

shipment documentation, etc.). A reasonable respondent would have maintained all this documentation in anticipation the Department would request it. Finally, throughout the process the Department informed CITIC of the importance of the information and the need to respond to the requests for information.

Therefore, in accordance with the statute, the Department finds that CITIC and its suppliers, as interested parties, have not acted to the best of their ability. First, it is reasonable that CITIC should have known, as a responsible exporter, that the requested FOP information was required to be kept and maintained under the applicable statutes, rules, and regulations, as CITIC and one of its suppliers participated in the original investigation. Second, it is reasonable that an interested party could have provided an explanation for either its inability to respond to the Department's requested information or offer alternative forms for which to comply with the Department's requests. Further, it is the Department's procedure to apply adverse facts available when a respondent is unable to provide an explanation and documentation for its failure to supply complete FOP information, even if it is the failure of one of its suppliers. Finally, the Department finds that CITIC and its suppliers, by failing to produce the requested information, engaged in a pattern of non-compliance and also failed to put forth a maximum effort to investigate and obtain the requested information from their records. See *Nippon*, 337 F.3d at 1382. Thus, because CITIC and its suppliers have failed to act to the best of their ability the Department finds that an adverse facts available is applicable to this review.

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. Section 776(c) of the Act provides, however, that, when the Department relies on secondary information rather than on information obtained in the course of a review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870. The SAA clarifies that "corroborate"

means that the Department will satisfy itself that the secondary information to be used has probative value. See *id.* As discussed in *Notice of Preliminary Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) ("TRBs"), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

The highest rate determined in any segment of this proceeding is the PRC-wide rate from the investigation, which is 214.89 percent; it is currently the PRC-wide rate and was calculated based on information contained in the petition. See *Final Determination of Sales at Less Than Fair Value: Foundry Coke Products From The People's Republic of China*, 66 FR 39487 (July, 31, 2001). The information contained in the petition was corroborated for the final determination of the investigation. In the investigation, the Department reviewed the adequacy and accuracy of the petition. To the extent practicable, the Department examined the key elements of the U.S. price and NV calculations on which the petition margin was based and compared the sources used in the petition to publicly available information, where available, and respondent data as appropriate. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Foundry Coke From the People's Republic of China*, 66 FR 13885 (March 8, 2001). Additionally, no information has been presented in the current review that calls into question the reliability of this information. We note that this is the highest rate from the investigation and is less than two years old. Thus, the Department finds that the information continues to be reliable.

With respect to the relevance aspect of corroboration, the Department stated in TRBs that it will "consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin." See TRBs at 61 FR 57392; see also *Stainless Steel Sheet and Strip in Coils from Taiwan; Final Result and Rescission of Antidumping Duty Administrative Review*, 67 FR 40914, 40916 (June 14, 2002) (where the

Department disregarded the highest margin for the use as adverse facts available because the margin was based on a finding of middleman dumping by another producer). The rate used is the rate currently applicable to all exporters subject to the PRC-wide rate. Further, there is no information on the administrative record of the current review that indicates the application of this rate would be inappropriate or that the margin is not relevant. Therefore, for all sales of subject merchandise by the PRC entity, we have applied, as adverse facts available, the 214.89 percent margin from the investigation and have satisfied the corroboration requirements under section 776(c) of the Act. See *Persulfates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 18439, 18441 (April 9, 2001) (employing a petition rate used as adverse facts available in a previous segment as adverse facts available in the current review).

Preliminary Results Of The Review

As a result of the application of adverse facts available, we preliminarily determine that a dumping margin of 214.89 percent exists for the period March 8, 2001, through August 31, 2002, on all exports of foundry coke by the PRC entity.

An interested party may request a hearing within 30 days of publication of these preliminary results. Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief, within 120 days of publication of this notice. See 19 CFR 351.213(h)(1).

Assessment Rates

Upon issuance of the final results, the Department will determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate