

to the best of its ability by not providing necessary information specifically requested in the questionnaire and supplemental questionnaire, despite numerous extensions, and by submitting information using a different POI without consulting the Department. Therefore, in selecting facts available, the Department determines that an adverse inference is warranted.

Section 776(b) of the Act indicates that, when employing an adverse inference, the Department may rely upon information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review; or (4) any other information placed on the record. See also 19 CFR §351.308(c).

If the Department relies on this secondary information as facts available, section 776(c) of the Act provides that the Department shall, "to the extent practicable," corroborate such information using independent sources reasonably at its disposal. The Statement of Administrative Action accompanying the URAA (SAA) further provides that to corroborate secondary information means that the Department will satisfy itself that the secondary information to be used has probative value. See also, 19 CFR 351.308(d). Thus, in those instances in which the Department determines to apply adverse facts available, in order to satisfy itself that such information has probative value, the Department will examine, to the extent practicable, the reliability and relevance of the information used. However, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there are typically no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. The only source for such information normally is administrative determinations. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render benefit data not relevant. See *Cotton Shop Towels From Pakistan: Final Results of Countervailing Duty Administrative Review*, 66 FR 42514 (August 13, 2001). However, the fact that corroboration may not be practicable in a given case does not prevent the Department from applying an adverse inference as appropriate, and does not prevent the Department from using the secondary information. See 19

CFR 351.308(d). The SAA accompanying the URAA clarifies that information from the petition is "secondary information." See Statement of Administrative Action, accompanying H.R. 5110 (H. Doc. No. 103-316) (1994) at 870.

Because the respondents failed to act to the best of their ability, as discussed above, for each program examined, unless the record information made it clear that respondents could not have received benefits from the program, we made the adverse inference that the respondent benefitted from the program, consistent with our practice. See, e.g., *Certain Cold-Rolled Carbon Steel Flat Products From Korea; Final Affirmative CVD Determination*, 67 FR 62102 (October 3, 2002). Therefore, as adverse facts available, we preliminarily determine to use (where possible) the highest company-specific program rates from the most recently-completed investigation pertaining to exports of an Indian steel product see *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 49635 (September 28, 2001) (*Hot-Rolled Steel From India*) and *Issues and Decision Memorandum: Final Results of the Countervailing Duty Investigation: Certain Hot-Rolled Carbon Steel Flat Products From India*, which is on file in the CRU or available online at <http://www.ia.ita.doc.gov/frn/summary/india/01-24404-1.txt> (*Hot-Rolled Steel From India Decision Memo*). Because some of the programs under investigation were not investigated in *Hot-Rolled Steel From India*, 66 FR 49635, we preliminarily determine, consistent with our practice, to use (where possible) the highest company-specific program rates from another recently-completed Indian investigation. See *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip From India*, 67 FR 34905 (May 16, 2002) (*PET Film From India*) and *Issues and Decision Memorandum: Final Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India*, which is on file in the CRU or available online at <http://ia.ita.doc.gov/frn/summary/india/02-12294-1.txt> (*PET Film From India Decision Memo*). See also *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils From the Republic of Korea*, 64 FR 30636 (June 8, 1999) (*Sheet and Strip from Korea*).

To corroborate the secondary information that Indian producers/exporters of subject merchandise are eligible to use and may have benefitted

from these programs, we reviewed the federal and state industrial policy and tax bulletins that were submitted on the record by petitioners (in the petition) and by the GOI and the Indian producers/exporters in their questionnaire responses. We also reviewed official government correspondence and records kept by administering authorities. We note that many of these documents were examined at the respective verifications. See *Hot-Rolled Steel From India*, 66 FR 49635, and *PET Film From India*, 67 FR 34905. Based on our review of these documents, these rates are neither unduly harsh nor punitive, and because they have been corroborated, continue to have probative value.

With respect to two of the programs we have previously examined, Tax Deductions under Section 80HHC of the India Tax Act and the State of Maharashtra Capital Incentive Scheme, we were unable to use company-specific program rates from *Hot-Rolled Steel From India* and *PET Film From India* because the Department determined that the programs were not used during the POIs of those cases. As adverse facts available for these two programs, we preliminarily determine to use program rates of 2.00 percent *ad valorem*, which is the *de minimis* rate for developing countries. See Section 703(b)(4)(B). To corroborate our adverse inference that Indian producers/exporters of subject merchandise are eligible to use and may have benefitted from these programs, we reviewed the federal and state industrial policy and tax bulletins that were submitted on the record by petitioners (in the petition) and by GOI and the Indian producers/exporters in their questionnaire responses. We also reviewed official government correspondence and records kept by administering authorities. We note that many of these documents were examined at the respective verifications. See *Hot-Rolled Steel From India*, 66 FR 49635, and *PET Film From India*, 67 FR 34905. Based on our review of these documents, these rates are neither unduly harsh nor punitive, and because they have been corroborated, continue to have probative value.

For each program that we have not examined in previous investigations or administrative reviews, we preliminarily determine to use an adverse facts available program rate of 2.00 percent *ad valorem*. See "Programs Previously Not Examined" section, below. In selecting this rate, we relied on the information put forth by petitioners. In a letter to the Secretary of Commerce dated June 16, 2003, petitioners argue for the application of