

### Extension of Deadlines

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of final review results if it determines that it is not practicable to complete the review within the statutory time limit. On December 3, 2002, the Department fully extended the time limit for the final results of this case to February 3, 2003 (see *Notice of Extension of Time Limits for Final Results of Antidumping Duty Administrative Review*, 67 FR 71935).

### Scope of the Review

The product covered by this order is certain carbon steel butt-weld pipe fittings, having an inside diameter of less than 14 inches, imported in either finished or unfinished form. These formed or forged pipe fittings are used to join sections in piping systems where conditions require permanent, welded connections, as distinguished from fittings based on other fastening methods (e.g., threaded, grooved, or bolted fittings). Carbon steel pipe fittings are currently classified under subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

### Verification

As provided in section 782(i) of the Act, during the week of October 28 through November 1, 2002, we conducted verification of the information provided by TBC. We used standard verification procedures including examination of relevant sales and financial records, and selection of relevant source documentation as exhibits. Our verification findings are detailed in the memorandum "Verification of the Sales Questionnaire Responses of Thai Benkan Corp., and Benkan America, Inc.—Carbon Steel Butt-Weld Pipe Fittings from Thailand—Administrative Review (2000–2001)" from Tom Futtner, Program Manager to The File, dated December 9, 2002, the public version of which is on file in the Central Records Unit, Room B099 of the Main Commerce building (CRU–Public File).

### Facts Available

Section 776(a)(2) of the Act provides that if an interested party or any other person (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 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. Because the home market sales information submitted by TBC could not be verified, the Department applied total facts available pursuant to section 776(a)(2).

Section 782(d) of the Act provides that, if the Department determines that a respondent's response to a request for information does not comply with the request, the Department shall inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide the person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 776(b) of the Act provides that, if the Department 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," the Department may draw an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Section 776(b)(4) states that adverse inferences may be based on information derived from the petition, the investigation or prior reviews, or any other information placed on the record.

We find that, in accordance with sections 776(a)(2)(D) and 776(b) of the Act, the use of facts available for TBC is appropriate in this instant review. As the record of this case indicates, the Department provided TBC with ample opportunity to prepare a correct and verifiable home market data set. Yet, despite numerous opportunities to provide the Department with a correct home market data set, at verification the Department discovered that TBC's information was flawed. Because TBC failed to provide a reconciliation of the reported home market sales' quantity and value to its financial statements, and its constructed value (CV) information was determined to be unreliable in the preliminary results, TBC's actions prevented the Department from establishing a reliable basis for normal value (NV) in this review. As such, the use of facts available in the final determination is warranted

pursuant to section 776(a)(2)(D) of the Act.

In selecting from among the facts available, section 776(b) of the Act authorizes the Department to use an inference that is adverse to a party if the Department finds that the party has failed to cooperate by not acting to the best of its ability to comply with requests for information. The Department applies adverse facts available "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc No. 103–316, vol. 1, at 870 (1994) (SAA).

To examine whether the respondent "cooperated" by "acting to the best of its ability" under section 776(b) of the Act, the Department considers, among other things, the accuracy and completeness of submitted information and whether the respondent has hindered the calculation of accurate dumping margins. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Venezuela*, 67 FR 62119 (October 3, 2002) (*Steel Flat Products From Venezuela*), *Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808 (October 16, 1997). In this case, TBC failed to cooperate to the best of its ability by not being adequately prepared for verification and not being able to reconcile its own home market data. Furthermore, TBC's inability to provide a reconcilable home market sales listing and its lack of preparedness for verification, has hindered the calculation of an accurate margin in this review.

It is the Department's practice to assign the highest rate from any segment of a proceeding as total adverse facts available when a respondent fails to cooperate to the best of its ability. See e.g., *Stainless Steel Plate in Coils from Taiwan; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 5789 (February 7, 2002) ("Consistent with Department practice in cases where a respondent fails to cooperate to the best of its ability, and in keeping with section 776(b)(3) of the Act, as adverse facts available we have applied a margin based on the highest margin from any prior segment of the proceeding \* \* \* In this case, the highest margin from any segment of the proceeding is \* \* \* the petition rate in the less-than-fair-value (LTFV) investigation"). Therefore, in the instant case, the Department is applying