

at 870 (1994) (SAA). Furthermore, “{affirmative} 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).

In this case, TISCO has failed to timely provide a complete and useable response to the Department’s Section D questionnaires, which included two supplemental questionnaires. The original questionnaire was issued on April 4, 2003, to which TISCO submitted its Section D response on May 27, 2003. In order to address the deficiencies in TISCO’s response, the Department issued the first supplemental Section D questionnaire on June 6, 2003. TISCO’s response was received on June 24 and 25, 2003. On July 1, 2003, the Department issued the second supplemental section D questionnaire, once again requesting detailed cost of manufacturing information for the steel wire rod input used to produce the subject merchandise, in addition to numerous other important methodological inquiries. In this questionnaire we noted that in its previous submission, TISCO failed to provide the requested detailed cost of manufacturing for the steel wire rod used to produce the subject merchandise, and that this information is necessary for the Department to analyze adequately the response.

We established July 7, 2003, as the due date for the second supplemental section D questionnaire in order to allow the Department adequate time to analyze the response and to incorporate it into the calculation of the dumping margin for the preliminary determination. TISCO, however, having been informed of the importance of the requested information for the Department’s analysis, failed to respond, even after the Department had granted it another extension of the deadline, *i.e.*, until July 9, 2003. TISCO’s failure to provide this critical information in a timely manner has rendered its entire submission inadequate and unusable for the preliminary determination. 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. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from*

*Japan*, 65 FR 42985, 42986 (July 12, 2000) (the Department applied total AFA where respondent failed to respond to the antidumping questionnaires).

#### *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 based on TISCO’s own data and because an adverse inference is warranted, we assign to TISCO the highest margin from the proceeding, which is the highest margin alleged for India in the petition, as recalculated in the initiation and described in detail below. *See Initiation Notice*, 68 FR at 9052.

When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition), 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 constructed export price (CEP) and normal value (NV) calculations on which the margins in the petition were based. *See* Memorandum from Martin Claessens, International Trade Compliance Analyst, to Gary Taverman, Director, Office 5, Re: Corroboration of Data Contained in the Petition for Assigning Facts Available Rates, dated July 10, 2003 (Corroboration Memo).

#### *1. Corroboration of Constructed Export Price*

The petitioners based CEP on prices for sales of PC strand from an Indian producer, through its U.S. affiliate, to an unaffiliated U.S. purchaser. The petitioners calculated U.S. price by subtracting imputed credit expenses, international freight and insurance, U.S. merchandise processing and harbor maintenance fees, and U.S. inland freight. The petitioners also subtracted an amount for commissions.

We compared the U.S. market price quotes with official U.S. import statistics and U.S. customs data, and found the prices used by the petitioners to be reliable.

#### *2. Corroboration of Normal Value*

With respect to the NV, the petitioners provided a home market price for low-relaxation PC strand that was obtained from foreign market research. *See* Memorandum to the File Re: Telephone Conversation with Market Researcher Regarding the Petitions for Imposition of Antidumping: Prestressed Concrete Steel Wire Strand from India, dated February 7, 2003. To calculate the NV, the petitioners deducted imputed credit expenses and inland freight from the home market prices.

The petitioners also provided information demonstrating reasonable grounds to believe or suspect that sales of PC strand in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation.

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, and packing expenses. The petitioners calculated COM based on their own production experience, adjusted for known differences between costs incurred to produce PC strand products in the United States and India using publicly available data. To calculate SG&A, the petitioners relied upon amounts