demonstrates that Multiraya does not have an exclusive supplier relationship with its U.S. customer as it attempted to solicit business from other U.S. companies (*See* Multiraya's July 15, 1996, Supplemental Questionnaire Response at Exhibit 3). Therefore, we have determined that the evidence on the record supports the claim that Multiraya is not affiliated with its U.S. customer.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of MIDPs that are entered, or withdrawn from warehouse, for consumption on or after August 22, 1996, the date of publication of our preliminary determination in the Federal Register. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. This suspension of liquidation will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage
P. T. Mayer Crocodile	12.90
P. T. Multi Raya Indah Abah	8.10
All Others	8.10

Pursuant to section 733(d)(1)(A) and section 735(c)(5) of the Act, the Department has not included zero, *de minimis* weighted-average dumping margins, and margins determined entirely under section 776 of the Act, in the calculation of the ''all others'' rate.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: January 6, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–753 Filed 1–10–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–583–825]

Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products From Taiwan

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

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or David J. Goldberger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4194, or (202) 482–4136, respectively.

The 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 (''URAA'').

Final Determination

We determine that melamine institutional dinnerware products (''MIDPs'') from Taiwan are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act.

Case History

Since the preliminary determination in this investigation (*Notice of Preliminary Determination and Postponement of Final Determination: Melamine Institutional Dinnerware Products from Taiwan* (61 FR 43341, August 22, 1996)), the following events have occurred:

In September and October 1996, we verified the questionnaire responses of respondents Yu Cheer Industrial Co., Ltd. (Yu Cheer) and Chen Hao Plastic Industrial Co., Ltd. (Chen Hao Taiwan). On November 23, 1996, the Department requested Chen Hao Taiwan to submit new computer tapes to include data corrections identified through verification. This information was submitted on December 5, 1996.

Petitioner, the American Melamine Institutional Tableware Association (''AMITA''), and respondents submitted case briefs on November 27, 1996, and rebuttal briefs on December 3, 1996. The Department held a public hearing for this investigation on December 5, 1996.

Scope of Investigation

This investigation covers all items of dinnerware (*e.g.*, plates, cups, saucers, bowls, creamers, gravy boats, serving dishes, platters, and trays) that contain at least 50 percent melamine by weight and have a minimum wall thickness of 0.08 inch. This merchandise is classifiable under subheadings 3924.10.20, 3924.10.30, and 3924.10.50 of the Harmonized Tariff Schedule of the United States (HTSUS). Excluded from the scope of investigation are flatware products (*e.g.*, knives, forks, and spoons).

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The POI is January 1, 1995, through December 31, 1995.

Facts Available

IKEA and Gallant

We did not receive a response to our questionnaire from either IKEA Trading Far East Ltd. (IKEA) or Gallant Chemical Corporation (Gallant). Section 776(a)(2) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner and in the form requested, significantly impedes a proceeding, or provides such information but the information cannot be verified, the Department shall use the facts otherwise available in reaching the applicable determination. Because IKEA and Gallant failed to submit the information that the Department specifically requested, we must base our determinations for those companies on the facts available.

Section 776(b) of the Act provides that adverse inferences may be used against a party that has failed to cooperate by not acting to the best of its ability to comply with a request for information. IKEA's and Gallant's failure to respond to our questionnaire demonstrates that IKEA and Gallant have failed to cooperate to the best of their abilities in this investigation. Accordingly, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted.

Section 776(c) of the Act provides that where the Department selects from

among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. (1994) (hereinafter, the ''SAA''), states that the petition is ''secondary information'' and that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870.

In this proceeding, we considered the petition as the most appropriate information on the record to form the basis for a dumping calculation for these uncooperative respondents. In accordance with section 776(c) of the Act, we sought to corroborate the data contained in the petition.

The petitioner based its allegation of both normal value and export price in the petition on a market research report which utilized price quotations from a manufacturer/exporter of MIDPs in Taiwan. The petitioner also submitted a published price list of comparable merchandise sold during the POI in Taiwan. The Department has determined that the price list corroborates normal value used in the petition.

The export price in the petition is consistent with export prices reported by responding companies on the record of this investigation. Therefore, we determine that further corroboration of the facts available margin is unnecessary.

Fair Value Comparisons

To determine whether sales of the subject merchandise by Chen Hao Taiwan and Yu Cheer to the United States were made at less than fair value, we compared the Export Price (''EP'') to the Normal Value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of this notice. As set forth in section 773(a)(1)(B)(i) of the Act, we calculated NV based on sales at the same level of trade as the U.S. sale. In accordance with section 777A(d)(1)(A)(i), we compared POI-wide weighted-average EPs to weighted-average NVs. In determining averaging groups for comparison purposes, we considered the appropriateness of such factors as physical characteristics.

(i) Physical Characteristics

In accordance with section 771(16) of the Act, we considered all products covered by the description in the *Scope of Investigation* section, above, produced in Taiwan and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): shape type (*i.e.*, flat—*e.g.*, plates, trays, saucers etc.; or container—*e.g.*, bowls, cups, etc.), specific shape, diameter (where applicable), length (where applicable), capacity (where applicable), thickness, design (*i.e.*, whether or not a design is stamped into the piece), and glazing (*i.e.*, where a design is present, whether or not it is also glazed).

(ii) Level of Trade

In the preliminary determination, the Department determined that no difference in level of trade existed between home market and U.S. sales for either Chen Hao Taiwan and Yu Cheer. Our findings at verification confirmed that Chen Hao Taiwan and Yu Cheer performed essentially the same selling activities for each reported home market and U.S. marketing stage. Accordingly, we determine that all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) is unwarranted.

Export Price

We calculated EP, in accordance with subsections 772(a) and (c) of the Act, where the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and where CEP was not otherwise warranted based on the facts of record.

We calculated EP for each respondent based on the same methodology used in the preliminary determination, with the following exceptions:

Chen Hao Taiwan

We added an amount to U.S. sales denominated in U.S. dollars to account for bank and currency conversion charges not included in Chen Hao Taiwan's reporting, based on information developed at verification (*see* Comment 13).

Yu Cheer

We made the following corrections, based on our verification findings:

(a) Revised payment dates for certain U.S. sales, for purposes of calculating imputed credit; (b) Corrected foreign inland freight; (c) revised packing labor expense; and (d) corrected certain packing material expenses.

In order to reflect the corrected payment dates for certain U.S. sales, we recalculated credit for all U.S. sales, using verified shipment and payment dates and Yu Cheer's reported interest rate. Yu Cheer did not provide information to weight-average the different packing material purchase prices observed at verification. Accordingly, we applied the highest price observed at verification for these materials as facts available. This approach was also consistent with Yu Cheer's reporting methodology for some of the packing material expenses.

Normal Value

Cost of Production Analysis

In the preliminary determination, based on the petitioner's allegation, the Department found reasonable grounds to believe or suspect that Chen Hao Taiwan sales in the home market were made at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether Chen Hao Taiwan made home market sales during the POI at prices below their respective cost of production within the meaning of section 773(b) of the Act.

Before making any fair value comparisons, we conducted the cost of production (COP) analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of Chen Hao Taiwan's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act.

We adjusted financial expenses to exclude foreign exchange gains (*see* Comment 10), and to include the interest expense associated with loans from affiliated parties (*see* Comment 9). We also adjusted factory overhead to include an amount for pension expenses (*see* Comment 11).

B. Test of Home Market Prices

We used Chen Hao Taiwan's adjusted weighted-average COP for the POI. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and were not at prices which

permit recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses. We did not deduct indirect selling expenses from the home market price because these expenses were included in the G&A portion of COP.

C. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's home market sales for a model are at prices less than the COP, we do not disregard any below-cost sales of that model because we determine that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of a respondent's home market sales of a given model during the POI are at prices less than COP, we disregard the below-cost sales because they are (1) made within an extended period of time in substantial quantities in accordance with sections 773(b)(2) (B) and (C) of the Act, and (2) based on comparisons of prices to weighted-average COPs for the POI, were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. The results of our cost test for Chen Hao Taiwan indicated that for certain home market models less than 20 percent of the sales of the model were at prices below COP. We therefore retained all sales of the model in our analysis and used them as the basis for determining NV. Our cost test for Chen Hao Taiwan also indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), for certain home market models more than 20 percent of the home market sales were sold at prices below COP. In accordance with section 773(b)(1) of the Act, we therefore excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

In this case, we found that some models had no above-cost sales available for matching purposes. Accordingly, export prices that would have been compared to home market prices for these models were instead compared to constructed value (CV).

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of a respondent's cost of materials, fabrication, selling, general, and administrative expenses (''SG&A''), profit and U.S. packing costs as reported in the U.S. sales databases. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by Chen Hao Taiwan in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. Where appropriate, we calculated Chen Hao Taiwan's CV based on the methodology described in the calculation of COP above. We made the same adjustments to Chen Hao Taiwan's reported CV as we described above for COP.

Price to Price Comparisons

Adjustments to Normal Value

We based normal value on the same methodology used in the preliminary determination, with the following exceptions:

Chen Hao Taiwan

For one of several packing materials used by Chen Hao Taiwan, we found a slight discrepancy between the reported consumption and costs, and the verified consumption and costs. This discrepancy, however, affects only a small part of the overall packing material cost and would have an *ad valorem* effect of less than .33 percent. Consistent with 19 CFR 353.59(a), which permits the Department to disregard insignificant adjustments, we have not adjusted the reported packing materials cost in our fair value comparisons for Chen Hao Taiwan.

Yu Cheer

We revised packing labor and certain packing material expenses, based on verification findings. Yu Cheer did not provide information to weight-average the different packing material purchase prices observed at verification. Accordingly, we applied the highest price observed at verification for these materials as facts available. This approach was also consistent with Yu Cheer's reporting methodology for some of the packing material expenses.

Price to CV Comparisons

Where we compared Chen Hao Taiwan's CV to Chen Hao Taiwan's export prices, we deducted from CV the weighted-average home market direct selling expenses and added the weighted-average U.S. product-specific direct selling expenses (where appropriate) in accordance with section 773(a)(8) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to convert foreign currencies based on the dollar exchange rate in effect on the date of sale of the subject merchandise, except if it is established that a currency transaction on forward markets is directly linked to an export sale. When a company demonstrates that a sale on forward markets is directly linked to a particular export sale in order to minimize its exposure to exchange rate losses, the Department will use the rate of exchange in the forward currency sale agreement.

Section 773A(a) also 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. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation to have existed, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks, *see Change in Policy Regarding Currency Conversions* 61 FR 9434 (March 8, 1996). Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the New Taiwan dollar did not undergo a sustained movement, nor were there currency fluctuations during the POI.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.

Interested Party Comments

Comment 1: Scope of Investigation

Respondents argue that the scope of investigation should be revised to exclude melamine dinnerware that

exceeds a thickness of 0.08 inch and is intended for retail markets when such products are accompanied by appropriate certifications presented upon importation to the United States.

Petitioner objects to respondents' scope revision proposal because, it believes, it has no legal or factual basis and would result in an order that would be very difficult to administer. Petitioner further contends that antidumping orders based on importer certifications of use, such as the proposal advocated by respondents, are difficult to administer and should be avoided where possible. Petitioner argues that if respondents want to produce merchandise for the retail market that presents no scope issue, respondents can produce merchandise of a thinner wall thickness that falls outside of the scope.

DOC Position. We agree with petitioner. Petitioner has specifically identified which merchandise is to be covered by this proceeding, and the scope reflects petitioner's definition. As we stated in *Final Determination of Sales at Less Than Fair Value: Carbon and Alloy Steel Wire Rod from Brazil* (59 FR 5984, February 9, 1994), [p]etitioners' scope definition is afforded great weight because petitioners can best determine from what products they require relief. The Department generally does not alter the petitioner's scope definition except to clarify ambiguities in the language or address administrability problems. These circumstances are not present here.

The petitioner has used a thickness of more than 0.08 inch, not end use, to define melamine ''institutional'' dinnerware. The physical description in the petition is clear, administrable and not overly broad. Thus, we agree with petitioner that there is no basis for redefining the scope based on intended channel of distribution or end use, as respondents propose.

Comment 2: Acceptance of Chen Hao Taiwan Questionnaire Responses

Petitioner argues that the Department should reject Chen Hao Taiwan's questionnaire responses because the extensive, fundamental changes to the responses submitted during the course of the investigation render its data unreliable. In particular, petitioner objects to Chen Hao Taiwan's submission of allegedly ''minor corrections'' at the beginning of verification and submitted for the record on October 8, 1996. Petitioner claims that this information is untimely under 19 CFR 353.31 as it contains new information, which may not be accepted at verification, and should therefore be (wholly or, at a minimum, partially) rejected for use in the final determination following the precedent in *Final Results of Administrative Review: Titanium Sponge from the Russian Federation* (61 FR 58525, November 15, 1996) (*Titanium Sponge*). Further, petitioner claims it was deprived of its ability to comment on this data prior to verification.

Chen Hao Taiwan responds that, by focusing on the absolute number of corrections made, petitioner ignores the fact that the changes were made to ensure that the most complete and accurate responses were submitted for the record and properly verified. According to Chen Hao Taiwan, its revisions corrected typographical and data entry errors; the corrections related to misreported items, rather than unreported items. Chen Hao Taiwan adds that this situation is different from *Titanium Sponge*, where the rejected submission related to previously unreported items of which the Department was not alerted, while in this proceeding, Chen Hao Taiwan properly advised the Department of its corrections. Chen Hao Taiwan states that it responded to the best of its ability in this proceeding and, thus, there is no basis to apply facts available.

DOC Position. We disagree with petitioner's description of Chen Hao Taiwan's October 8 submission as an extensive and entirely new cost submission. Chen Hao Taiwan corrected elements of its labor and factory overhead data, which resulted in revised figures for these components of its COP and CV calculations. Although the labor and overhead expenses for some specific products changed substantially, the effect on the total COP and CV was relatively insignificant. Chen Hao Taiwan did not revise its methodology for calculating these expenses. The corrections submitted by Chen Hao Taiwan prior to verification did not include new methodologies or expense claims; there was no new area of the response in which the petitioner did not have the opportunity to comment. In short, the corrections submitted by Chen Hao Taiwan were typical of the minor corrections routinely accepted by the Department at the commencement of verification.

We agree with Chen Hao Taiwan that the submission of these corrections is not comparable with the *Titanium Sponge* example, where the Department, rather than the respondent, identified the information in the course of verification, and the information discovered was a new issue, not previously discussed in the proceeding. Chen Hao Taiwan fully apprised the Department of all revisions at the commencement of verification. Its revisions corrected data already on the record and did not introduce new issues not previously reported on the record.

Accordingly, we determine that resorting to facts available is unwarranted in this particular case. The Department's use of facts available is subject to section 782(d) of the Act. Under section 782(d), the Department may disregard all or part of a respondent's questionnaire responses when the response is not satisfactory or it is not submitted in a timely manner. The Department has determined that neither of these conditions apply. The Department was able to verify the response, thus rendering it satisfactory, and the types of revisions submitted by Chen Hao Taiwan met the deadline for such changes. Under section 782(e), the Department shall not decline to consider information that is 1) timely, 2) verifiable, 3) sufficiently complete that it serves as a reliable basis for a determination, 4) demonstrated to be provided based on the best of the respondent's ability, and 5) can be used without undue difficulties. In general, Chen Hao Taiwan has met these conditions.

Accordingly, we find no basis to reject Chen Hao Taiwan's response, and thus, no basis to rely on the facts otherwise available for our final determination.

Comment 3: Yield Rate

Petitioner claims that Chen Hao Taiwan improperly reported overall yield information for its COP and CV data when it had more accurate, product-specific data available. Petitioner alleges that the verification exhibits establish that Chen Hao Taiwan maintains product-specific yield information and, therefore, could have reported its costs on this basis, rather than an overall yield figure applied to all of its products. Petitioner claims that by reporting overall yield figures, Chen Hao Taiwan may be attempting to mask dumping margins generated by sharply different yields among products, which is the experience of the U.S. industry. Since Chen Hao Taiwan allegedly chose instead to report less accurate production data, petitioner contends that the Department should reject Chen Hao Taiwan's data as submitted and adjust the yield rate by applying the reported yield factor to each additional production step that each product undergoes.

Chen Hao Taiwan disputes petitioner's analysis of its production records and states that the Department verified that Chen Hao Taiwan does not

maintain records in its normal course of business that would permit it to report product-specific yield. Chen Hao Taiwan maintains that the verification exhibit cited by petitioner does not support petitioner's contention that Chen Hao Taiwan was able to report product-specific yield data. Chen Hao Taiwan argues that while petitioner may maintain product-specific yield information, it does not mean that the Department must also assume that respondent must also maintain the same information. Chen Hao Taiwan asserts that the Department cannot penalize a respondent with facts available for failure to provide information which does not exist.

DOC Position. We agree with Chen Hao Taiwan. The Department's preference is to use product specific cost data, including product-specific yield results, for calculating COP and CV. The Department uses the most specific and reasonable allocation methods available, given a respondent's normal record keeping system (*see Final Determination of Sales at Less than Fair Value: Welded Stainless Steel Pipe from Malaysia,* 59 FR 4023, 4027, January 28, 1994). In this instance, Chen Hao Taiwan reported its costs based on overall yield information because it claimed that its records do not permit it to calculate cost data on a more specific basis. Our verification revealed nothing to contradict Chen Hao Taiwan's claim that it does not maintain product-specific yield data in its normal course of business. We also verified that Chen Hao Taiwan was not able to calculate yields for the POI on a more specific basis than the yield rate which was reported. The accounting records identified by petitioner could arguably be used to calculate an average yield for each specific order; however, Chen Hao Taiwan does not retain production batch records in its normal course of business beyond a short period of time. The examples from the verification are from the time of verification, October 1996—well beyond the POI. Moreover, Chen Hao Taiwan's financial accounting documents, including inventory and production ledgers, do not track production information on a product-specific basis. For these reasons, we have accepted Chen Hao Taiwan's reported average yield rate calculation, which was adequately analyzed at verification.

Comment 4: Home Market Freight Expenses

Petitioner claims that Chen Hao Taiwan improperly allocated home market freight expenses across all products and all customers during the POI. Petitioner states that, based on information contained in the verification report, Chen Hao Taiwan should be able to report freight expenses on a customer-specific basis. Petitioner asserts that Chen Hao Taiwan's allocation methodology masks differences in freight expenses that may result in a larger freight expense deduction for subject merchandise sales than if freight expenses had been reported on a more specific basis. Therefore, petitioner contends that the Department should deny Chen Hao Taiwan's claimed freight adjustment.

Chen Hao Taiwan argues that verification indicated that Chen Hao Taiwan's freight expense records did not permit reporting on a more specific basis.

DOC Position. The Department's preference is that, wherever possible, freight adjustments should be reported on a sale-by-sale basis rather than an overall basis (*see, e.g., Final Results of Antidumping Duty Administrative Review: Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada,* 56 FR 47451, 47455, September 19, 1991). If a respondent does not maintain its records to enable freight expense reporting at this level, then our preference is to apply an allocation methodology at the most specific level permitted by a respondent's records. Chen Hao Taiwan allocated all home market freight expenses incurred on subject merchandise by weight over all home market sales, as demonstrated in the sample calculation submitted in the July 19, 1996, supplemental questionnaire response. However, as we noted in our verification report, ''we observed that Chen Hao may be able to total the amount charged to each customer during the POI, and divide that amount by the total shipments to that customer.'' This method is preferable to the method used by Chen Hao Taiwan.

Nevertheless, we note that Chen Hao Taiwan allocated home market freight expenses between subject and non-subject merchandise using a weight-based methodology, in compliance with the Department's supplemental questionnaire request. The Department did not specifically request Chen Hao Taiwan to provide a customer-specific allocation. Although Chen Hao Taiwan had the means to allocate home market freight expenses on a more specific basis, its failure to do so does not mandate the application of adverse facts available in this case because Chen Hao Taiwan has been responsive to the Department's requests. The principal advantage of a customer-specific freight allocation would be to take into account the freight distance to the customer, since distance is a component of the expense incurred by Chen Hao Taiwan. Given the distribution of Chen Hao Taiwan's home market customers, as identified in the verification report, and the location of Chen Hao Taiwan's principal home market MIDP customer, we find that Chen Hao Taiwan's reported home market freight methodology is sufficient. In similar circumstances, we have accepted a respondent's methodology if it is representative and non-distortive of transaction-specific sales information (*see Final Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Korea,* 60 FR 33561, June 28, 1995). Chen Hao Taiwan's methodology meets these criteria. Consequently, we have accepted Chen Hao Taiwan's reported home market freight expenses.

Comment 5: Allocation of Melamine Powder Rebate

Petitioner argues that Chen Hao Taiwan improperly allocated melamine powder rebates between its internal consumption and the material transferred to Chen Hao Xiamen. Petitioner claims that by assigning the entire amount of the rebate to melamine powder used for Taiwan consumption, Chen Hao Taiwan undervalued its raw material costs. Petitioner contends that Chen Hao Taiwan's melamine powder costs for COP and CV calculations should be recalculated to remove the amount of the rebate attributable to Chen Hao Xiamen transfers.

Chen Hao Taiwan responds that petitioner is incorrect and that, in fact, the Department verified that the melamine powder rebates were allocated equally over all melamine powder purchases.

DOC Position. We agree with Chen Hao Taiwan. We verified that Chen Hao Taiwan properly allocated the melamine powder rebate over all its purchases during the POI and thus the per-unit melamine powder cost for Chen Hao Taiwan's COP and CV calculations properly accounts for the rebate. However, as we stated in the Chen Hao Taiwan verification report, ''[t]he values reported for Chen Hao *Xiamen's* melamine powder consumption do *not* include an adjustment for the rebate.'' (Emphasis added.) Chen Hao Taiwan's melamine powder costs are not in question.

Comment 6: Import Duties on Melamine Powder Costs

Petitioner contends that evidence on the record demonstrates that Chen Hao

Taiwan incurred duties on some imported raw materials, but did not report these duty amounts in its cost response. Petitioner thus argues that the Department should assume that all raw materials are imported and increase the costs of materials to include import duties and related costs.

Chen Hao Taiwan states that the Department verified that Chen Hao Taiwan correctly accounted for duties in reporting the unit prices of melamine powder purchased during the POI and that petitioner's allegation is incorrect. Chen Hao Taiwan further states that the verification exhibits confirm that the reported costs include the import duties paid on melamine powder purchased outside of Taiwan.

DOC Position. We agree with Chen Hao Taiwan. We verified that the reported costs for these inputs included all applicable expenses, including import duties. Support documentation for Chen Hao Taiwan's melamine powder costs, such as the operating statement and journal entries included in the verification exhibits, demonstrates that import duties, when incurred, are part of the total cost reported to the Department, and are included in the cost of materials used in our COP and CV calculations.

Comment 7: Unreconciled Cost Differences

Petitioner claims that Chen Hao Taiwan's cost of manufacturing data shows an unreconciled difference between the components of operating costs and the total operating costs. Because Chen Hao Taiwan has not provided an explanation for this discrepancy, petitioner argues that the cost of manufacturing should be increased to reflect this unreconciled cost difference.

Chen Hao Taiwan states that petitioner is incorrect because it misread a portion of a verification exhibit and thus erroneously arrived at its total. Accordingly, Chen Hao Taiwan states that its operating costs reconcile and no adjustment is needed.

DOC Position. We agree with Chen Hao Taiwan. We verified that Chen Hao Taiwan's operating costs reconciled, as indicated in the operating statement and trial balance included in the verification exhibits, and no adjustment is required. As Chen Hao Taiwan has noted, petitioner has misread the verification exhibit in question and arrived at an incorrect operating costs total.

Comment 8: Sales of Finished Goods in Cost of Materials Calculation

Based on its analysis of verification exhibits, petitioner claims that Chen Hao Taiwan included purchases of finished goods that it re-sold without further processing in its finished goods inventory, thus including these items in calculating its yield rate. Petitioner asserts that the yield rate used in COP and CV calculations must be adjusted to remove the accounting for these finished goods.

Chen Hao Taiwan contends that petitioner misread the relevant verification exhibit and that these items were not included in its cost of manufacturing calculation. Accordingly, Chen Hao Taiwan maintains that no adjustment is necessary.

DOC Position. We agree with Chen Hao Taiwan. We verified that the resold items were properly excluded from the cost of manufacturing calculation, as indicated in the cost of operations statement included in the verification exhibits, and that no adjustment is required.

Comment 9: Arm's-Length Pricing of Loans

Petitioner claims that Chen Hao Taiwan failed to demonstrate that interest free loans from affiliated parties are made at arm's length. Accordingly, petitioner argues that Chen Hao Taiwan's financial interest expense ratio for COP and CV calculations should be adjusted by adding an estimated market value for these loans based on the highest interest rate experienced by Chen Hao Taiwan.

Chen Hao Taiwan contends that these loans from related parties served as capital infusion. According to Chen Hao Taiwan, the transactions in question were additional investments from the owners of Chen Hao Taiwan of their own money into the company, with these funds labeled as ''loans'' for purposes of the financial statement. Chen Hao Taiwan argues that the Department's practice is to disregard such intracompany transfers, thus any resulting loan interest expense should be disregarded in the final determination.

DOC Position. Although Chen Hao Taiwan may consider the transactions in question to serve as equity capital infusions, its audited financial statement classifies them as long-term loans. Other than Chen Hao Taiwan's assertions,[1], we have no basis on the record to reclassify these amounts as equity. In such circumstances, the Department considers the amounts to be long-term loans, consistent with treatment in the respondent's financial statement (*see, Final Results of Administrative Review: Shop Towels from Bangladesh,* 60 FR 48966, 48967, September 21, 1995, and *Final Determination of Sales at Less than Fair Value: Fresh Cut Roses from Ecuador,* 60 FR 7019, 7039, February 6, 1995). Accordingly, we have recalculated Chen Hao Taiwan's interest expenses to include an interest expense based on the long-term interest rate experienced by Chen Hao Taiwan during the POI, as identified in the financial statement.

Comment 10: Exchange Gains in Financial Expenses

Petitioner contends that the financial expenses for Chen Hao Taiwan's COP and CV calculations include foreign exchange gains on export sales, which should be disallowed. Therefore, petitioner states that the financial expenses should be increased accordingly.

Chen Hao Taiwan does not object to this adjustment but states that the revised percentage identified in the verification report is incorrect; thus a corrected adjustment should be used.

DOC Position. We agree with petitioner and have adjusted financial expenses to exclude foreign exchange gains on export sales. We also agree with Chen Hao Taiwan that the adjustment percentage identified in the verification report contains a typographical error; we applied the correct percentage in our recalculation.

Comment 11: Pension Allowance

Petitioner states that verification revealed that Chen Hao improperly excluded a pension allowance in its costs.

Chen Hao Taiwan argues that, as the Department verified that no actual accrual for the pension allowance was made during the POI, costs should not be adjusted for a theoretically intended amount.

DOC Position. We agree with petitioner. We verified that Chen Hao Taiwan contributed to its employee retirement fund in the two years prior to the POI. It did not make the contribution during the POI and could not provide any satisfactory explanation for this omission. However, Chen Hao Taiwan reported that it made payments from the retirement fund during the POI. Based on these facts, we consider that Chen Hao Taiwan incurred an obligation for its pension plan during the POI. Accordingly, we have included the pension expense in our COP and CV calculations.

[1] Chen Hao Taiwan has cited *Final Results of Administrative Review: Fresh Cut Flowers from Colombia* (61 FR 42833, August 19, 1996) in support of its position; however this case is not on point. In that instance, the item in question was interest income, whereas here, the item is interest expense.

Comment 12: Certain Credit Expense Adjustments

Petitioner claims that Chen Hao Taiwan reported certain adjustments to its credit expenses for some U.S. sales. Petitioner asserts that the Department does not permit these adjustments and thus the credit expense for these sales should be disallowed.

Chen Hao Taiwan argues that it properly made these credit adjustments.

DOC Position. We agree with Chen Hao Taiwan. In such instances as those identified by parties in the proprietary versions of their submissions, the Department has added the imputed benefit to the price. (*See, e.g., Final Results of Antidumping Administrative Review: Mechanical Transfer Presses from Japan* (61 FR 52910, October 9, 1996), where, at Comment 5, we stated that ''[b]ecause payment was made prior to shipment, [respondent] should receive an imputed benefit for credit.'')

Comment 13: Unreported U.S. Dollar Charges

Petitioner contends that, as identified in verification documents, Chen Hao Taiwan did not report charges such as currency brokerage and bank fees for U.S. sales denominated in U.S. dollars. Accordingly, petitioner argues that a percentage based on the observed charges should be added to all U.S. dollar sales.

Chen Hao Taiwan states that it has accounted for all charges and fees. Citing the verification report, Chen Hao Taiwan asserts that the Department verified that the sales value for all U.S. sales was correctly reported, and no discrepancies apart from those identified in the verification report were found.

DOC Position. We agree with petitioner that Chen Hao Taiwan did not include certain bank fees incurred on U.S. dollar denominated sales in its sales reporting. Based on the verification documents, we have calculated a percentage for these charges and included the result as a circumstance of sales adjustment.

Comment 14: Payment Period on U.S. Sales

Petitioner contends that, based on its analysis of a set of verification exhibits, Chen Hao Taiwan incorrectly reported the payment date on U.S. sales by reporting the date that it closed the account receivable entry in its records, rather than the date the payment was actually made. Accordingly, petitioner argues that the payment date for all U.S. sales should be adjusted to reflect the actual payment period, based on information obtained at verification.

Chen Hao Taiwan responds that petitioner misread the documents in the sales verification exhibit, and that the payment situation described by petitioner referred to Chen Hao Taiwan's payment to its freight company, not payment from the U.S. customer. Accordingly, Chen Hao Taiwan states that it has correctly reported its payment dates and no adjustments are required.

DOC Position. We agree with Chen Hao Taiwan. The payment, accounts receivable, and accounts payable documents included in the verification exhibit for this transaction confirm that the payment identified by petitioner does not apply to customer payment, but rather to the freight expense paid to Chen Hao Taiwan's freight company.

Comment 15: Allocation of Home Market Royalty Expenses

Petitioner alleges that Chen Hao Taiwan misreported royalty expenses incurred on certain home market sales because it had not properly accounted for advances paid on royalty expenses owed. Petitioner contends that the royalty advance payments should be treated as indirect selling expenses for purposes of the COP test because these expenses were fixed costs and were incurred regardless of the quantity sold.

Chen Hao Taiwan states that the Department verified the actual royalty amount paid and the actual amount of sales subject to royalty during the POI. In addition, Chen Hao Taiwan states that the Department verified that royalties applied only to certain products. Accordingly, Chen Hao Taiwan contends that the Department should continue to treat royalties as a direct expense and use the verified amount for royalty amounts to calculate the actual per-unit royalty expense paid during the POI.

DOC Position. The Department has normally treated royalty expenses as direct expenses when a respondent incurs this expense upon the sale of a product covered under a royalty agreement (*see, e.g., Final Results of Antidumping Duty Administrative Review: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Japan,* 58 FR 30018, May 25, 1993). Consistent with the royalty agreement on the record, Chen Hao Taiwan incurred a royalty expense liability for home market sales of the specific type of merchandise covered under the agreement, as discussed in the verification report. Chen Hao Taiwan entered into the royalty agreement at the beginning of the POI. Under the terms of the agreement, which are on the record, certain advance payments were required during the POI. In order to comply with the terms of the agreement, Chen Hao Taiwan paid these amounts even though its sales of the covered products were not at the level at which it would pay the same amount based on royalty percentages in the agreement. However, the agreement states that future royalty expenses incurred may be offset against this advance. Although we verified that Chen Hao Taiwan does not account for these potential future offsets, we verified that Chen Hao was in full compliance with the terms of the agreement. It is clear that the royalty agreement only applies to certain home market sales and that, after this initial ''startup'' period, its actual royalty expenses will tie directly to the covered sales. Therefore, this expense is properly classified as a direct expense.

Allocating POI expenses over POI sales is not appropriate because, in effect, a portion of the POI expenses is attributable to future sales. The most appropriate allocation of the expenses is to apply the royalty percentage in the agreement, which is how Chen Hao Taiwan reported the expenses, because it reflects the amount of the expense incurred by a particular sale, after taking into account the eventual offset of all advances. In this instance, we are allocating expenses based on the expected eventual royalty expense liability.

Comment 16: Value Added Tax (VAT) on CV Material Costs

Petitioner argues that Chen Hao Taiwan failed to include a 5 percent VAT on its Taiwan material purchases, thus understating the constructed value of each product. Therefore, petitioner contends that CV materials costs should be increased to reflect the VAT.

Chen Hao Taiwan states that it followed the Department's questionnaire instructions and properly reported its material costs exclusive of VAT. Therefore, Chen Hao Taiwan maintains that CV materials costs should not be increased by the VAT amount.

DOC Position. In accordance with section 773(e) the Department's policy is to include in its calculation of CV internal taxes paid on materials unless such taxes are remitted or refunded upon exportation of the finished product into which the material is incorporated (*see e.g. Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand,* 60 FR 10552, February 27, 1995). In this case, we observed that Taiwan MIDP companies are able to credit VAT paid

on inputs (whether used for domestically sold or exported MIDPs) against what they owe to the Taiwan government as a result of VAT collected on domestic sales. More importantly, however, where VAT owed was less than VAT paid because exports out paced domestic sales, the companies received from the government a refund of VAT paid on materials incorporated into exported finished products. As discussed in the Chen Hao Xiamen verification report in the concurrent *MIDPs from PRC* investigation:

> Chen Hao [Taiwan] paid VAT on its Taiwan purchases, which included such items as melamine powder from the principal supplier. Chen Hao also incurred a VAT liability on sales made in Taiwan. Export sales were excluded from this liability, which included the re-sale of the melamine powder to [an affiliated party]. . . . Chen Hao [Taiwan] paid the difference of VAT collected from its Taiwan sales and VAT paid on Taiwan purchases. (November 18, 1996, verification report at pages 8–9, and included on this record in a December 20, 1996, Memorandum to the File.)

Thus, VAT paid on materials incorporated into exported products is refunded by reason of export and therefore is not appropriately included in CV. Accordingly, we have not added VAT to the CV calculation.

Comment 17: Matching of Certain Products

Petitioner claims that Chen Hao Taiwan assigned certain identical products different control numbers used for model matching. In turn, petitioner contends, the Department's model matching program improperly treated these identical products as different products. Petitioner thus argues that the Department should either revise its computer program to ignore Chen Hao Taiwan's control numbers or re-code these products with identical control numbers.

Chen Hao Taiwan responds that the control numbers in question relate to physically different products because some differ in color from the others. Thus, Chen Hao Taiwan contends that the Department should continue to treat the products as different products with unique control numbers.

DOC Position. Petitioner is incorrect with regard to its description of the Department's model matching program. The program does, in fact, ignore control numbers to determine identical or most similar products. Color is not a matching criterion in this investigation; thus, it is appropriate to treat these products, if otherwise identical, as identical products for purposes of model matching. In one instance cited by petitioner, we note that the Department properly compared home market sales of both products in question to the U.S. sales of this product. In the other instance cited by petitioner, we did not match the U.S. sales to the second model identified by petitioner because the difference in merchandise adjustment for that comparison exceeded the Department's 20 percent threshold.

Comment 18: Yu Cheer Credit Expenses

Petitioner contends that Yu Cheer incorrectly reported payment dates on U.S. sales because, until verification, it did not indicate that it had received payment for at least some sales on multiple dates. Petitioner states that the record contains no explanation of the multiple payment date procedure and no information on how often Yu Cheer's customers use this payment approach. In addition, petitioner alleges that Yu Cheer has also misreported shipment dates, used to calculate credit expenses, because Yu Cheer stated at verification that it sometimes revises shipping documents after shipment, thus calling into question the reliability of its reported information. Therefore, petitioner argues that the home market credit adjustment should be rejected and the U.S. credit expense should be based on the longest credit period for any reported sale as facts available.

Yu Cheer states that its payment and shipment dates were correctly reported, as noted in the verification report. Further, Yu Cheer states that the verification report indicates that the shipment revisions did not affect Yu Cheer's reported shipment dates. Therefore, Yu Cheer contends that the discrepancies cited by petitioner fail to provide any reasonable basis for rejecting Yu Cheer's claimed credit expenses.

DOC Position. We agree with Yu Cheer. Yu Cheer properly reported the elements of its imputed credit expenses and thus we have accepted its claimed imputed credit expenses. As we stated in the verification report, Yu Cheer's shipment revisions do not affect the reported shipment dates. Where appropriate, we have recalculated the credit expense using the corrected payment information obtained at verification.

Continuation of Suspension of Liquidation

In accordance with section 735(c) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of MIDPs—with the exception of those manufactured/exported by Yu Cheer—that are entered, or withdrawn from warehouse, for consumption on or after August 22, 1996, the date of publication of our preliminary determination in the Federal Register. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. This suspension of liquidation will remain in effect until further notice.

Exporter/manufacturer	Weighted-average margin percentage
Chen Hao Taiwan	3.25
Yu Cheer	0.00
IKEA	53.13
Gallant	53.13
All Others	3.25

Pursuant to section 733(d)(1)(A) and section 735(c)(5) of the Act, the Department has not included zero, *de minimis* weighted-average dumping margins, or margins determined entirely under section 776 of the Act, in the calculation of the ''all others'' rate.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: January 6, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–754 Filed 1–10–97; 8:45 am]

BILLING CODE 3510–DS–P