

be verified as provided in section 782(i), the administering authority \* \* \* shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title."

Pursuant to section 776(a)(2), we find that in failing to report a substantial percentage of its direct material costs supplied by an affiliated party, Echjay withheld information requested by the Department. Further, Echjay failed to provide its cost of production data in the form and manner requested and failed to meet the deadlines for submission of information. Moreover, Echjay did not notify the Department prior to verification of any inability to report the cost data in the form and manner requested, nor did it propose an alternative acceptable methodology that would account for yield losses. Finally, the packing cost information Echjay provided could not be verified. Therefore, pursuant to section 776(a)(2)(A), (B), and (D), we preliminarily determine that the use of facts otherwise available ("FA") is warranted in order to calculate a margin for Echjay.

Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by (the Department)" if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, and if the Department can use the information without undue difficulties, the statute requires it to do so.

For these preliminary results, we have revised Echjay's reported CV data to conform to the Department's standard methodology, to the extent that information already on the record permits. Using cost data from Echjay's most recent fiscal year financial statements, we calculated direct labor costs, overhead costs, general and administrative expenses, and revised interest expenses per kilogram by dividing by the total weight of production of all products, subject and non-subject. However, despite repeated requests to do so, Echjay failed to report all of its direct material costs pursuant to the major input rule (19 CFR 351.407(b)). As a result, the Department was unable to verify the material costs which account for most of the total costs of production. In addition, although the Department asked Echjay several times to report its labor cost for packing, we

found at verification that Echjay's explanations of the method it used to calculate packing costs were unsubstantiated and that neither the material cost nor the labor cost for packing could be verified. Therefore, pursuant to section 776(b) of the Act, we preliminarily determine that Echjay has failed to cooperate to the best of its ability.

Section 776(b) provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as the facts otherwise available. 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 URAA, H.R. Doc. No. 103-316 (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 *Antidumping Duties, Countervailing Duties; Final Rule*, 62 FR 27340 (May 17, 1997).

Accordingly, we have preliminarily determined to make an adverse inference and apply the highest cost per kilogram Echjay reported in its Section D response for stainless steel material used to produce flanges to all of Echjay's direct material costs. In addition, we have preliminarily determined to add the highest reported packing expense for Belgian sales to CV for U.S. packing.

#### B. Snowdrop

Snowdrop made one sale of rough flanges to the United States during the POR. As there were no sales in the home market, Snowdrop reported its sales to its three largest third country markets. The Department found no identical matches to the merchandise sold to the United States. It therefore determined that it would be necessary to use CV to calculate a margin. On October 21, 2002, the Department sent Section D questionnaires to the two producers of the flanges Snowdrop exported to the United States, Panchmahal and Paramount Forge ("Paramount"), with a request that they report CV for the merchandise they sold to Snowdrop and respond by November 7, 2002. Panchmahal notified the Department via email that it would not complete the questionnaire, as it had made the sale to Snowdrop in the belief that it was for the Indian market. On November 14, 2002, the Department sent a letter to

Paramount asking them to inform us of their intentions. On November 18, 2002, Paramount asked the Department for an extension of time of unspecified duration. On the same day, we replied that we could extend the deadline only to November 22, 2002, which is a total of 32 days from our original request for information. Subsequent to this date, we received no further communication from Paramount. Panchmahal and Paramount, by not providing the Department with the necessary CV information to conduct a margin analysis, as described above, repeatedly failed to respond to the Department's request for information within the meaning of section 782(d)(1) of the Act.

Although Snowdrop provided the Department with some information, that information was too incomplete for the Department to conduct a margin analysis. Pursuant to sections 776(a)(1) and 776(a)(2)(A) of the Act, we have preliminarily determined to use the facts otherwise available in reaching the applicable determination. Further, because Panchmahal and Paramount, which, as producers of subject merchandise, are interested parties in this proceeding, did not act to the best of their abilities in withholding information and significantly impeded this review, we preliminarily find that it is appropriate to make adverse inferences pursuant to section 776(b) of the Act. See *Coumarin From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 66 FR 34614 (June 29, 2001); *Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, and Final Partial Rescission of Antidumping Duty Administrative Review*, 66 FR 20634 (April 24, 2001); *Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002); and *Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 63877 (October 16, 2002). When making adverse inferences, the SAA authorizes the Department to consider the extent to which a party may benefit from its own lack of cooperation (SAA at 870). Because Panchmahal currently has a cash deposit rate of 210.00 percent based on the highest rate in the original petition and antidumping duty order,