

site inspection of the manufacturers' facilities and examination of relevant sales and financial records. Our verification results are detailed in the company-specific verification reports placed in the case file in the CRU. We made certain minor revisions to certain sales and cost data based on verification findings. See the company-specific verification reports and calculation memoranda, in the CRU.

Adverse Facts Available

In accordance with section 776(a)(2) of the Act, the Department has determined that the use of facts available is appropriate for purposes of determining the preliminary antidumping duty margins for the subject merchandise sold by PAM. Section 776(a)(2) of the Act provides:

If an interested party (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and the manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

Moreover, section 776(b) of the Act provides that;

If the administering authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority, the administering authority, in reaching the applicable determination under this title, may use an inference that is adverse to the interests of the party in selecting from among the facts otherwise available.

PAM failed to provide significant home market sales information that was requested by the Department. The Department gave PAM many opportunities to report a complete home market sales database. Specifically, the Department issued to PAM two supplemental questionnaires in addition to the initial sections A–C of the questionnaire, and granted PAM's requests for extensions for each questionnaire response due date. Despite these opportunities, the Department discovered at verification that PAM failed to report at least two-thirds of the home market sales it was required to report. Prior to verification, the Department had no way of knowing such data was missing. In addition to the detailed instructions given in the questionnaires issued to PAM, PAM has participated in previous reviews of this order in which the Department verified

PAM's sales information, and is therefore aware of the Department's reporting requirements. See *Certain Pasta from Italy: Final Results of Antidumping Duty Administrative Review, Partial Recision of Antidumping Administrative Review, and Revocation of Antidumping Duty Order in Part*, 66 FR 300 (January 3, 2002); see also *Certain Pasta from Italy: Final Results of Antidumping Administrative Review and Determination to Revoke the Antidumping Duty Order in Part*, 65 FR 77853 (December 13, 2000). For the reasons set forth in the following sections, we have determined that PAM's failure to report a significant portion of its home market sales warrants the use of facts otherwise available. Because the Department finds that PAM failed to cooperate by not acting to the best of its ability in complying with the Department's requests for a complete home market sales database, the Department is using an inference that is adverse to PAM.

PAM Verification Failure

On May 2, 2003, the Department issued a verification outline for PAM. As noted therein, the verification of PAM's questionnaire response was set for May 12 through May 16, 2003. Thereafter, from May 12 through May 16, 2003, the Department conducted a verification of PAM's questionnaire response at the company's headquarters in Gragnano, Italy. At the verification, as provided in the May 2, 2003 verification outline, the Department's verifiers required PAM to reconcile the total reported quantity and value of its home market sales to its financial records and to demonstrate the completeness of its reported home market sales database. In its verification outline, the Department requested that PAM prepare specific worksheets and have available certain records which the verifiers intended to use to ensure that PAM properly reported all of its home market sales of subject merchandise. See the May 2, 2003 letter from the Department to PAM, transmitting PAM's verification outline, available in the CRU ("As part of this review, we must ensure that all sales of the subject merchandise were properly included in, or excluded from, your sales listings."). The Department also informed PAM in the letter transmitting the verification outline that:

Please note that verification is not intended to be an opportunity for submission of new factual information. New information will be accepted at verification only when: (1) The need for that information was not evident previously; (2) the information makes minor corrections to information already on the

record; or (3) the information corroborates, supports, or clarifies information already on the record.

See PAM's verification outline (emphasis in original).

At verification, it became apparent to the Department's verifiers that PAM had failed to prepare most of the material requested by the Department in the verification outline. Although PAM provided invoices and other source documents, company officials had not prepared adequate supporting documentation in advance, such as the worksheets requested by the Department, to demonstrate how the total reported quantity and value of sales reconciled to the company's financial statements or accounting records. Despite this lack of preparation, during the course of the verification, the verifiers afforded PAM officials the opportunity to reconcile the total reported quantity and value of the company's home market sales to its financial records.⁵ See the July 28, 2003, Memorandum to the File: Verification of PAM's Sales Response ("PAM's Sales Verification Report"). After discussions with company officials, and in the absence of prepared worksheets, the verifiers requested that the officials provide for review, a sales listings and records so that the Department could reconcile the total quantity and value reported in the U.S. and home market sales databases. PAM provided: (1) The VAT sales book for the months of October 2001 and May 2002 and the total of all invoices issued during the same period; (2) the VAT receipts for October 2001 and May 2002; and (3) a chart showing a breakout of the subject and non-subject merchandise sold during these two months. See PAM's Sales Verification Report at Exhibit 14.

Using this information, the Department was able to reconcile PAM's sales for the months of October 2001 and May 2002 to its financial statement. However, the verifiers noticed a large discrepancy between the numbers of sales reported in the home market database and the number of sales reported in VAT sales while checking invoices from the VAT sales account for the month of May 2002. Company officials were initially unsure as to the cause of this discrepancy, but did determine the source of the mistake. According to company officials there are several types of invoices used in PAM's computerized accounting system.

⁵ Consistent with the instructions accompanying the verification outline, PAM did notify the Department of certain minor corrections to its databases prior to the start of verification.