

form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Because Nippon Gohsei provided information to the Department but subsequently withdrew that information from the record of this case, we have applied FA to calculate its dumping margin, pursuant to section 776(a)(2)(C) of the Act.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information. *See, e.g., Notice of Final Determination of Sales of Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (Aug. 30, 2002). Nippon Gohsei was notified in the Department's original and supplemental questionnaires that failure to submit the requested information by the dates specified might result in use of FA. After the Department issued its preliminary determination, Nippon Gohsei: 1) notified the Department that it would no longer participate in this investigation; and 2) withdrew its submissions containing business proprietary information from the record. Without Nippon Gohsei's data, we are unable to calculate a dumping margin for Nippon Gohsei. As a consequence, we find that Nippon Gohsei has failed to cooperate to the best of its ability. As Nippon Gohsei failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act.

Corroboration of Information

Section 776(b) of the Act authorizes the Department to use as AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as “{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” *See Statement of Administrative Action (SAA)*

accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d).

The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. *See* the SAA at 870. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.*

In the preliminary determination, we corroborated the margins in the petition using information submitted by Nippon Gohsei. However, because Nippon Gohsei has withdrawn this information from the record of this case, we have re-examined the issue of corroboration for the final determination.

Therefore, in order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined additional evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*see* the September 25, 2002, Initiation Checklist, on file in the Central Records Unit, Room B-099, of the Main Commerce Department building, for a discussion of the margin calculations in the petition). In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margins in the petition were based.

Export Price

With respect to the margins in the petition, EP was based on POI price quotes for the sale of PVA produced by Kuraray to customers in the United States. The petitioners calculated net U.S. prices for PVA by deducting a distributor mark-up, where applicable, and certain movement charges.

For purposes of corroborating the price-to-price calculations in the petition, we compared these prices to U.S. customs data. Using U.S. customs data, we calculated the average U.S. price of imports from all mandatory respondents. We found that the petitioners' price quotes were comparable to the U.S. Customs information. Therefore, we find that the petitioners' information for U.S. price continues to have probative value.

For further discussion, see the April 28, 2003, memorandum to the file from the team entitled “Corroboration of Data Contained in the Petition for Assigning Facts Available Rates” (Corroboration Memo).

Normal Value

The petitioners based NV on home market price quotes from Kuraray for PVA of a comparable grade to the products exported to the United States. These price quotes were contemporaneous with the U.S. price quotes used as the basis for EP. In addition, the petitioners alleged that sales of PVA products in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we found reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department initiated a country-wide cost investigation. Pursuant to section 773(b)(3) of the Act, COP consisted of the cost of manufacture (COM), selling, general and administrative (SG&A) expenses, and packing. The petitioners calculated COP based on the experience of a U.S. PVA producer during the 2001 fiscal year, adjusted for known differences between costs incurred to manufacture PVA in the United States and Japan.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners based NV for sales in Japan on constructed value (CV). The petitioners calculated CV using the same COM, SG&A and financial expense figures used to compute the COP. Consistent with section 773(e)(2) of the Act, the petitioners included in CV an amount for profit. For profit, the petitioners relied upon the amount reported in Kuraray's 2001 financial statements. The petitioners made a circumstance-of-sale adjustment for credit expenses.

The Department was provided with no useful information by the respondents or other interested parties and is aware of no other independent sources of information that would enable us to further corroborate the margin calculations in the petition. Specifically, we attempted to locate both home market prices through publicly available sources and U.S. producer costs upon which CV was