

of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. In this case, the Department requested that the producer provide the weighted-average cost of all facilities producing the product, and to report all affiliated producers. In responding to our requests for information, contrary to these instructions, respondent failed to disclose the additional production facility. Because disclosure of the existence of the additional production facility did not occur until verification in the concurrent CVD proceeding, approximately five weeks prior to the deadline for these final results and fourteen months after this review began, we had no opportunity to inform respondent of any deficiency in its responses or to request additional information. Prior to the disclosure at verification, the Department appropriately relied upon respondent's assertions that it had disclosed all relevant cost information.

Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, and the Department can use the information without undue difficulties, the statute requires it to do so. In this proceeding, the proper, complete cost data was not provided, which renders the costs as reported so incomplete and unreliable as to be unusable.

Therefore, in these final results, the Department will resort to the partial use of facts available as the respondent's reported costs cannot be relied upon, in accordance with section 776(a)(2)(A) of the Act. In doing so, the Department must then determine whether the use of an adverse inference in applying facts available is warranted under section 776(b) of the Act. In the instant review, we find that an adverse inference is warranted given that the respondent withheld critical information with

respect to the existence of the additional production facility. This omission renders the reported cost data so incomplete as to prevent the Department from determining the proper basis for constructed value (CV). Moreover, the significance of this omission is seriously compounded by the fact that normal value in this review is based entirely on CV. For further discussion of application of adverse facts available see comment 1 of the "Issues and Decision Memorandum" (Issues and Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Susan H. Kuhbach, Acting Assistant Secretary for Import Administration, dated December 26, 2002 and the Memorandum to Neal M. Halper from Gina K. Lee, RE: Constructed Value Adjustments for Final Results, dated December 26, 2002.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this new shipper review are addressed in the Issues and Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Susan H. Kuhbach, Acting Assistant Secretary for Import Administration, dated December 26, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Issues and Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B-099.

In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/summary/list.htm>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

#### Changes since the Preliminary Determination

To determine whether sales of certain in-shell raw pistachios from Iran to the United States were made at less than normal value, we compared export price to normal value. Based on our analysis of comments received, we have made certain changes in the margin calculation. See Analysis Memorandum dated December 26, 2002.

#### Final Results of Review

We determine that the following percentage weighted-average margin exists for the period July 1, 2000, through June 30, 2001:

Exporter/Manufacturer	Weighted-Average Margin
Tehran Negah Nima Trading Company, Inc. (Nima) .....	144.05 percent

#### Assessment

The Department shall determine, and U.S. Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b) (2002), we have calculated exporter/importer-specific assessment rates. We calculated importer-specific duty assessment rates on a unit value per kilogram basis and then divided this sum by the entered value for that sale. Based on our determination in this review, we will instruct Customs to assess antidumping duties on the merchandise subject to review. The Department is currently conducting a new shipper review of the countervailing duty order on raw in-shell pistachios from Iran involving Nima. The Department will adjust both the antidumping duty assessment rate and cash deposit rate for Nima/Maghsoodi Farms to offset any export subsidies found at the conclusion of the countervailing new shipper review.

#### Cash Deposit Requirements

Bonding is no longer permitted to fulfill security requirements for shipments from Nima of certain in-shell raw pistachios from Iran entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of new shipper review. As Nima is the exporter but not the producer of subject merchandise, the Department's final results will apply to subject merchandise exported by Nima and produced by Maghsoodi Farms. See 19 CFR 351.107(b). Therefore, the following deposit requirements will be effective upon publication of this notice of final results of this new shipper review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(B) of the Act: (1) For the merchandise exported by Tehran Negah Nima Trading Company, Inc. (Nima) and produced by Maghsoodi Farms, the cash deposit rate will be 144.05 percent; (2) for subject merchandise exported by Nima but not produced by Maghsoodi Farms, moreover, the cash deposit rate will be the "all others" rate established in the original less than fair value (LTFV) investigation. See 51 FR 25922 (July 17, 1986); (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV