

### Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margins exist:

Manufacturer/ exporter	Period	Margin
Cinsa .....	12/1/95–11/30/96	15.94
ENASA .....	12/1/95–11/30/96	63.76

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter.

Issues raised in hearings will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

The Department will subsequently issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

The Department shall determine and the Customs Service shall assess antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this antidumping duty review for all shipments of porcelain-on-steel cookware from Mexico, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Tariff Act: (1) the cash deposit rates for the reviewed companies will be those established in the final results of review; (2) for exporters not covered in this review, but covered in the LTFV investigation or prior reviews, the cash deposit rate will continue to be the company-specific rate from the LTFV investigation or the prior review; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV 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; (4) the cash deposit rate for all other manufactures or exporters will continue to be 29.52 percent, the "All Others" rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 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 antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: December 31, 1997.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-506]

#### Porcelain-on-Steel Cooking Ware From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of preliminary results of antidumping duty administrative review.

**SUMMARY:** In response to a request by an importer of the subject merchandise, the Department of Commerce is conducting an administrative review of the antidumping duty order on porcelain-on-steel cooking ware from the People's Republic of China. The review covers one manufacturer/exporter of the subject merchandise and its affiliated third-country reseller in Hong Kong and the period December 1, 1995, through November 30, 1996.

We preliminarily determine that sales have been made below normal value. 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 on all appropriate entries. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** January 9, 1998.

**FOR FURTHER INFORMATION CONTACT:** Lorenza Olivas or Suzanne King, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-2786.

### SUPPLEMENTARY INFORMATION:

#### Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions as of January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended, (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 353 (April 1997).

#### Background

On December 2, 1986, the Department published in the **Federal Register** the antidumping duty order on Porcelain-on-Steel (POS) cooking ware from the People's Republic of China (PRC) (51 FR 43414). On December 3, 1996, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this antidumping duty order (61 FR 64051). On December 20 and 26, 1996, in accordance with 19 CFR 353.22(a), an importer of the subject merchandise to the United States, CGS International, requested that the Department conduct an administrative review of Clover Enamelware Enterprise, Ltd. of China (Clover), a manufacturer/exporter, and its third-country reseller Lucky Enamelware Factory Ltd. of Hong Kong (Lucky). We published the notice of initiation of this review covering the period December 1, 1995, through November 30, 1996, on January 17, 1996 (62 FR 2647). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

#### Scope of the Review

Imports covered by this review are shipments of POS cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is

currently classifiable under the Harmonized Tariff Schedule (HTS) item 7323.94.00. HTS item numbers are provided for convenience and Customs purposes. The written description of the scope remains dispositive.

#### Verification

We verified the questionnaire responses submitted by Clover and Lucky, using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information, as provided in section 782(i) of the Act. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099 of the Main Commerce Building).

#### Affiliated Parties

Clover is two-thirds owned by Lucky and, therefore, Lucky holds controlling interest in Clover. Due to Lucky's ownership interest in Clover, and the fact that the same individual is the general manager at both companies, we consider Clover and Lucky to be affiliated parties pursuant to section 771(33) of the Act. As such, and consistent with prior reviews of this order, we are assigning Clover and Lucky (hereinafter Clover/Lucky) a single dumping margin. See *Porcelain-on-Steel Cooking Ware from the People's Republic of China: Final Results of Antidumping Administrative Review*; 62 FR 32758 (June 17, 1997). No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this finding.

#### Separate Rates Analysis

Lucky is located outside the PRC and there is no PRC ownership of the company. Therefore, we determine that no separate rates analysis is required for this third-country reseller because it is beyond the jurisdiction of the PRC government. See *Final Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters from the People's Republic of China* (60 FR 22359, 22361; May 5, 1995). Clover is partially owned by a PRC government company and, therefore, a separate rates analysis is necessary to determine whether this manufacturer/exporter is independent from government control.

To establish whether a company is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final*

*Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in non-market-economy (NME) countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports.

#### 1. Absence of De Jure Control

Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. Clover's submissions pertaining to legislative enactments and the terms of its Enterprise Legal Person Operation License demonstrate the absence of *de jure* control. (See Memorandum from Kelly Parkhill to Barbara E. Tillman, dated December 9, 1997. "Separate Rate Analysis for Assignment of Separate Rate for Clover/Lucky in the 1995-1996 Administrative Reviews of POS Cooking Ware from the People's Republic of China" (*Separate Rate Memorandum*), which is a public document on file in the Central Records Unit.

#### 2. Absence of De Facto Control

*De facto* absence of government control with respect to exports is based on four criteria: (1) Whether the export prices are set by or subject to the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits and financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to negotiate and sign contracts. See *Silicon Carbide* at 22587.

With respect to *de facto* absence of government control, the information submitted by Clover in the questionnaire response indicates the following: (1) No government entity exercises control over its export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales,

utilizing profits to provide dividends to shareholders. In addition, it has the authority to seek out loans at market interest rates. This information supports the finding that there is *de facto* absence of governmental control of export functions. Consequently, we preliminarily determine that Clover has met the criteria for the application of separate rates according to the criteria identified in *Sparklers* and *Silicon Carbide*. For a further discussion of this issue, see *Separate Rate Memorandum*.

#### Export Price

The Department used export price (EP) for sales made by Clover/Lucky, in accordance with section 772(a) of the Act, because the subject merchandise was sold to unaffiliated purchasers in the United States, or Hong Kong (in cases where Clover/Lucky knew the ultimate destination was the United States), prior to importation into the United States and constructed export price is not otherwise indicated.

We calculated EP based on Lucky's price charged to unaffiliated purchasers in the United States because Lucky is Clover's sole sales agent with respect to all subject merchandise manufactured by Clover and, as discussed above, Lucky and Clover are affiliated pursuant to section 771(33) of the Act. We deducted amounts, where appropriate, for discounts, brokerage and handling, foreign inland freight, ocean freight, and marine insurance, which were provided by market economy carriers and paid for in market economy currencies.

#### Normal Value

For merchandise produced in NME countries, section 773(c)(1) of the Act provides that the Department shall determine normal value (NV) using a factors of production methodology if: (1) The subject merchandise is exported from an NME country; and (2) available information does not permit the calculation of NV using home market prices or third country prices, in accordance with section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771 (18)(c)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Accordingly, we are treating the PRC as an NME country for purposes of this review.

We calculated NV by valuing factors of production as set forth in 773(c)(3) of

the Act, except for the factors of steel, percolators and certain customer-specific packing materials. For these factors, which were purchased from market economy suppliers and paid for in market economy currencies, we used the actual prices paid for the factors to calculate the factor-based NV in accordance with our practice. See *Lasko Metal Products vs. United States*, 437 F.3d 1442, 1443 (Fed. Cir. 1994).

For the remaining factors, we have selected a comparable market economy country which is a significant producer of comparable merchandise. Pursuant to section 773(c)(4) of the Act and section 353.52(c) of the Department's regulations, we determined that Indonesia is comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor, and that Indonesia is a significant producer of comparable merchandise. Therefore, for this review, we have used publicly available information regarding Indonesia to value all of the remaining factors of production which were not purchased from market economy suppliers. (See Memorandum to Barbara Tillman, Director, Office of CVD/AD Enforcement VI from Jeff May, Director, Office of Policy, dated August 11, 1997, "Porcelain-on-Steel Cooking Ware from the People's Republic of China, Non-Market Economy Status and Surrogate Country Selection" and the Memorandum to the File from Case Analysts, dated August 18, 1997, "Porcelain-on Steel Cooking Ware from the People's Republic of China—Surrogate Country Selection," which are public documents on file in the Central Records Unit.)

For purposes of calculating NV, we valued PRC factors of production as follows, in accordance with section 773(c)(1) of the Act:

- For surrogate values of materials used in the production of POS cooking ware, including soda ash, sulphuric acid, degreasing agents, borax, barium molybdate, magnesium sulphate, potassium carbonate, urea, quartz powder, clay, color oxides, and enamel frits, we used per kilogram values obtained from the *Foreign Trade Statistical Bulletin-Imports*, November 1995, from Indonesia (Indonesian Import Statistics). We used an average exchange rate for the POR to convert surrogate values to U.S. dollars.

- We calculated a cost for freight incurred between the supplier and Clover by using the freight rates reported in a September 1991 cable from the U.S. Embassy in Jakarta, Indonesia and the actual kilometers reported in

the questionnaire response. The cable was received for the less than fair value (LTFV) investigation of *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*. We adjusted these freight rates to reflect yearly inflation through the period of review (POR) using wholesale price indices (WPI), excluding petroleum, obtained from the *International Financial Statistics* published by the International Monetary Fund (IMF). We used an average exchange rate for the POR to convert surrogate values to U.S. dollars.

- For labor amounts, we were unable to find a publicly available source for skilled and unskilled labor rates for the POS cooking ware industry, or a similar industry, in Indonesia. We therefore used information obtained from a September 1991 cable from the U.S. Embassy in Jakarta, Indonesia. This cable was received for the LTFV investigation of *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*, and provides unskilled and skilled labor rates. We adjusted these labor rates to reflect yearly inflation through the POR using consumer price indices (CPI) obtained from the *International Financial Statistics* published by the IMF. We used an average exchange rate for the POR to convert surrogate values to U.S. dollars.

- For factory overhead, we were unable to locate any publicly available data for the POS cooking ware industry, or a similar industry, in Indonesia. Therefore, we used information reported in a December 1994, U.S. State Department cable from the U.S. Embassy in Jakarta, Indonesia. These data were received for the LTFV investigation of *Furfuryl Alcohol from the People's Republic of China*, and provide an estimated range of factory overhead costs in Indonesia. The information was also used in the LTFV investigation of *Disposable Pocket Lighters from the People's Republic of China*. From this information, we were able to determine factory overhead as a percentage of materials and labor. The surrogate overhead rate included energy and indirect labor; therefore, we did not include Clover/Lucky's reported energy and indirect labor factors.

- For selling, general and administrative (SG&A) expenses, we were unable to find publicly available data for POS cooking ware, or a similar industry, in Indonesia. Therefore, we used information obtained from a September 1991 cable from the U.S. Embassy in Jakarta, Indonesia. This cable was received for the LTFV investigation of *Certain Carbon Steel Butt-Weld Pipe Fittings from the*

*People's Republic of China*, and provides an estimated range of SG&A percentages.

- For profit, we could not find publicly available data for the POS cooking ware industry, or another similar industry, in Indonesia. Therefore, to calculate a profit rate, we used information obtained from a September 1991 cable from the U.S. Embassy in Jakarta, Indonesia. This cable was received for the LTFV investigation of *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China*, and provides a range of profit margin percentages.

For a complete analysis of surrogate values, see "Factor Values Used for the Preliminary Results of the 1995–1996 Administrative Review of POS Cooking Ware from the PRC" (Public Version) dated December 10, 1997, on file in the Central Records Unit.

### Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates published by the Federal Reserve. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine that a fluctuation exists, we substitute the benchmark for the daily rate. However, for the preliminary results in this review we have determined that a fluctuation did not exist during the POR, and we have not substituted the benchmark for the daily rate.

### Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following dumping margins exist for the period December 1, 1995 through November 30, 1996:

Manufacturer/exporter	Margin (percent)
Clover Enamelware Enterprise/ Lucky Enamelware Factory .....	0.81
PRC-Wide Rate .....	66.65

The PRC-wide rate applies to all entries of subject merchandise except for entries from manufacturers and exporters that are individually identified above. The Department

implements a policy in NME cases whereby all exporters or producers are presumed to comprise a single entity, the "NME entity." The U.S. Court of International Trade has upheld our NME policy in previous cases. See e.g., *UCF America, Inc. v. United States*, 870 F. Supp. 1120, 1126 (CIT 1994); *Sigma Corp. v. United States*, 841 F. Supp. 1255, 1266-67 (CIT 1993), and; *Tianjin Machinery Import & Export Corp. v. United States*, 806 F. Supp. 1008, 1013-15 (CIT 1992). Thus, we assign the NME rate to the NME entity just as we assign an individual rate to a single exporter or producer operating in a market economy. As a result, all exporters and producers that are part of the NME entity are assigned the "NME-wide" rate. Because the "NME-wide" rate is the equivalent of a company-specific rate, it changes only when we review the NME entity (i.e., all NME producers and exporters that have not qualified for a separate rate). To qualify for a separate rate, as discussed under the *Separate Rates* section of this notice, an NME exporter or producer must provide evidence showing both *de jure* and *de facto* absence of government control over export activities. Until such evidence is presented, a company is presumed to be part of the NME entity and receives the "NME-wide" rate. All exporters or producers will either qualify for a separate, company-specific rate, or be part of the NME enterprise, and receive the "NME-wide" rate. Thus, there can be no exporters or producers who have never been investigated or reviewed. In this review, Clover/Lucky qualifies for a separate rate, as discussed under the *Separate Rates Analysis* section of this notice. The PRC-wide rate has not changed from the last administrative review because no companies representing the single entity were reviewed.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice in accordance with 19 CFR 353.22(c)(6). Any interested party may request a hearing within 10 days of publication in accordance with 19 CFR 353.38(b). Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice in accordance with 19 CFR 353.38(c). In accordance with 19 CFR 353.38(d), rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit case briefs or rebuttal briefs in this proceeding are

requested to submit with each argument: (1) a statement of the issue; and (2) a brief summary of the argument. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, not later than 120 days after the date of the publication of this notice.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We will calculate, wherever possible, an exporter/importer-specific assessment rate. With respect these preliminary results, we divided the total dumping margins for each importer (calculated as the difference between NV and EP), by the total quantity of sales to that importer during the POR. We will instruct Customs to assess the resulting per-piece (a set to be treated as a single piece) amount against each piece in each of the importer's entries during the POR. Although this will result in assessing different percentage margins for individual entries, the total antidumping duties collected for each importer for the review period will approximately equal the total dumping margins. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of POS cooking ware from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Clover/Lucky, which has a separate rate, the cash deposit rate will be the company-specific rate established in the final results of this administrative review; (2) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate; and (3) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. We preliminarily determine that the margin of 66.65 percent continues to be the PRC-wide rate because no companies representing the single entity were reviewed. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Notification of Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 of the Department's regulations 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 antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f (i)) and 19 CFR 353.22 of the Department's regulations.

Dated December 31, 1997.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[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 requests by petitioners<sup>1</sup> and 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, 1995 through November 30, 1996.

We preliminarily determine that a *de minimis* dumping margin exists for Ta Chen's sales of welded stainless steel pipe (WSSP) in the United States. 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 on entries of Ta Chen merchandise during the period of review, in accordance with the Department's regulations (19 CFR 353.6). Interested parties are invited to

<sup>1</sup> Avesta Sheffield, Inc., Damascus Tube Division, Damascus-Bishop Tube Co., Trent Tube Division, Crucible Materials Corporation, and the United Steelworkers of America (AFL-CIO/CLC).