

calculate a PRC-wide rate. Therefore, the Department must resort to the use of the facts available to ensure that these exporters do not obtain a more favorable result than they would by responding to the Department's request for information. The failure of the parties at issue to respond significantly impedes this proceeding because the Department cannot accurately determine a margin for these parties. Thus, pursuant to section 776(a)(2)(A) and (C) of the Act, in reaching our preliminary determination, we have based the PRC-wide rate on the facts available.

In applying facts otherwise available, section 776(b) of the Act 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 that party as 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, at 870 (1994). Furthermore, "affirmative evidence of bad faith on the part of the respondent is not required before the Department may make an adverse inference." See *Antidumping Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997). In this case, the complete failure of these parties to respond to the Department's requests for information constitutes a failure to cooperate to the best of their ability. Since the information is within the sole possession of the parties at issue, the Department is precluded from determining an accurate margin for the other producers and exporters and must therefore resort to the use of adverse facts available.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. However, section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Independent sources may include published price lists, official import statistics and Customs data, and information obtained from interested parties during the particular investigation or review. See

SAA at 870 and 19 CFR 351.308(d). "Corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996).

For our preliminary determination, as adverse facts available, we have used as the PRC-wide rate, the highest recalculated dumping margin from the petition with certain adjustments made to the values (see below). In the petition, the petitioner based export price (EP) on actual price quotes for barium carbonate produced in the PRC and offered for sale by several different Chinese trading companies.² For the NV calculation, the petitioner based the factors of production, as defined by section 773(c)(3) of the Act (raw materials, labor, energy, and representative capital costs) on the quantities of inputs used by the petitioner.

With regard to the EP calculation in the petition, the petitioner also provided AUVs by port of entry which the petitioner obtained from the ITC's Interactive Tariff and Trade DataWeb (DataWeb). See October 16, 2002 Response to Supplemental Request at Exhibit 1 and Web site: http://dataweb.usitc.gov/scripts/user_set.asp. As discussed in the memorandum to Gary Taverman, Director, Office 5, from David Layton, Tisha Loeper-Viti and Kristina Boughton, Case Analysts regarding Corroboration of Secondary Information (Corroboration Memo), dated March 10, 2003, we were unable to corroborate the petitioner's price quotations with data submitted by Qingdao Red Star in its questionnaire responses because the petitioner's price quotations did not correspond to any of the export prices reported by the respondent in this proceeding. The Department was also unable to corroborate these prices with average unit values (AUVs) for the POI that were based on quarterly quantities and values of total barium carbonate imports from

the PRC reported on DataWeb. In addition, the terms of sale related to the petitioner's price quotes appear to differ from the terms underlying the respondent's prices as explained in the Corroboration Memorandum.³ Since the Department was unable to corroborate the petitioner's price quotations for purposes of using them in the Department's calculation of the PRC-wide rate, we have substituted an EP based on the weighted average of all of the port-specific AUVs provided by the petitioner except for one port-specific AUV that appeared to be aberrationally high. See Corroboration Memo at Attachment 1. These AUVs are based on actual POI customs values for imports from the PRC falling under the only tariff classification subheading covering subject merchandise. The publicly available AUVs reflect barium carbonate prices net of international freight for all Chinese exporters including those who did not respond. Therefore, we consider the AUVs to have probative value for purposes of calculating the PRC-wide rate.

We compared the petitioner's factor consumption rates to the respondent's factor consumption rates, which is the only other factor consumption data on the record of this investigation. As discussed in the Corroboration Memo, we were unable to corroborate the petitioner's factor consumption data with the data provided by the respondent. Nevertheless, we consider the petitioner's factor consumption rates for materials, labor and energy to have probative value on the basis that these consumption factors are derived from the petitioner's own experience in producing the subject merchandise. See Corroboration Memo at 7.

The surrogate values for the factors of production in the petition were based on publicly available information for comparable inputs in India, and in the case of barite ore, on a price quote from an Australian producer. With the exception of the values for packing material, which differed only slightly, and water, which was the same, we updated Indian surrogate values used in the petition with values based on more current values from publicly available sources and revised the NV calculation accordingly. See FOP Memo. We replaced the price quote value for barite ore with a value based on Indonesian imports from a publicly available source. See discussion in the *Factors of Production* section below and in the FOP Memo. We consider the Indian values, and the Indonesian value, both

² In calculating export price, the petitioner adjusted for foreign inland freight using a surrogate value for rail freight in accordance with our NME calculation methodology.

³ The explanation of the difference in terms of sale involves some proprietary information.