, and/or an order. It is in this regard that the Department must consider the timing of the entries at issue.

In accordance with section 736(b) of the statute, the order on stainless steel plate in coils from Taiwan covers entries of merchandise beginning on the date of publication of the affirmative preliminary determination, which was November 4, 1998. That this date represents the first date of the antidumping order is evident from the order notice itself. *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) (''In accordance with section 736(a)(1) of the Tariff Act, the Department will direct Customs officers to assess, upon further advice by the Department, antidumping duties * * * for all relevant entries of stainless steel plate in coils from * * * Taiwan. * * * These antidumping duties will be assessed on all unliquidated entries of stainless steel plate in coils from * * * Taiwan * * * entered, or withdrawn from warehouse, for consumption on or after November 4, 1998, the date on which the Department published its notices of preliminary determination in the **Federal Register** (63 FR 59524 through 59544).'').

The Department has a long-standing and consistent practice of excluding sales of merchandise entering prior to suspension of liquidation, on the grounds that such merchandise was not covered by the order, as long as the sales made after entry can be demonstrably linked to entries made prior to suspension of liquidation. *See, e.g., High-Tenacity Rayon Filament Yarn, Preliminary Results of Antidumping Duty Administrative Review,* 59 FR 32181, 32182 (June 22, 1994). While petitioners do not argue that such merchandise be assessed the new calculated rate, petitioners' assertion that such sales can serve as the basis for setting a cash deposit rate is inaccurate, because, as discussed above, the sales at issue are not of subject merchandise. As the Department stated in *French Wire Rod:* ''{s}ales of non-subject merchandise are not an appropriate basis for the Department to estimate the duties that will be due on future entries of subject merchandise.'' 61 FR at 47878. Certainly, consideration of the establishment of a new cash deposit rate in *Stainless Steel Plate in Coils from Taiwan* is doubly inappropriate when a cash deposit rate based on sales of subject merchandise appropriately covered by the investigation has indeed been established.

Finally, we believe that the Department's finding of middleman dumping in the LTFV investigation does not constitute sufficient grounds to allow for the Department's consideration of the sales at issue. Regardless of the existence of middleman dumping, the sales at issue are CEP sales that have been demonstratively linked to entries made prior to the suspension of liquidation under the order. The identity of the exporter (*e.g.,* whether the producer or the middleman) is irrelevant to the question of whether such merchandise is subject or non-subject.

For the foregoing reasons, the Department is hereby rescinding the administrative review based on the absence of entries into the United States of the subject merchandise during the period of review.

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. As discussed above, in this case, the available evidence indicates that there were no entries of stainless steel plate in coils produced or exported from Taiwan during the POR. Therefore, we have decided to rescind this review with respect to both Ta Chen and YUSCO in accordance with 19 CFR 351.213(d)(3). The cash-deposit rates for Ta Chen and YUSCO will remain as established in the original less-than-fair-value investigation.

This notice is published in accordance with 19 CFR 351.213(d)(4). Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: April 3, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–8818 Filed 4–9–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Pennsylvania State University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1996 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 01–005. *Applicant:* Pennsylvania State University, University Park, PA 16802–6300. *Instrument:* Dilution Refrigerator and Superconducting Magnet System, Models 126–250 TOF and 6T–76–H3. *Manufacturer:* Leiden Cryogenics B.V., The Netherlands. *Intended Use:* See notice at 66 FR 10483, February 15, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.