

dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid, based on the information available at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

During the period of investigation (POI), only Armor was identified as a producer/exporter of subject merchandise from France. Therefore, we selected Armor as the sole respondent in the investigation of TTR from France.

#### Period of Investigation

The POI is April 1, 2002, through March 31, 2003. This period corresponds to the four most recent fiscal quarters prior to the month of filing of the petition (*i.e.*, June 2003) involving imports from a market economy, and is in accordance with our regulations. See 19 CFR 351.204(b)(1).

#### Scope of Investigation

This investigation covers wax and wax/resin thermal transfer ribbons (TTR), in slit or unslit ("jumbo") form originating from France with a total wax (natural or synthetic) content of all the image side layers, that transfer in whole or in part, of equal to or greater than 20 percent by weight and a wax content of the colorant layer of equal to or greater than 10 percent by weight, and a black color as defined by industry standards by the CIELAB (International Commission on Illumination) color specification such that  $L^* < 35$ ,  $-20 < a^* < 35$ , and  $-40 < b^* < 31$ , and black and near-black TTR. TTR is typically used in printers generating alphanumeric and machine-readable characters, such as bar codes and facsimile machines.

The petition does not cover resin TTR, and finished thermal transfer ribbons with a width greater than 212 millimeters (mm), but not greater than 220 mm (or 8.35 to 8.66 inches) and a length of 230 meters (m) or less (*i.e.*, slit fax TTR, including cassetted TTR), and ribbons with a magnetic content of greater than or equal to 45 percent, by weight, in the colorant layer. The merchandise subject to this investigation may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) at heading 3702 and subheadings 3921.90.40.25, 9612.10.90.30, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99 and 3926.90.

The tariff classifications are provided for convenience and Customs and Border Protection (CBP) purposes; however, the written description of the scope of the investigation is dispositive.

On October 28, 2003 and November 21, 2003, petitioner submitted documents it claims suggest the respondents in the TTR investigations are attempting to circumvent a potential TTR antidumping order by slitting subject merchandise jumbo rolls in a third country. Petitioner contends that the country of origin of slit TTR should be determined by the country of origin of the jumbo TTR roll from which it was slit, regardless of where the slitting occurred. Petitioner argues that slitting subject merchandise jumbo TTR rolls does not involve a substantial transformation, and therefore, does not change the country of origin of slit TTR rolls.

On November 26, 2003, Armor submitted comments regarding petitioner's allegation. Armor argues that the further manufacturing process does in fact substantially transform the jumbo TTR rolls, and, thus, does change the country of origin of the merchandise. On December 5, 2003, petitioner submitted a response to Armor's November 26 submission. On December 12, 2003, Armor submitted additional comments regarding this issue.

We have reviewed petitioner's and Armor's comments. However, since a determination of whether or not slitting jumbo TTR rolls constitutes substantial transformation and changes the country of origin of the merchandise may affect the scope of this investigation and future proceedings, it is necessary to provide interested parties the opportunity to comment on this issue. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). Therefore, the Department encourages all interested parties to submit such comments. Comments are due within 14 days of the publication of this notice. Rebuttal comments must be filed within five days after the deadline for the submission of the initial country of origin comments. We remind parties that case and rebuttal briefs, whether commenting on this country of origin issue, or any other issue, must be limited to the facts already on the record in accordance with section 351.301 of the Department's regulations.

#### Facts Available

For the reasons discussed below, we determine that the use of AFA is appropriate for the preliminary determination with respect to Armor.

#### A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the Department, fails to provide such information by the deadline or in the form or manner requested, significantly impedes a proceeding, or provides information which cannot be verified, the Department shall use facts otherwise available in reaching the applicable determination. As stated above, Armor has informed the Department that it will no longer participate in this investigation and has requested that all of its responses be returned or destroyed. Therefore, the Department has no choice but to rely on the facts otherwise available in order to determine a margin for this party. Thus, in reaching our preliminary determination, pursuant to section 776(a)(2) of the Act, we have based Armor's margin rate on the facts available.

#### B. Application of Adverse Inferences for Facts Available

In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002). Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316, at 870 (1994) (SAA). Furthermore, "[a]ffirmative 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, Armor has failed to cooperate to the best of its ability by withdrawing its responses to the Department's antidumping questionnaires and declining any further participation in this investigation. We note that the Department granted all four of Armor's extension requests (as discussed above), albeit not necessarily always for the full extension requested by Armor. Therefore, the Department has preliminarily determined that in selecting from among the facts