

Alignment With Final Antidumping Duty Determination

On June 26, 2003, petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination in the companion antidumping duty investigation. Therefore, in accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determination in the antidumping duty investigation of prestressed concrete steel wire strand from India.

Period of Investigation

The period of investigation (POI) is April 1, 2001 through March 31, 2002. This period was alleged by petitioners to be the Indian producers'/exporters' most recently completed fiscal year. See the *Initiation Notice* and the February 20, 2003, Office of AD/CVD Enforcement VI Initiation Checklist titled "Initiation of Countervailing Duty Investigation: Prestressed Concrete Steel Wire Strand from India (C-533-829)" (*Initiation Checklist*), which is on file in the CRU.

Use of Adverse Facts Available

We preliminarily determine that the GOI and TISCO's questionnaire responses are incomplete and unusable, for the reasons set forth below. Therefore, for this preliminary determination, we have calculated a single countervailing duty rate that is applicable to all Indian producers/exporters of subject merchandise. Accordingly, we also preliminarily determine to base the calculation of this one rate on facts available, pursuant to section 776(a) of the Act, and adverse inferences, pursuant to section 776(b) of the Act (hereafter "adverse facts available").

Despite our repeated requests and numerous extensions described above, the GOI and the Indian exporters/producers of subject merchandise have not provided the requested program information and company-specific data necessary for calculating company-specific countervailing duty rates.

We requested in the initial questionnaire that the GOI provide basic information regarding the production of subject merchandise in India and the administration of the federal and state programs that we are investigating. As described above, although the GOI provided two partial questionnaire responses, these submissions are incomplete and unusable because they contain only a small portion of the information we requested in the initial

questionnaire. The GOI did not provide complete answers and did not provide useable information. Moreover, the GOI failed to answer specific questions regarding the nature of and participants in India's PC strand industry and failed to answer specific questions regarding the various federal and state programs under investigation. The GOI also failed to distribute the "company" portion of the questionnaire to the producers/exporters of subject merchandise.

In a supplemental questionnaire, we requested that the GOI provide all of the information it had neglected to provide in its two partial questionnaire responses. Despite this second opportunity to provide the information requested in the initial questionnaire and the additional time to provide it, the GOI did not file a response and therefore did not provide the information necessary to conduct this countervailing duty investigation.

Similarly, the questionnaire responses provided by TISCO are incomplete and unusable. Despite several extensions, TISCO failed to provide answers to specific questions regarding its use of various federal and state programs under investigation. Most notably, however, TISCO failed to provide the information requested regarding its affiliated and parent companies. In addition, TISCO failed to submit its tax returns, as requested in the Tax Programs Appendix of the initial questionnaire. A copy of the company's tax return is necessary for ascertaining whether the company claimed a tax exemption for export profits under section 80 HHC of the India Tax Act. As mentioned in the "*Case History*" section, above, counsel for TISCO acquired a copy of TISCO's tax return and offered to file it on the record; however, the information, for which the Department had not granted an extension, would have been filed nearly two weeks after the supplemental questionnaire was due, and less than a week before this preliminary determination was issued. TISCO had the opportunity to provide its tax return in the initial questionnaire, for which two extensions were granted, and in the supplemental questionnaire. Despite these numerous opportunities, TISCO did not submit its tax return. The Department's statutory obligations require a reasonable cut-off point for new information to be submitted on the record and considered; therefore, the Department did not solicit TISCO's tax return upon learning of its availability. TISCO also failed to submit any information regarding most of the state programs under investigation. TISCO also did not submit adequate

information regarding the Pre-shipment and Post-shipment Export Financing program.

In a supplemental questionnaire, we requested the above-mentioned information. Although TISCO provided some additional information, the company did not submit its tax returns, did not provide any additional information about the state programs, did not provide information about their affiliate and parent companies, and did not supplement its previously-submitted information regarding the Pre-shipment and Post-shipment Export Financing program. Moreover, all of the information submitted in both the initial and supplemental questionnaires was generated from the Indian fiscal year 2002-2003, a fiscal year that was not yet completed when the original questionnaire was issued. Respondents did not consult with Department officials regarding their definition of the period of investigation. The information provided by the GOI covered the POI as identified in the questionnaire.

Section 776(a) of the Act requires the use of facts available when an interested party withholds information that has been requested by the Department, or when an interested party fails to provide the information requested in a timely manner and in the form required. As described above, the GOI and TISCO, as well as any other Indian producers or exporters of the subject merchandise, have failed to provide the information regarding the programs under investigation that the Department expressly requested in the initial and supplemental questionnaires. Because of TISCO's and the GOI's lack of cooperation, the statute requires the use of facts otherwise available for purposes of calculating the countervailing duty rates in this investigation.

Furthermore, section 776(b) of the Act provides that in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a party if it determines that a party has failed to cooperate to the best of its ability. The Department finds that by not providing necessary information specifically requested by the Department in this investigation, despite numerous opportunities, the GOI and TISCO have failed to cooperate to the best of their ability. As discussed above, the GOI failed to act to the best of its ability by not distributing the questionnaires to Indian producers/exporters of subject merchandise, not providing necessary information specifically requested in the questionnaire, and not responding to the Department's supplemental questionnaire. TISCO also failed to act