

corrections to their questionnaire responses. The corrections included a previously unreported production order, which amounted to a significant increase in the production for the POR. The verification team proceeded with verification of the questionnaire responses, but indicated that it would have to confer with Washington concerning whether the new information could be accepted. On July 26, 2002, after consulting with Washington, the team returned all documents relating to the new production data and halted the remainder of the verification in China. See "Memorandum Regarding Administrative Review of Petroleum Wax Candles from the Peoples Republic of China (PRC) (A-570-504): PRC Verification," Memorandum to the File, through Sally C. Gannon, from Mark Hoadley, Brett Royce, and Jessica Burdick (August 30, 2002) (*PRC Verification Report*), which is on file in the Central Records Unit (CRU), room B-099 of the main Department building; "Memorandum Regarding 2000/2001 Administrative Review on Candles from the People {sic} Republic of China (A-570-504): Telephone Call Regarding Verification," for The File from Sally C. Gannon (August 2, 2002).

The next week, the Department informed respondents that it would proceed with the U.S. portion of the verification, and the Department and respondents agreed on August 12 through 15, 2002 as the dates for this verification. See "Memorandum Regarding 2000/2001 Administrative Review on Candles from the People {sic} Republic of China (A-570-504): Telephone Call Regarding Verification & Rejection of New Factual Information," for The File, through Sally C. Gannon, from Jessica Burdick (July 31, 2002). On August 9, 2002, respondents called and informed the Department that they had made a decision not to proceed with the U.S. portion of the verification. See "Memorandum Regarding 2000/2001 Administrative Review on Candles from the People {sic} Republic of China (A-570-504): Telephone Call Regarding Verification," for The File, from Sally C. Gannon (August 9, 2002). On August 9, 2002, respondents also filed a letter informing the Department of their decision not to participate in the U.S. verification.

For these final results of review, we continue to find that, in accordance with section 776(a)(2)(D) of the Act, the use of facts available for respondents is appropriate. Respondents' decision not to allow the Department to conduct an on-site U.S. verification prevented necessary information from being

verified as provided in section 782(i), a condition specifically listed in section 776(a)(2)(D) as mandating the use of facts available. Once the Department determines that the use of facts available is warranted, section 776(b) of the Act further permits the Department to apply an adverse inference if it makes the additional finding that "an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information." As stated above, the Department set a date for the U.S. portion of the verification that respondents agreed was acceptable. Respondents decided not to proceed with verification. Respondents did not ask that the verification be rescheduled, but simply stated that they would not proceed with the verification. Since respondents cancelled the U.S. sales verification, the Department cannot rely on respondents' questionnaire responses to calculate a dumping margin for Fay Candle. The U.S. sales verification is integral to our calculation because, without performing the U.S. sales verification, we were unable to complete the sales reconciliation as well as verification of total quantity and value, which are principal elements of the overall verification of respondents' questionnaire responses.

Furthermore, while the Department was able to verify parts of the questionnaire responses in China, that information is inextricably linked with the information unverified in the United States. See *PRC Verification Report*. For example, the Department was able to verify several factors used in the production of candles. However, that information is not usable if the Department is unable to verify which products were actually sold in the United States. The Department would have been able to ascertain this if the U.S. verification had been allowed. Moreover, personnel at Fay Candle stated that some items in the factors of production portion of the response would have to be verified, at least in part, in the United States. For example, they stated that additional documents we requested to confirm the amounts of dyes, fragrances, packaging and hang tags used in production were kept in Florida. In addition, as noted above, by not performing the U.S. sales verification, we were unable to complete the sales reconciliation as well as verification of total quantity and value, which are principal elements of the overall verification of respondents' questionnaire responses. Thus, the use of facts available is mandated for the total response of Fay Candle and its importers. In other words, it is not

possible to rely on respondents' questionnaire responses to calculate a margin for Fay Candle's exports, even using partial facts available "plugs" for U.S. sales data, which is the data for which respondents decided not to allow verification.

Therefore, we determine that respondents did not cooperate to the best of their ability for these final results of review and that the use of adverse facts available is appropriate under section 776(b). In the *Preliminary Results*, as adverse facts available, we applied the calculated margin of 95.22 percent as published in *Petroleum Wax Candles from the People's Republic of China: Notice of Final Results of New Shipper Review*, 67 FR 41395 (June 18, 2002) (*Candles NSR*). See "Memorandum Regarding Petroleum Wax Candles from the People's Republic of China (PRC): Application of Facts Available for Exports from Dongguan Fay Candle Co., Ltd.—Preliminary Results of the Administrative Review (August 1, 2001 through July 31, 2001) to Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, through Barbara E. Tillman and Sally C. Gannon, from Mark Hoadley and Brett Royce (September 3, 2002) for a complete discussion of the Department's decision in the *Preliminary Results* to apply adverse facts available and the choice of the rate from the new shipper review.

Since the *Preliminary Results*, the Department has carefully considered the arguments raised by interested parties regarding the application of adverse facts available and the choice of dumping margin. As detailed above, the Department continues to determine that the use of adverse facts available is appropriate under sections 776(a) and 776(b) of the Act. However, the Department has reconsidered the use of the *Candles NSR* margin in light of the arguments submitted by interested parties in this review. The 95.22 percent margin was calculated for a new shipper, a trading company, whose single sale, albeit of more than one product, during the new shipper POR was also its first sale ever to the United States. Because of the substantial difference between the two margins calculated in the new shipper review (and weight-averaged into the 95.22 percent margin) and the unusual facts surrounding the new shipper's one sale, the Department has determined that the application of the new shipper's weighted-average margin would be inappropriate. The wide range of the two margins weight averaged together in the new shipper review, given the nature of the new shipper as a start-up