

profits according to their business needs. Additionally, none of the respondents' questionnaire responses suggest pricing is coordinated among exporters. Furthermore, our analysis of the respondents' questionnaire responses reveals no other information indicating government control. Based on the information provided, we preliminarily determine that there is an absence of *de facto* governmental control of the respondents' export functions. Consequently, we preliminarily determine that JMC, SLK, Pannext, Chengde, and SCE have met the criteria for the application of a separate rate.

#### **The People's Republic of China-Wide Rate**

All exporters were given the opportunity to respond to the Department's questionnaire. As explained above, we received timely Section A responses from JMC, SLK, Pannext, Chengde, and SCE.<sup>2</sup> Our review of U.S. import statistics from the PRC, however, reveals that JMC, SLK, Pannext, Chengde, and SCE did not account for all imports of subject merchandise into the United States from the PRC, even after adjusting for the merchandise of Chinese origin Myland said it had imported into the United States. For this reason, we preliminarily determine that some PRC exporters of MPF failed to respond to our questionnaire. Consequently, we are applying a single antidumping rate the PRC-wide rate to all other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China*, 65 FR 25706, 25707 (May 3, 2000) (*Synthetic Indigo*). The PRC-wide rate applies to all entries of subject merchandise except for entries from JMC, SLK, Pannext, Chengde, and SCE.

#### **Use of Facts Otherwise Available**

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides

information which 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. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Section 776(a)(2)(B) of the Act permits the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. In addition, 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. 316, 103d Cong., 2d Session 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).

#### **PRC-Wide Rate**

In the case of the single PRC enterprise, as explained above, some exporters of the single enterprise failed to respond to the Department's request for information. Pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have used total adverse facts available for the PRC-wide rate because certain entities did not respond. Also, because some exporters of the single enterprise failed to respond to the Department's requests for information, the Department has found that the single enterprise failed to cooperate to the best of its ability.

Therefore, pursuant to section 776(b) of the Act, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

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 C.F.R. 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 recalculated dumping margin from the petition (*see* below). In the petition, the petitioners based export price (EP) on Chinese price quotes publicly available in the United States. *See* <http://www.smithcooper.com/products.htm#Malleable>. For the NV calculation, the petitioners 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 petitioners.

With regard to the EP calculation in the petition, the information relied upon in this case was based on the publicly available Chinese price quotes. Therefore, we find that the U.S. price from the petition margin is sufficiently corroborated. To corroborate the petitioners' NV calculations, we

<sup>2</sup> As previously stated, for the preliminary determination we have found that Myland did not respond to the Department's questionnaire in a timely manner.