

explanation and because Panchmahal also withheld the information although it knew the requirements of the Department for cost verification based on its own previous experience and declined to comply to the best of its ability under sections 776(a)(2)(A) and (B). Most importantly, this failure to provide or withholding of the requested information by Panchmahal has resulted in an inadequate response that prevented the Department from conducting verification and using its data in the preliminary results. See Cancellation of Verification Memorandum to the File from Stephen Bailey to Edward Yang, dated November 18, 2002. Thus, pursuant to sections 776(a)(2)(A) and (B) of the Act, and having satisfied sections 782(c)(2), (d), and (e) of the Act, the Department must apply facts otherwise available in this case.

In selecting from among the facts otherwise available, section 776(b) of the Act provides that adverse inferences may be used in selecting from the facts available if a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Doc. No. 103-316, Citation No. (1994), at 870. Furthermore, "an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference." See also *Antidumping Duties, Countervailing Duties; Final Rule*, 62 FR 27340 (May 17, 1997).

In this case, Panchmahal has failed to cooperate by not acting to the best of its ability to comply with the request for information. As discussed above, despite the numerous requests by the Department, Panchmahal failed to provide or withheld requested information from the Department. In response to Panchmahal's request for assistance via a telephone call from Mr. Pratik of Panchmahal, the Department clarified to Panchmahal the Department's cost reconciliation requests both in the telephone conversation and in a follow-up e-mail. See Memorandum to the File dated November 1, 2002. Panchmahal was provided numerous opportunities and supplemental questionnaires to fully respond to the Department's request for a cost reconciliation and to correct response deficiencies, in accordance with section 782(d) of the Act. See

Cancellation of Verification Memorandum to the File from Stephen Bailey to Ed Yang, dated November 18, 2002. However, despite the assistance offered and provided by the Department's staff, Panchmahal failed to submit a questionnaire response that addressed the most important deficiency identified by the Department in each of the six supplemental questionnaires, the cost reconciliation.

Due to Panchmahal's failure to provide the necessary requested information that the Department had identified as necessary for the verification, the Department was precluded from conducting verification by the inadequacy of information on the record. Moreover, Panchmahal failed to provide a reasonable explanation for its failure to comply with these standard requests for information. Accordingly, the Department finds that Panchmahal did not act to the best of its ability to provide the information requested, despite the extensive assistance provided by the Department. As facts available, we have preliminarily assigned Panchmahal the all others rate of 48.80 percent.

Collapsing

In the previous administrative review, the Department decided to collapse Viraj Forgings Limited ("VFL"), Viraj Alloys Limited ("VAL") and Viraj Impoexpo Limited ("VIL") because the companies were found capable, through their sales and production operations, of manipulating prices or affecting production decisions (of each other). See *Stainless Steel Wire Rod From India; Final Results of Antidumping Duty Administrative Review*, 67 FR 37391 (May 29, 2002). In this case, the Viraj Group reported that there were no operational or legal changes to the Viraj Group during this POR. See the Viraj Group's July 23, 2002 submission at page 1. Based on the decision in the previous administrative review and because no information on the record deviates from the facts of the previous administrative review with respect to the factors which are used to determine collapsing, the Department will continue to treat VFL, VAL, and VIL as one entity for purposes of this administrative review, called "Viraj Group."

Normal Value Comparisons

To determine whether Mukand's and the Viraj Group's sales of subject merchandise from India to the United States were made at less than normal value, we compared the export price ("EP") and constructed export price ("CEP"), as appropriate, to the normal

value ("NV"), as described in the "Export Price/Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual EP and CEP transactions.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the *Scope of the Review* section above, which were produced and sold by Mukand and the Viraj Group in the home market during the POR, to be foreign like products for purposes of determining appropriate 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 and reporting instructions listed in the Department's questionnaire.

Mukand

Mukand submitted information on the record which claimed that all of its grades should be treated as distinct grades for calculation purposes. See *Mukand's July 17, 2002 submission* at 2. To verify this claim, the Department requested that Mukand provide a chemical breakdown of each of its grades. After analyzing the data presented by Mukand, the Department has determined that there is insufficient record evidence to support Mukand's position that grade 304M is a distinct grade from 304, that grade 304LN is a distinct grade from 304L and that grade 420 is a distinct grade from grade 410. Therefore, the Department has preliminarily determined to combine the above grades; specifically, the Department has determined that grade 304M should be treated as grade 304, grade 304LN should be treated as grade 304L, and grade 420 should be treated as grade 410.

The grade chemistries provided on the record by Mukand indicate that grade 304M is a subset of grade 304, because they have similar chemistries and compositions; thus, Mukand's grades 304 and 304M have been treated by the Department as one grade for purposes of the model match program. Further, when the Department compared the chemistries of Mukand's grades 410 and 420 only slight differences existed, but when compared to the grade standards set out by the American Iron and Steel Institute ("AISI"), the reported chemistry for Mukand's grade 420 is more similar to the grade chemistry of AISI grade 410