

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. Specifically, 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. The purpose of applying an adverse inference is "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).

In the instant investigation, the Department is not relying on adverse facts available, as respondents have supplied the Department with CONNUM-specific yield losses as requested. However, the information currently on record does not satisfy the statute with respect to the unreported inputs in the calculation of normal value. The respondents have said that they are unable to provide the Department with this information, and have not proposed an alternative methodology through which the Department could comply with its statutory obligation to value all inputs. Therefore, for this preliminary determination, the Department must rely on partial facts available for the value of recycled scrap. In its calculation of constructed value for this preliminary determination, the Department is therefore relying on information provided by the petitioners in its calculation of the unreported inputs. In their May 15, 2003, submission to the Department, petitioners provided worksheets demonstrating the unreported factors of production for metallic inputs using petitioners', JMC's, and Pannext's data. See Letter from Petitioners to the

Department dated May 15, 2003 (Petitioners' May 15th Letter). Petitioners calculated an adjustment factor for the unreported metallic inputs based on the total quantity of inputs of purchased scrap and recycled scrap from the Petition, adjusting for respondent's reported yield losses and by-product adjustments for one type of subject merchandise. The Department does not have sufficient information to recalculate these input adjustments for the unreported metallic inputs on a CONNUM-specific basis. Therefore, for this preliminary determination, the Department is using an average of the adjustment ratios for JMC and Pannext as calculated in Petitioners' May 15th Letter at Exhibit 4, and increasing JMC, Pannext, and SLK's reported values for purchased steel scrap by this average, 56.83%.

Additionally, in certain instances JMC and Pannext have reported their factors of production for purchased metallic inputs as less than one kilogram of input to make one kilogram of output. It is the Department's position that it is unreasonable that JMC and Pannext have documented an output weight greater than the input weight. As neutral facts available, for JMC and Pannext, when the reported metallic input to produce one kilogram of output was less than one kilogram, we have used the POI-wide average quantity for steel scrap input as reported in their response. See *e.g.*, Pannext's Section D Questionnaire Response, dated March 3, 2003, at Exhibit 7, and JMC's Section D Questionnaire Response, dated February 24, 2003, at Exhibit D-8-A. For a further analysis of the company-specific calculations, please see JMC Analysis Memo, Pannext Analysis Memo, and SLK Analysis Memo.

We valued the above input factors of production using publicly available published information as discussed in the "Surrogate Country" and "Factor Valuations" sections of this notice.

In accordance with 19 C.F.R. 351.408(c)(1), where a producer sources an input from a market economy and pays for it in market economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. See also *Lasko Metal Products v. United States*, 43 F. 3d 1442, 1445-1446 (Fed. Cir. 1994) (*Lasko*). However, though respondents JMC and Pannext reported that one of their material inputs used in the manufacture of certain types of subject merchandise were sourced from market economies and paid for in market economy currency, Pannext and JMC purchased this input from market economies that the Department considers to be

potentially aberrational. The Department has determined that South Korea, Thailand, and Indonesia maintain broadly available, non-industry specific export subsidies which may benefit all exporters to all export markets. See *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From the People's Republic of China*, 67 FR 6482 (February 12, 2002). Therefore, the Department has not used the values of inputs from these countries from to calculate the surrogate values. See "Factor Valuation" section below.

Pannext reported a "self-produced" factor for water among its factors of production for inputs. We preliminarily determine to value water through use of surrogate valuation, rather than based on surrogate valuation of the factors going into the production of those inputs.

#### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on factors of production (FOP) reported by respondents for the POI. For JMC the Department has applied, as neutral facts available, an average of the FOP values reported by Pannext and SLK for the unreported input of resin coated sand used in the production of subject merchandise. A complete analysis of this issue is available in the JMC Analysis Memo. In the case of one respondent, a trading company, SLK, one of its suppliers failed to report a factor of production for resin coated sand. Therefore, for SLK the Department has applied, as neutral facts available, an average of the FOP values reported by Pannext and the values reported by the remaining four suppliers of SLK for resin coated sand. For SLK, the Department has also applied, as neutral facts available, and average of the FOP values reported by Pannext and JMC for the unreported inputs of limestone used in the production of subject merchandise. A complete analysis of this issue is available in the SLK Analysis Memo.

To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. For a detailed description of all surrogate values used for respondents, see Factor Valuation Memorandum.