

include close relationship with a supplier, (sub) contractor, lender, distributor, exporter or reseller. Evidence currently on the record suggests that Cablesa may be affiliated with its sole U.S. customer, thereby necessitating that Cablesa provide the downstream sales of that customer. We intend to pursue this issue further.

#### *B. Application of Adverse Inferences for Facts Available*

In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). 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 accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, at 870 (1994) (SAA). Furthermore, “{a}ffirmative evidence of bad faith on the part of a 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).

We find that the application of an adverse inference in this case is appropriate. Cablesa failed to provide critical data regarding its costs. Despite the Department's instructions in the original and supplemental questionnaires, and the extensions granted, Cablesa made no effort to provide any explanation or propose an alternate form of submitting the data. Cablesa's actions have rendered the cost response useless for purposes of the dumping analysis. This constitutes a failure on the part of this company to cooperate “to the best of its ability to comply with a request for information” by the Department within the meaning of section 776 of the Act. Therefore, the Department has preliminarily determined that in selecting from among the facts otherwise available, an adverse inference is warranted because Cablesa has failed to respond adequately to the Department's request. *See Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000).

#### *C. Selection and Corroboration of Information Used as Facts Available*

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See also* 19 CFR 351.308(c); SAA at 829–831. In this case, because we are unable to calculate a margin for Cablesa, we assign to Cablesa the highest margin alleged for Mexico in the petition. *See Initiation Notice*, 68 FR at 9053.

When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) in using facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR 351.308(d); *see also* SAA at 870.

To assess the reliability of the petition margin for the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition for both this preliminary determination and during our pre-initiation analysis. *See* Office of AD/CVD Enforcement Initiation Checklist, at 15 (February 20, 2003) (*Initiation Checklist*). Also, as discussed below, we examined evidence supporting the calculations in the petition to determine the probative value of the margins in the petition for use as AFA for purposes of this preliminary determination. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margins in the petition were based. *See* Memorandum from Daniel O'Brien, International Trade Compliance Analyst, to the File, Re: Corroboration of Data Contained in the Petition for Assigning Facts Available Rate

(Corroboration Memo), dated July 10, 2003.

#### 1. Corroboration of Export Price

The petitioners based EP on prices within the POI for sales of PC strand manufactured by a Mexican producer and offered for sale directly to an unaffiliated U.S. customer. The petitioners averaged the gross prices for the individual prices and deducted U.S. import duties, freight and insurance to the U.S. port of entry, and U.S. inland freight from the average price. The petitioners did not deduct U.S. harbor maintenance and merchandise processing fees, based on the conservative assumption that the Mexican products were shipped over land.

In the petition, the Department was provided with two affidavits for U.S. pricing data for Camesa, one for pricing of ½ inch, 270 grade PC strand delivered to the U.S. port of entry, and the other for pricing of ½ inch, 270 grade PC strand delivered to the U.S. customer. For purposes of corroborating these price-to-price calculations in the petition, we compared this price to Cablesa's U.S. sales database submitted on June 18, 2003. Using this data, we noted that the prices listed in the affidavits in the petition were comparable to the data submitted by Camesa; therefore, we find that the petitioners' information for U.S. price continues to have probative value. *See* Corroboration Memo.

#### 2. Corroboration of Normal Value

With respect to NV, the petitioners provided a home market price that was obtained from an invoice for a sale by Camesa in Mexico to an unaffiliated customer. The petitioners state that the invoice price reported was a delivered price. To calculate the NV, the petitioners deducted inland freight from the home market price, and, consistent with our statutory EP circumstances-of-sale calculation methodology, adjusted the home market price for imputed credit and commissions by deducting home market credit expenses from the home market prices and adding the U.S. imputed credit and U.S. commission expenses to this price.

We confirmed that the invoice submitted by the petitioners was correctly included in Camesa's home market database submitted to the Department on June 18, 2003, and note therefore that it has probative value. *See* Corroboration Memo at 2.

The implementing regulation for section 776 of the Act, at 19 CFR 351.308(d) states, “{t}he fact that corroboration may not be practicable in