

concludes that Qingdao Rirong failed to cooperate to the best of its ability by refusing to provide its U.S. sales data on the appropriate basis. Without CEP sales data, none of the information submitted by Qingdao Rirong can serve as a reliable basis for reaching a determination because we do not have the appropriate U.S. sales to compare to NV. This information was in the sole possession of Qingdao Rirong, and could not be obtained otherwise. Thus, the Department is precluded from calculating a margin for Qingdao Rirong. Because the Department concludes that Qingdao Rirong failed to cooperate to the best of its ability, in applying the facts otherwise available, the Department finds that an adverse inference is warranted, pursuant to section 776(b) of the Act. Because Qingdao Rirong did not demonstrate its eligibility for a separate rate, we have preliminarily determined that it is subject to the PRC-wide rate. As AFA, and as the PRC-wide rate, the Department is assigning the rate of 223.01 percent—the highest rate determined in the current or any previous segment of this proceeding. This is a calculated dumping margin from the 1999–2000 administrative review. *See 1999–2000 Final Results*. As discussed further below, this rate has been corroborated.

Corroboration of Secondary Information Used As Adverse Facts Available

Section 776(c) of the Act provides that when the Department relies on the facts otherwise available and relies on “secondary information,” the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department’s disposal. The *Statement of Administrative Action*, H.R. Doc. 103–316 (SAA), states that “corroborate” means to determine that the information used has probative value. *See SAA* at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for calculated margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from the current or a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. *See, e.g., Grain-*

Oriented Electrical Steel From Italy; Preliminary Results of Antidumping Duty Administrative Review, 61 FR 36551, 36552 (July 11, 1996). The information used in calculating this margin was based on sales and production data of a respondent in a prior review, and on the most appropriate surrogate value information available to the Department, chosen from submissions by the parties in that review, as well as information gathered by the Department itself. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. *See 1999–2000 Final Results*. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. 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. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company’s uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here. As there is no information on the record of this review that indicates that this rate is not relevant as adverse facts available for the PRC-entity, including Shouzhou Huaxiang, Yangzhou Lakebest, Weishan Fukang, and Qingdao Rirong, we determine that this rate has probative value. Accordingly, we determine that the highest rate from any segment of this administrative proceeding (*i.e.*, 223.01 percent) is in accord with section 776(c)’s requirement that secondary information be corroborated (*i.e.*, that it have probative value).

Verification

As provided in section 782(i) of the Act, we verified the responses of Shanghai Taoen. We used standard verification procedures, including on-site inspection of the manufacturers’ facilities and the examination of relevant sales and financial records. Verification of the questionnaire

responses of Shanghai Taoen took place from August 18 through August 21, 2003. *See Antidumping Duty Administrative Review of Freshwater Crawfish Tail Meat from the People’s Republic of China (PRC) (A-570–848): Verification Report for Shanghai Taoen International Trading Co., Ltd.* (September 29, 2003).

Verification of the questionnaire responses of Weishan Fukang was scheduled for August 27 through August 29, 2003. However, as described in the “Application of Facts Available” section above, on August 28, 2003, Weishan Fukang withdrew from verification. *See Memorandum to the File: Verification of Weishan Fukang Foodstuffs Co., Ltd.* (September 26, 2003). Our verification results are on file in the CRU, Room B-099 of the main Department building.

Separate Rates Analysis for Shanghai Taoen

To establish whether a company operating in a non-market economy country (NME) is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585 (May 2, 1994). Under this policy, exporters in NMEs are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: 1) an absence of restrictive stipulations associated with an individual exporter’s business and export licenses; 2) any legislative enactments decentralizing control of companies; and 3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: 1) whether each exporter sets its own export prices independently of the government and without the approval of a government authority; 2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; 3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and 4) whether each exporter has autonomy from the