extraordinarily complicated. *See also* 19 CFR 351.214(i).

The Department has determined that the new shipper reviews are extraordinarily complicated and that it is not practicable to complete the preliminary results by the current deadline of December 27, 2003. There are a number of complex factual and legal questions related to the calculation of the antidumping margins in the new shipper reviews, in particular the analysis of the *bona fides* of the sales at issue and the valuation of the factors of production. We require additional time to issue supplemental questionnaires addressing these matters, review the responses, and verify certain information. Therefore, in accordance with 19 CFR 351.214(i)(2), the Department is extending the time limit for the preliminary results by 120 days to April 25, 2004.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214(i).

Dated: December 15, 2003.

Jeffrey May,

Deputy Assistant Secretary for AD/CVD Enforcement I.

[FR Doc. E3–00594 Filed 12–18–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Stainless Steel Wire Rods from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on stainless steel wire rods (''SSWR'') from India in response to a request by Panchmahal Steel Limited (''Panchmahal''), Mukand Limited (''Mukand''), the Viraj Group (''Viraj''), and by petitioner,[1] who requested a review of Isibars Limited (''Isibars''), Mukand, and Viraj. The period of review (''POR'') is December 1, 2001, through November 30, 2002.

We have preliminarily determined that Mukand and Viraj have sold subject merchandise at less than normal value (''NV'') during the POR. In addition, we have determined to rescind the review with respect to Panchmahal based on the timely withdrawal of the only request for review of the company. Lastly, we have preliminarily determined to apply an adverse facts available rate to all sales and entries of Isibars' subject merchandise during the POR. If these preliminary results are adopted in our final results of this administrative review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this segment of the proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: January 20, 2004.

FOR FURTHER INFORMATION CONTACT: For Isibars contact Eugene Degnan at (202) 482–0414, for Mukand contact Jonathan Herzog at (202) 482–4271, for Panchmahal contact Jonathan Freed at (202) 482–3818, and for Viraj contact Kit Rudd at (202) 482–1385, or Robert Bolling at (202) 482–3434. AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On October 20, 1993, the Department published the final determination in the **Federal Register** that resulted in the antidumping duty order on certain stainless steel wire rods from India. *See Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods From India,* 58 FR 54110 (October 20, 1993) (''*Antidumping Duty Order*''). On December 2, 2002, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this antidumping duty order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review,* 67 FR 71533 (December 2, 2002) (''*Opportunity to Request Administrative Review*'').

On December 31, 2002, Mukand, Panchmahal, and Viraj requested an administrative review of the antidumping duty order on certain stainless steel wire rods from India. *See* Letter to Assistant Secretary for Import Administration from Mukand, Panchmahal, and Viraj, dated December 31, 2002. Also, on December 31, 2002, petitioner requested an administrative review of the antidumping duty order on certain stainless steel wire rods from India for Isibars, Mukand, and Viraj. *See* Letter to the Honorable Donald L. Evan from petitioner, dated December 31, 2002. In accordance with 19 CFR 351.221(b), we published a notice of initiation of the review of Isibars, Mukand, Panchmahal, and Viraj on January 22, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 68 FR 3009 (January 22, 2003). On January 23, 2003, petitioner filed a request that the Department verify Isibars, Mukand, Panchmahal, and Viraj.

On February 11, 2003, the Department issued Sections A–E questionnaires to Isibars, Mukand, Panchmahal, and Viraj. Additionally, the Department initiated a sales below cost of production inquiry and requested that Mukand and Viraj respond to Section D of the questionnaire in addition to Sections A, B, and C.[2]

Panchmahal

On March 4, 2003, the Department received a letter from Panchmahal withdrawing its request for an administrative review. *See* Letter from Panchmahal, dated March 4, 2003.

Isibars

On March 11, 2003, Isibars submitted its Section A response to the Department and supplemented it with additional exhibits on April 11, 2003. On April 14, 2003, Isibars submitted its Sections B and C response. Additionally, on April 14, 2003, the Department issued its first supplemental Section A questionnaire to Isibars, to which Isibars responded on May 28, 2003. However, due to improper filing by Isibars, the Department initially rejected this submission.

On April 23, 2003, petitioner submitted an allegation that Isibars was selling subject merchandise below their

[1] Carpenter Technology Corporation.

[2] Because the Department disregarded certain Mukand and Viraj sales made in the home market that failed the cost test in the most recently completed segment of this proceeding and excluded such sales from NV, the Department determined that there are reasonable grounds to believe or suspect that Mukand and Viraj made sales in the home market at prices below the cost of producing the merchandise in this review. *See Stainless Steel Wire Rods from India: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review,* 68 FR 26288 (May 15, 2003) (''*Final Results*''); section 773(b)(2)(A)(ii) of the Tariff Act of 1930, as amended, (''the Act'').

cost of production. *See* Petitioner's Cost Allegation, dated April 23, 2003. On April 25, 2003, the petitioner supplemented their cost of production allegation. *See* Stainless Steel Wire Rod from India: Isibars' Sales Deficiencies and Supplement to Isibars Allegation of Sales Below Cost (April 25, 2003). On June 3, 2003, the Department initiated a cost of production inquiry and requested that Isibars submit its Section D response.

On May 29, 2003, the Department issued a Sections B and C supplemental questionnaire to Isibars, to which Isibars responded on June 20, 2003. On July 8, 2003, the Department received Isibars' Section D response. Also on July 8, 2003, Isibars properly refiled its first Section A supplemental questionnaire of May 28, 2003.

On August 20, 2003, the Department issued a second Sections A, B, and C supplemental questionnaire and a first Section D supplemental questionnaire. The Department received Isibars' response to the second Sections A, B, and C supplemental questionnaire on September 29, 2003 and to the first Section D supplemental questionnaire on October 14, 2003. On September 12, 2003, the Department issued a third Section A supplemental questionnaire to Isibars, to which Isibars responded on October 14, 2003. On September 24, 2003, the Department issued a second Section D supplemental questionnaire to Isibars, to which Isibars responded on October 14, 2003.

On October 6, 2003, the Department issued a fourth Section A supplemental questionnaire, a third Sections B and C supplemental questionnaire, and a third Section D supplemental questionnaire to Isibars, to which Isibars responded on October 20, 2003. On October 21, 2003, the Department issued a fifth Section A supplemental questionnaire and a fourth Section D questionnaire, to which Isibars responded on November 5, 2003.

Mukand

On March 11, 2003, Mukand submitted its Section A response. On March 14, 2003, Mukand supplemented its Section A response with several exhibits. On April 7, 2003, Mukand submitted its Sections B and C questionnaire response.

On May 14, 2003, the Department requested pursuant to its *Final Results,* that Mukand submit its Section D response. *See Letter to Mukand from Mr. Robert Bolling,* dated May 14, 2003. On May 29, 2003, the Department issued its first Sections A, B, and C supplemental questionnaire to Mukand, to which Mukand responded on June 27, 2003. On June 11, 2003, Mukand submitted its Section D response. On July 11, 2003, Mukand supplemented its June 27, 2003, response with a Section C response concerning its constructed export price (''CEP'') sales.

On July 28, 2003, the Department issued a Section D supplemental questionnaire to Mukand, to which Mukand responded on August 29, 2003. On August 12, 2003, the Department issued a Sections A, B, and C supplemental questionnaire to Mukand. Mukand responded to the Department's Sections A, B, and C supplemental questionnaire on September 8, 2003. Also on August 12, 2003, the Department issued a Section C supplemental questionnaire to Mukand regarding its CEP sales, to which Mukand submitted a letter, dated September 15, 2003, informing the Department that it would not submit a response to this questionnaire. On September 23, 2003, the Department issued a Sections A, B, C, and D supplemental questionnaire to Mukand, to which Mukand responded on October 17, 2003. On October 29, 2003, the Department issued a second Sections A, B, C, and D supplemental questionnaire to which Mukand responded on November 17, 2003.

Viraj

Viraj submitted its Section A response on March 18, 2003 and its Sections B, C, and D responses on April 4, 2003. The Department issued its first Section A supplemental questionnaire to Viraj on April 9, 2003, to which Viraj responded on May 19, 2003. The Department issued its first Sections B, C, and D supplemental questionnaire to Viraj on June 20, 2003, to which Viraj responded on July 5, 2003. The Department issued a second Section A supplemental questionnaire to Viraj on September 3, 2003, to which Viraj responded on September 20, 2003. The Department issued a third Section A supplemental questionnaire to Viraj on September 11, 2003, to which Viraj responded on September 15, 2003. The Department issued a fourth supplemental questionnaire for Section A and a second Sections B, C and D supplemental questionnaire on October 7, 2003, to which Viraj responded on October 13, 2003. The Department issued a fifth Section A supplemental questionnaire to Viraj on October 13, 2003. Viraj responded to this questionnaire on October 20, 2003. The Department issued a third Sections C and D supplemental questionnaire to Viraj on October 20, 2003, to which Viraj responded on October 23, 2003. The Department issued a fourth Section D supplemental questionnaire to Viraj on October 27, 2003, to which Viraj responded on October 30, 2003. The Department issued a fifth Sections C and D supplemental questionnaire to Viraj on October 29, 2003, and received Viraj's response on October 30, 2003.

On August 5, 2003, the Department extended the due date for the preliminary results. *See Stainless Steel Wire Rods from India: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review,* 68 FR 46164, (August 5, 2003)(''*August 5th extension*''). In accordance with Section 751(a)(3)(A) of the Act, the Department extended the deadline date for the notice of preliminary results 90 days, from the original date of September 2, 2003, to December 1, 2003. *See August 5th extension.*

Additionally, on November 21, 2003, in accordance with Section 751(a)(3)(A) of the Act, the Department again extended the due date for the notice of preliminary results an additional 11 days from the revised due date of December 1, 2003, to December 12, 2003. *See Stainless Steel Wire Rods from India: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review,* 68 FR 65680 (November 21, 2003).

Period of Review

The period of review (''POR'') is December 1, 2001, through November 30, 2002.

Scope of the Review

The merchandise under review is certain SSWR, which are hot-rolled or hot-rolled annealed and/or pickled rounds, squares, octagons, hexagons or other shapes, in coils. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling and are normally sold in coiled form, and are of solid cross Section. The majority of SSWR sold in the United States are round in cross-section shape, annealed and pickled. The most common size is 5.5 millimeters in diameter.

The SSWR subject to this review are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheadings are provided for convenience and purposes of the U.S. Bureau of Customs and Border Protection, the written

description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

Verification

As provided in section 782(i)(3) of the Act, we verified sales and cost information provided by Viraj from November 3, 2003, through November 8, 2003, using standard verification procedures, including an examination of relevant sales, cost, financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report and are on file in the Department's Central Records Unit located in Room B–099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC.

Partial Rescission of Review

Section 351.213(d)(1) of the Department's regulations provides that a party which requests an administrative review may withdraw the request within 90 days after the date of publication of the notice of initiation of the requested administrative review. The Department may extend this deadline if it is reasonable to do so. On December 31, 2003, Panchmahal requested that the Department review its sales for the POR. On March 4, 2003, which is within the 90 day period, Panchmahal withdrew its request for an administrative review. Thus, Panchmahal's request was timely and no other interested party requested a review of Panchmahal's sales to the United States during the POR. Therefore, in accordance with 19 CFR 351.213(d)(1), the Department is rescinding the review, in part, with respect to Panchmahal for the period of December 1, 2001, through November 3, 2002.

Facts Available

In the instant review, despite numerous requests and clarifications from the Department, Isibars failed to adequately provide the information requested by the Department. As explained in detail below, because the Department received deficient and incomplete responses to the questionnaire and multiple supplemental questionnaires from Isibars, the Department was unable to verify the incomplete information that Isibars did provide, which is necessary for the margin analysis.

Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782 (c) and (e) of the Act; (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) of the Act, the Department shall, subject to Section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that, if an interested party promptly notifies the Department that it is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the Department shall take into consideration the ability of the party to submit the information in the requested form and manner, and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party. Section 782(c)(2) of the Act similarly provides that the Department shall consider the ability of the party submitting the information and shall provide such interested party assistance that is practicable.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If the 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) of the Act, disregard all or part of the original and subsequent responses, as appropriate.

Pursuant to section 782(e) of the Act, notwithstanding the Department's determination that the submitted information is ''deficient'' under section 782(d) of the Act, the Department shall not decline to consider such information if all of the following requirements are satisfied: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this review, Isibars repeatedly failed to supply the Department with information regarding home market and U.S. market sales reconciliations, major inputs from affiliates, control number (''CONNUM'') specific weight-averaged cost data, operable home market and U.S. market sales data, and they failed to serve petitioner in this review. These deficiencies effectively prevented the Department from conducting a meaningful verification. Despite the numerous requests by the Department in supplemental questionnaires, telephone calls, and e-mails, Isibars has failed to rectify the above mentioned factual deficiencies to the record, and to properly serve petitioner in this review. Additionally, the Department offered extra assistance and aid to Isibars in getting the required information on the record. *See* Memo to the File—e-mail correspondence with Isibars, dated October 8, 2003; Memo to the File—e-mail correspondence with Isibars, dated October 21, 2003; Memo to the File—e-mail correspondence with Isibars, dated October 24, 2003. Finally, although Isibars is appearing in this review *pro se*, the Department recognized that Isibars has extensive experience with Departmental procedures, having participated in numerous stainless steel bar reviews. *See Stainless Steel Bar From India; Final Results of Antidumping Duty Administrative Review*, 68 FR 47543 (August 11, 2003); *Stainless Steel Bar From India; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Partial Rescission of Administrative Review*, 65 FR 48965 (August 10, 2000).

The Department delayed its departure for verification in order to allow Isibars time to provide the necessary information requested by the Department. *See* Memo to the File, e-mail correspondence with Isibars, dated November 5, 2003. Furthermore, the Department informed Isibars of the consequences of Isibars' continue failure to provide the materials requested by the Department. *See October 21st letter; October 29th letter*; all Department supplemental questionnaires. Nonetheless, the Department ultimately cancelled Isibars' verification because Isibars failed to provide the Department the requested information (*i.e.*, sales reconciliations, major inputs data from its affiliates, CONNUM specific weighted-average cost data, operable home market and U.S. market sales data), and failed to serve the petitioner in this review.

Accordingly, and as discussed in more detail below, the Department determined to apply facts available for

the requested information withheld by Isibars, in accordance with section 776(a)(2) of the Act. Further, as discussed below, the Department finds that in not providing the requested information, and not serving petitioners, Isibars failed to cooperate to the best of its ability in this review, and therefore determines that an adverse inference is warranted for all Isibars' sales.

A. Failure to Submit a Sales Reconciliation

The reconciliation is required of respondents to determine if all appropriate sales of the subject merchandise have been reported. A reconciliation serves as a ''starting point'' for the Department at verification. *See Certain Cut-to-Length Carbon Steel Plate from Mexico; Final Results of Antidumping Duty Administrative Review*, 64 FR 77, 78 (January 4, 1999). Among other things, the goal of verification is to confirm the accuracy and completeness of the data provided in a company's questionnaire responses and this data serves as a basis for the Department to ascertain if sales were accurately reported. *See* 19 C.F.R. 351.307(d).

Isibars' failure to provide or withholding of the requested reconciliation is an incomplete questionnaire response that significantly impeded this proceeding. *See Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review; Heavy Forged Hand Tools from the People's Republic of China* 65 FR 43290 (July 13, 2000) *and accompanying Issues and Decisions Memorandum* at Comment 1 (The Department used total facts available because the respondent failed to provide the essential reconciliation chart requested by the Department necessary to test the completeness of questionnaire response, and thus failed verification). Indeed, without the requested sales reconciliation information, the Department is unable to verify the information Isibars submitted. It is important to note that the Department has cancelled verification in several other cases because of incomplete questionnaire responses, and specifically because the respondents failed to provide requested reconciliations. *See Gourmet Equipment Corp.* v. *United States*, 24 C.I.T. 572 (CIT July 6, 2000), *regarding Chrome-Plated Lug Nuts from Taiwan*, 64 FR 17314 (1999)(The Court affirmed the Department's refusal to conduct verification because the respondent's submissions were not reconcilable to its financial statements, meaning the information submitted was unverifiable; as a result, the Department applied adverse facts available); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-rolled Carbon Steel Flat Products from Taiwan: Final Determination of Antidumping Duty Order*, 66 FR 49618, 49620–21 (Sept. 28, 2001)(The Department canceled both sales and cost verification because respondents failed to provide explanation and documentation for all its expenses and sales, and provided incomplete, deficient, and inconsistent affiliated-party sales information); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products from Indonesia*, 64 FR 73164, 73165–66 (Dec. 29, 1999)(''*CTL Plate from Indonesia*'') (the Department canceled verification and applied adverse facts available because the respondent did not adequately address the sales-related and cost-related questions).

Section 776(a)(2)(A) of the Act authorizes the Department, subject to section 782(d) of the Act, to use facts otherwise available when a respondent withholds information that has been requested by the Department. The Department has requested sales reconciliations from Isibars three times: in the original questionnaire, sent on February 11, 2003; in a supplemental questionnaire, issued on October 21, 2003; and in a letter to Isibars, sent on October 29, 2003. *See* Cancellation of Verification Memorandum, dated November 26, 2003 (''*Cancellation of Verification Memorandum*'') at 2–3. However, Isibars failed to supply a sales reconciliation throughout this review.

Section 782(d) requires that, in the case of a deficient response by the respondent, the Department inform the respondent of the deficiency, and give the respondent an opportunity to remedy or explain the deficiency. In addition to the original questionnaire, and two supplemental questionnaires requesting a sales reconciliation, the Department, in an October 29, 2003, letter, alerted Isibars that failure to supply this information would lead to the cancellation of verification, and may result in the Department basing its determination on facts available. *See Cancellation of Verification Memorandum* at 2.

Because Isibars failed to supply the Department with the requested sales reconciliation that the Department needed to conduct a meaningful verification, and gave no explanation why it has failed to do so, despite numerous opportunities afforded by the Department, the Department cannot consider Isibars to have acted to the best of its ability in this review. Therefore, the application of adverse facts available in determining the preliminary margin, in accordance with section 776(b) of the Act, is warranted. *See Certain Hot-rolled Carbon Steel Flat Products from Taiwan: Final Determination of Antidumping Duty Order*, 66 FR 49618, 49620–21 (Sept. 28, 2001).

B. Major Inputs

Section 773(f)(2) of the Act allows the Department to test whether transactions between affiliated parties involving any element of value (*i.e.*, major or minor inputs) are at prices that ''fairly reflect the market under consideration.'' Section 773(f)(3) of the Act allows the Department to test whether, for transactions between affiliated parties involving a major input, the value of the major input is not less than the affiliated supplier's COP, where there is reasonable cause to believe or suspect the price is below COP. The Department considers the initiation of a sales-below-cost investigation reasonable grounds to believe or suspect that major inputs to the foreign like product may also have been sold at prices below the COP, within the meaning of section 773(f)(3) of the Act. *See Silicomanganese from Brazil; Final Results of Antidumping Administrative Review*, 62 FR 37869, 37871 (July 15, 1997). Therefore, because a sales-below-investigation has been initiated, the Department requires major input data from Isibars.

Section 776(a)(2)(A) of the Act authorizes the Department, subject to section 782(d) of the Act, to use facts otherwise available when a respondent withholds information that has been requested by the Department. Isibars has repeatedly failed to provide information regarding its affiliate's cost of production and market price for major inputs supplied by its affiliates. The Department has requested this information three times in questionnaires and supplemental questionnaires: the original Section D questionnaire, issued June 3, 2003; and two supplemental questionnaires, issued on September 24, 2003, and October 21, 2003. Because Isibars has withheld this information, the Department is authorized, subject to section 782(d) of the Act, to use facts otherwise available.

Section 776(a)(2)(D) of the Act authorizes the Department, subject to section 782(d) of the Act, to use facts otherwise available when a respondent provides information, but the information cannot be verified. Because Isibars provided only the transfer price of major inputs, and not the market price and the affiliate's cost of

production, the Department is unable to properly value major inputs, pursuant to section 773(f)(3), and therefore cannot meaningfully verify Isibars' COP.

Section 782(d) requires that, in the case of a deficient response by the respondent, the Department inform the respondent of the deficiency, and give the respondent an opportunity to remedy or explain the deficiency. In addition to the two supplemental questionnaires that were issued requesting that Isibars supply major input information, the Department also notified Isibars of the importance of supplying this information to the Department in two letters sent to Isibars, on October 21, 2003, and on October 29, 2003. *See Cancellation of Verification Memorandum* at 3.

Because Isibars has not provided the requested information necessary to value major inputs despite numerous opportunities and requests by the Department, and because Isibars has offered no explanation why they have not supplied this information, we determine, pursuant to section 776(b) of the Act, that Isibars has not acted to the best of its ability to comply with the Department's requests for information. Therefore, the application of adverse facts available in determining the preliminary margin, in accordance with section 776(b) of the Act, is warranted. *See CTL Plate from Indonesia* at 73174–75.

C. Section D Cost Data not CONNUM Specific

Despite the repeated requests by the Department to correct its data, Isibars' reported labor and variable overhead costs remain virtually the same for each CONNUM in its reported cost of production (''COP'') data, and literally the same for each CONNUM in its reported constructed value (''CV'') data. Without accurate data for these items, the Department cannot perform an accurate cost test, cannot make appropriate selections for price-to-price comparisons, and cannot determine accurate constructed values for use as normal value. Therefore, Isibars' Section D response is unusable for this preliminary determination. *See Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey,* 65 FR 1127, 1131 (January 7, 2000).

Section 776(a)(2)(A) of the Act authorizes the Department, subject to section 782(d) of the Act, to use facts otherwise available when a respondent withholds information that has been requested by the Department. The Department has requested that Isibars report its Section D COP and CV data as CONNUM specific weighted-average data six times: in the original Section D questionnaire, in three supplemental questionnaires, issued on August 20, 2003; on October 6, 2003; and on October 21, 2003; and in a letter and an e-mail sent to Isibars on October 29, 2003. Isibars has never complied with these numerous requests.

Section 776(a)(2)(B) of the Act authorizes the Department, subject to section 782(d) of the Act, to use facts otherwise available when a respondent fails to provide requested information in the form or manner requested by the Department, subject to sections (c)(1) and (e) of section 782. Although Isibars supplied some cost data, as explained immediately below, it repeatedly failed to conform its cost data to the form requested by the Department. Isibars never, pursuant to section 782(c)(1), notified the Department that it could not submit this data in the form requested. Furthermore, the data, as provided by Isibars, is unusable by the Department in determining Isibars' COP. *See* section 782(e).

Section 776(a)(2)(D) of the Act authorizes the Department, subject to section 782(d) of the Act, to use facts otherwise available when a respondent provides information, but the information cannot be verified. Because Isibars' Section D cost data is not provided as CONNUM specific weighted-averaged data, the Department cannot verify the COP for each unique product of subject merchandise.

Section 782(d) requires that, in the case of a deficient response by the respondent, the Department inform the respondent of the deficiency, and give the respondent an opportunity to remedy or explain the deficiency. In the original Section D questionnaire, the Department provided a general explanation to Isibars of how to report its COP data. This general explanation instructed Isibars that the COP is the weighted-average CONNUM specific cost of the product sold. *See* original questionnaire, at D–1. A footnote on page D–1 further explains that there should be a ''single weighted-average cost for each CONNUM.'' *See* original questionnaire, at D–1. Furthermore, the Section D questionnaire specifically instructed Isibars to report each COP variable as CONNUM specific per-unit costs. *See* original questionnaire, at D–15—D–17. Despite these instructions, Isibars failed to report CONNUM specific per-unit costs in its Section D database.

In the first Section D supplemental questionnaire, issued on August 20, 2003, the Department explained to Isibars that it must account for time in its allocations for labor and variable production overhead, and requested Isibars submit worksheets showing how it calculated these costs. Isibars never responded to these requests. In the October 21, 2003, supplemental questionnaire, the Department requested this again, and Isibars did respond, in its November 5, 2003, response, but did not account for time in its allocation. The Department also stressed to Isibars in the Department's October 6, 2003, supplemental questionnaire that Isibars must report weighted average costs specific to each unique CONNUM. However, to date Isibars has never adjusted its reported CONNUM data to reflect CONNUM specific, weighted-average data. Finally, in light of the fact that Isibars appears in this review *pro se,* the Department once again, in a letter sent on October 29, 2003, stressed to Isibars that its cost data must be reported as CONNUM specific weighted averages, and emphasized that failure to do so would result in cancellation of the verification of Isibars.

Because Isibars failed to supply the Department with the requested data that the Department needed to conduct a meaningful verification, and gave no explanation why it has failed to do so, despite numerous opportunities afforded by the Department, the Department cannot consider Isibars to have acted to the best of its ability in this review. Therefore, the application of adverse facts available in determining the preliminary margin, in accordance with section 776(b) of the Act, is warranted. *See Notice of Final Determination of Sales at Less Than Fair Value; Certain Cut-to-Length Carbon-Quality Steel Plate Products from Indonesia*, 64 FR 73164, 73174–75 (December 29, 1999).

D. Computer Data Files Submitted November 5, 2003, for Sections B & C Were Inoperable

The final computer data file received by the Department from Isibars on November 5, 2003, contained data files for Sections B & C that were inoperable and could not be accessed.

Section 776(a)(2)(A) of the Act authorizes the Department, subject to section 782(d) of the Act, to use facts otherwise available when a respondent withholds information that has been requested by the Department. Isibars failed to provide final data sets of home market and U.S. sales, immediately before the planned verification.

Section 782(d) requires that, in the case of a deficient response by the respondent, the Department inform the respondent of the deficiency, and give

the respondent an opportunity to remedy or explain the deficiency. Isibars was cautioned in an October 21, 2003, letter, attached to the Department's October 21, 2003, fifth Section A, fourth Section D supplemental questionnaire, that the Department required working computer data files from Isibars in order to proceed to verification. *See* October 29, 2003, letter from the Department. Isibars was again cautioned by the Department, in an October 29, 2003, letter from the Department, that failure by Isibars to submit complete and accurate data would result in the cancellation of verification. *See October 29, 2003, letter*.

Because Isibars failed to supply the Department with the necessary sales data that the Department needed to conduct a meaningful verification, and gave no explanation why it has failed to do so, despite numerous opportunities afforded by the Department, the Department cannot consider Isibars to have acted to the best of its ability in this review. Therefore, the application of adverse facts available in determining the preliminary margin, in accordance with section 776(b) of the Act, is warranted. *See Preliminary Results of Antidumping Duty Administrative Review: Porcelain on Steel Cookware from Mexico*, 65 FR 63562, 63564 (October 24, 2000) (stating that the use of adverse facts available was appropriate because respondent did not provide home market sales data in a timely manner).

E. Failure To Serve Petitioner in This Review

Isibars' non-service of petitioners, in conjunction with numerous late filings, improper filings, and incomplete responses by Isibars, has possibly impaired petitioners ability to participate in this review. *See* Petitioner's letter Stainless Steel Wire Rod from India—Isibars' Supplemental Sales Deficiencies and Cost Deficiencies, dated October 20, 2003.

Section 776(a)(2)(B) of the Act authorizes the Department, subject to section 782(d) of the Act, to use facts otherwise available when a respondent fails to provide information by the deadline for submission, or in the form or manner requested. Isibars has failed to serve the petitioner in this review numerous times, as requested by section 351.303(f)(1) of the Department's regulations, which directs all persons filing a document with the Department to simultaneously serve a copy of that document to all persons on the service list. To date, petitioner has not received: Isibars' September 29, 2003, Sections B & C supplemental questionnaire response; Isibars' October 14, 2003, Section A supplemental questionnaire response; Isibars' October 14, 2003, first Section D supplemental questionnaire response; Isibars' October 14, 2003, Section D second supplemental questionnaire response; nor Isibars' October 20, 2003, Sections A, B and D supplemental questionnaire response.

Section 782(d) requires that, in the case of a deficient response by the respondent, the Department inform the respondent of the deficiency, and give the respondent an opportunity to remedy or explain the deficiency. Despite numerous admonitions by the Department (*i.e.*, an October 15, 2003, telephone call; an October 15, 2003, e-mail; and an October 29, 2003, letter), Isibars, to date, has never served to petitioner the above mentioned responses.

Because Isibars failed to serve petitioner, and gave no explanation why it has failed to do so, despite admonitions by the Department, the Department cannot consider Isibars to have acted to the best of its ability in this review. Therefore, the application of adverse facts available in determining the preliminary margin, in accordance with section 776(b) of the Act, is warranted.

Isibars' failure to provide the information requested by the Department has resulted in an inadequate response that has prevented the Department from conducting verification and using its data in the preliminary results. *See* Cancellation of Verification Memorandum to the File from Eugene Degnan to Edward Yang, dated November 26, 2003 (''*Cancellation of Verification Memorandum*''). Furthermore, Isibars' failure to provide the requested data and to serve petitioners has significantly impeded this review, as defined by section 776(a)(2)(C) of the Act. Thus, pursuant to sections 776(a)(2)(A), (B), (C) and (D) of the Act, and having satisfied sections 782(c)(2), (d), and (e) of the Act, the Department has determined to apply facts otherwise available in this proceeding with respect to Isibars.

In selecting from among the facts otherwise available, section 776(b) of the Act provides that adverse inferences may be used in selecting from the facts available if a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. 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 (''SAA'') accompanying the Uruguay Round Agreements Act (''URAA''), H.R. Doc. No. 103–316, Citation No. (1994), at 870. Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties, Countervailing Duties; Final Rule*, 62 FR 27340 (May 17, 1997).

In this case, Isibars has failed to cooperate by not acting to the best of its ability to comply with the requests for information. As discussed above, despite the numerous requests by the Department, Isibars failed to provide or withheld requested information from the Department (*i.e.*, a sales reconciliation, information concerning the valuation of major inputs, weighted-average CONNUM specific cost data, service of the petitioner, and a working Sections B and C database). Additionally, Isibars was provided numerous offers of assistance by the Department and opportunities and supplemental questionnaires to fully respond to the Department's requests, in accordance with section 782(d) of the Act. *See Cancellation of Verification Memorandum.* However, despite the assistance offered and provided by the Department's staff, Isibars failed to rectify its many record deficiencies. *See Cancellation of Verification Memorandum.*

Due to Isibars' failure to provide the requested information that the Department identified as necessary for the verification, the Department was precluded from conducting verification by the inadequacy of information on the record. Moreover, Isibars failed to provide a reasonable explanation for its failure to comply with these standard requests for information. Accordingly, the Department finds that Isibars did not act to the best of its ability to provide the information requested, despite the assistance offered by the Department. As facts become available, we have preliminarily assigned Isibars the all others rate of 48.80 percent. As discussed below, we have corroborated this rate pursuant to 19 CFR 351.308(d) of the Department's regulations.

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 *SAA*,

clarifies that the petition is secondary information, and states that corroborate means to determine that the information used has probative value. *See SAA* at 870; *See also* 19 CFR 351.308(d). To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. We have previously examined the reliability of the 48.80 rate and found it to be reliable, and placed it on the record of this review. *See* Corroboration Memorandum for Panchmahal Steel Limited for the final results of the 2000–2001 Administrative Review of Stainless Steel Wire Rods from India, dated May 8. We have no information in this administrative review which would indicate a change in the reliability of this rate.

With respect to the relevance aspect of the corroboration, the Department has considered information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstance indicate that the selected margin is not appropriate as AFA, 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 best information available (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 circumstances are present here. Moreover, the rate selected is the rate currently applicable to an exporter, and there is no information on the record of this review that demonstrates that this rate is not relevant for use as AFA during this administrative review.

Accordingly, we determine that the highest rate from any previous segment of this administrative proceeding (*i.e.*, the rate of 48.80 percent from the petition) is in accord with section 776(c)'s requirement that secondary information be corroborated (*i.e.*, that it have probative value).

Affiliation/Collapsing

In the previous administrative review, the Department collapsed Viraj Forgings Limited (''VFL''), Viraj Alloys Limited (''VAL'') and Viraj Impoexpo Limited (''VIL'') because the companies were found capable, through their sales and production operations, of manipulating prices or affecting production decisions. *See Final Results*. In the current review, Viraj reported that there were operational and legal changes to Viraj affiliated companies during this POR. *See* Antidumping Duty Administrative Review of Stainless Steel Wire Rods from India: Collapsing of Viraj Alloys, Ltd. And VSL Wires, Ltd., dated December 12, 2003 (''*Viraj Collapsing Memorandum*''). In the current review, VAL and VSL Wires, Limited (''VSL'') reported they produced subject merchandise during the POR. As discussed below, the Department has preliminarily determined that VAL and VSL are affiliated companies, and that VAL and VSL should be collapsed and considered one entity pursuant to section 771(33) of the Act and 19 CFR 351.401(f). *See Viraj Collapsing Memorandum*.

Section 771 (33) of the Act, states that the Department considers the following parties as affiliated:

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;

(B) Any officer or director of an organization and such organization;

(C) Partners;

(D) Employer and employee;

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization;

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and

(G) Any person who controls any other person and such other person.

For the purpose of this statute, a person is deemed to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person. *See* section 771(33) of the Act. Furthermore, 19 CFR 351.401(f) states that the Department will treat two or more affiliated producers as a single entity where: (1) Those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities; and (2) where there is a significant potential for the manipulation of price or production. In identifying whether a significant potential for the manipulation of price or production exists, 19 CFR 351.401(f)(2) states that the Department may consider: (i) The level of common ownership; (ii) the extent which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

The Department has analyzed the information regarding affiliation on the record in this administrative review, and preliminarily determines that VAL and VSL should be considered affiliated under sections 771(33)(A) and (F) by virtue of common control by several family members involved in ownership and management of VAL and VSL. *See Viraj Collapsing Memorandum* at 3. First, the record evidence shows that a husband and wife serve as the chairperson of VAL and VSL, respectively, while two brothers serve as directors of VAL and VSL, respectively. *See Viraj Collapsing Memorandum* at 3.

Moreover, the aforementioned chairperson and directors of VAL and VSL control significant shares of stocks in both companies, and the chairperson of VAL is also the managing director of VAL. *See Viraj Collapsing Memorandum* at 3. Thus, due to their significant shareholdings and positions within the companies, the chairpersons and directors are in a position to exercise legal and operational control over both VAL and VSL. *See Viraj Collapsing Memorandum* at 3. Therefore, the Department preliminarily determines that VAL and VSL are affiliated in accordance with sections 771(33)(A) and (F) of the Act by virtue of the fact that immediate members of the family are also the chairperson and directors of VAL and VSL and directly and indirectly control both of these entities.

Further, the Department preliminarily determines that VAL and VSL should be collapsed in accordance with 19 CFR 351.401(f), because both VAL and VSL have production facilities to produce similar or identical merchandise without substantial retooling and there is a significant potential for the manipulation of price or production.

During the POR, for sales to the home market, VAL produced and retained title to stainless steel billets which are rolled by an unaffiliated subcontractor into stainless steel wire rod, via tolling arrangement. The subcontractor returns the non-annealed and non-pickled finished wire rod (''unfinished wire rod'') to VAL, who transfers it to VSL, who sells the subject merchandise in the home market. For sales to the U.S. market, VAL produced and retained title

to stainless steel billets which are rolled by the same unaffiliated sub-contractor via a tolling arrangement, into unfinished stainless steel wire rod. The subcontractor returns the unfinished wire rod to VAL, who transfers the title to VSL. VSL then pickles and anneals the unfinished wire rod, packages for export and ships the subject merchandise to the United States. *See Viraj Collapsing Memorandum* at 5. All sales of stainless steel wire rods in the Indian market and U.S. market are made by VSL. *See Viraj Collapsing Memorandum* at 5; Verification Report at 6.

According to 19 CFR 351.401(h), the Department does not consider a subcontractor or toller as the producer of subject merchandise where that subcontractor or toller does not acquire ownership or sell the relevant merchandise. Thus, via its tolling arrangement with the unaffiliated subcontractor, VAL is considered a producer of SSWR, because the unaffiliated subcontractor does not acquire ownership of VAL's stainless steel billets/SSWR, nor does it control the sale of the SSWR, once it has been rolled. *See* 19 C.F.R. 351.401(h); *Polyvinyl Alcohol from Taiwan: Final Results of Antidumping Administrative Review,* 63 FR 32810, 32816 (June 16, 1998).

Further, the Department also considers VSL a producer of SSWR. By virtue of the fact that VSL obtains title to VAL's unfinished SSWR and then finishes the production (*i.e.*, anneals and pickles) of VAL's unfinished SSWR, VSL is a producer of SSWR. Thus, in accordance with 19 CFR 351.401(f)(1), VAL and VSL have production facilities for production of similar or identical products (*i.e.*, unfinished SSWR and annealed and pickled SSWR), and substantial retooling of either facility to restructure manufacturing priorities would not be required. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Korea,* 63 FR 40404, 40410 (July 29, 1998)(The Department collapsed POSCO/Changwon, producers of subject merchandise with Dongbang, another producer of subject merchandise, despite the fact that the Dongbang only had the ability to anneal and pickle the subject merchandise).

Additionally, the Department also finds that in accordance with 19 CFR 351.401(f)(1), VAL has the capability to add finishing equipment (*i.e.*, annealing and pickling equipment) to its production facilities without requiring substantial retooling. Specifically, the Department examined VAL and VSL's 2001–2002 financial statements and determined that VSL's plant and machinery gross fixed assets account for only a small percentage of VAL's plant and machinery gross fixed assets. *See Viraj Collapsing Memorandum* at 6; *May 19, 2003 SQR* at SQR–A–062 and SQR–A–025. Further, the Department also examined the total gross fixed assets of VAL and VSL and found that VSL's total gross fixed assets account for only a small percentage of VAL's total gross fixed assets. *See Viraj Collapsing Memorandum* at 6; *May 19, 2003 SQR* at SQR–A–062 and SQR–A–025. Thus, VAL could add VSL's annealing and pickling operations to its production process for SSWR for a small portion of its total plant and machinery value or its overall corporate value, either through an outright purchase of VSL or by purchasing annealing and pickling equipment of its own. Therefore, the Department believes that VAL and VSL would not need to engage in major retooling to shift production of SSWR from one company to the other.

Finally, the Department preliminarily determines that VAL and VSL have enough common ownership and have intertwined their operations significantly enough to justify the conclusion that a significant potential for manipulation of price and production exists. Thus, the Department preliminarily determines that VAL and VSL should be collapsed. Specifically, (1) VAL and VSL share common shareholders, including the chairpersons and directors of VAL and VSL; (2) VAL acts as the sole supplier to VSL of unfinished wire rods; and (3) VSL makes all sales of SSWR in the home market and U.S. market. *See Viraj Collapsing Memorandum* at 7. Thus, both VAL and VSL are capable, through their sales and production operations, of manipulating prices or affecting production decisions. Therefore, in accordance with 19 CFR 351.401(f), the Department preliminarily determines to collapse VAL and VSL as Viraj for the purposes of this review.

Normal Value Comparisons

To determine whether sales of subject merchandise from India to the United States by Mukand and Viraj were made at less than NV, we compared the export price (''EP'') and CEP, as appropriate, to the NV, as described in the ''Export Price/Constructed Export Price'' and ''NV'' sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual EP and CEP transactions.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the *Scope of the Review* section above, which were produced and sold by Mukand and Viraj in the home market during the POR, to be foreign like products for purposes of determining appropriate comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire.

Mukand

Mukand submitted information on the record which claimed that all of its reported grades should be treated as distinct grades for calculation purposes. *See* Mukand's Sections B and C response dated April 7, 2003, at 7 & 41. For the purpose of accurately comparing subject merchandise, the Department requested that Mukand provide a chemical breakdown of each of its grades. After analyzing the data presented by Mukand, the Department has determined that there is insufficient record evidence to support Mukand's position that grade 304LN is a distinct grade from 304L. Therefore, the Department has preliminarily determined to combine the above grades; specifically, the Department has determined that grade 304LN should be treated as grade 304L.

The grade chemistries provided on the record by Mukand indicate that the chemistry ranges reported by Mukand for grades 304L and 304LN are of a similar chemistry and composition; thus, Mukand's grades 304LN and 304L have been treated by the Department as one grade for purposes of the home market and U.S. sales programs.

It is the Department's practice not to create additional categories unless the physical characteristics are significantly different from an existing known category. *See Certain Cold-Rolled Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Review,* 63 FR 781 (January 7, 1998). Therefore, for the purposes of these preliminary results, the Department has determined to treat Mukand's grade 304LN as grade 304L.

Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of

importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States. In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

For purposes of this review, Mukand has classified certain sales as EP sales and certain sales as CEP sales. Based on the information on the record, we are using both EP and CEP as defined in section 772(a) and (b) of the Act.

For purposes of this review, Viraj has classified all sales as CEP sales. Based on the information on the record, we are using CEP as defined in section 772(b) of the Act.

Mukand

The Department has determined that Mukand's EP sales are properly reported sales, because those sales were made in accordance with the definition of an EP sale. Mukand has classified those sales made by its wholly-owned affiliate, Mukand International Limited (''MIL''), which was based in the United Arab Emirates during the POR, as EP sales. For the reported EP sales, MIL sold directly to a U.S. customer, prior to importation. Based on the evidence on the record, the Department preliminarily determines that MIL's EP sales were made within the meaning of section 772(a) of the Act, and thus have been appropriately classified by Mukand as EP transactions.

The Department based EP on packed prices to unaffiliated purchasers in the United States. The Department made deductions for inland freight, international freight, marine insurance, brokerage and handling, and U.S. Customs duties in accordance with section 772(c)(2) of the Act.

In addition, Mukand classified certain sales made in the United States after importation, in accordance with an agreement signed by MIL and its customer Precision Metals Services (''PMS'') (''the Agreement''), as CEP sales. Due to the proprietary nature of this agreement, please refer to Antidumping Duty Administrative Review of Stainless Steel Wire Rods from India: Agency Sales Analysis, dated December 12, 2003 (*''Agency Sales Memorandum''*), for a detailed explanation. According to Mukand, the agreement was signed, prior to the POR, after several shipments of subject merchandise were rejected by PMS after the subject merchandise had been imported into the United States and stored at PMS' warehouse in the United States. During the POR, several downstream sales of the subject merchandise were made to unaffiliated U.S. customers by PMS in accordance with the terms of the Agreement. Based on the evidence on the record, the Department preliminarily determines that MIL's CEP sales were made within the meaning of section 772(b) of the Act, and thus have been appropriately classified by Mukand as CEP transactions.

Additionally, based on the evidence on the record, the Department has preliminarily determined that given the unique terms and circumstances of these sales, those sales classified by Mukand as CEP sales should also be treated as sales made through an agent, with PMS as the agent. *See Agency Sales Memorandum.*

Citing the *Final Results,* the Department issued a supplemental questionnaire on May 29, 2003, requesting that Mukand report the sales prices and expenses incurred on the reported agency sales to which Mukand provided the Department with a Section C questionnaire response on July 11, 2003. However, after a thorough examination of this response and the accompanying sales database, the Department identified several deficiencies in the response and sales database, requiring the Department to issue an 18 page supplemental questionnaire on August 12, 2003. Despite providing Mukand a chance to correct the deficiencies in the response, Mukand informed the Department that PMS would not submit a response to the Department's supplemental questionnaire. *See* Letter from Mukand, dated September 15, 2003; *Agency Sales Memorandum.*

By not providing the agency sales information requested by the Department, in a database format that provides specific prices and expenses for these agency sales, Mukand has prevented the Department from calculating an accurate dumping margin. Further, in the *Final Results,* the Department made it clear to Mukand that the Department would further examine these sales in subsequent reviews. *See Final Results* at Comment 2. Moreover, the Department applied facts available to Mukand's CEP/agency sales in the last review, noting that it had requested the downstream sales data from Mukand late in the review process. *See Final Results* at Comment 2. Thus, Mukand had notice that the Department would further examine any reported CEP/agency sales in this review and the possible consequences of not supplying the Department with the requested information.

However, despite this knowledge, Mukand and PMS failed to respond to the Department's request to remedy the deficiencies in their response to the Department's request for the downstream sales prices and expenses for the CEP/agency sales. Thus, because Mukand was aware of the fact that the Department would examine its reported CEP/agency sales and the potential consequences of not responding to the Department's request, and because, unlike in the last review, the Department made this request several months before the preliminary determination, the Department has preliminarily determined to apply facts available to these sales (*i.e.*, Mukand's CEP/agency sales), because Mukand and PMS have withheld certain information requested by the Department and did not act to the best of its ability to comply with the Department's request. *See* sections 776(a)(2)(A) and 776(b) of the Act.

Consistent with sections 776(a)(2)(A) and 776(b) of the Act, Mukand and PMS withheld information that had been requested by the Department and did not act to the best of its ability to comply with the Department's request for information, justifying the use of adverse facts available in reaching the applicable determination. Therefore, the Department has preliminarily determined that the use of adverse facts available for the prices and expenses incurred for Mukand's agency sales in the U.S. market, in accordance with section 776(b) of the Act. Facts available, the Department has applied the corroborated ''all others'' rate of 48.8% to Mukand's reported CEP sales.

Viraj

For purposes of this review, Viraj has classified all of its sales as CEP sales. Based on the information on the record, we are using CEP as defined in section 772(b) of the Act.

Viraj has classified those sales made by VSL through Viraj USA Inc. (''VUI''), an affiliated reseller in the United States that is 100% owned by VFL, as CEP sales. VSL makes the shipment from India on an Ex-Dock Duty Paid (''EDDP'') basis to VUI. VUI clears the goods through U.S. customs and oversees customer delivery. Then VUI sells the goods to the unaffiliated U.S. customer, who makes payment to VUI.

Based on the record evidence, the Department preliminarily determines that VSL's U.S. sales through VUI were made ''in the United States'' within the meaning of section 772(b) of the Act, and thus have been appropriately classified by Viraj as CEP transactions.

The Department calculated CEP, in accordance with section 772(b) of the Act, based on the packed EDDP prices to the first unaffiliated customer in the United States. The Department made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, brokerage and handling, inland freight, international freight, U.S. customs duties, marine insurance, and customs clearance and delivery arrangements. In accordance with section 772(d)(1) of the Act, we deducted those selling expense associated with economic activities occurring in the United States, including direct selling expenses (bank charges and credit expenses) and indirect selling expenses.

We recalculated Viraj's U.S. credit expenses to reflect U.S. Federal Reserve short-term rates in accordance with the Department's policy, because Viraj did not incur any short-term loans denominated in U.S. dollars, and the rate reported by Viraj was based on a rate quote that could not be substantiated. *See* Policy Bulletin 1998.2, *Imputed Credit Expenses and Interest Rates,* (February 23, 1998); Sales and Cost Verification of Viraj Alloys Limited (''VAL'') and VSL Wires, Limited (''VSL'') in the Antidumping Administrative Review of Stainless Steel Wire Rods from India, dated December 10, 2003 (''*Verification Report*'') at 14; Analysis Memorandum for Viraj Alloys Limited and VSL Wires Limited for the Preliminary Results of the Administrative Review Stainless Steel Wire Rods from India for the Period December 1, 2001 through November 30, 2002 (''*Analysis Memorandum*'') at 3. Additionally, the Department has denied Viraj's reported brokerage and handling expenses, because Viraj could not provide documentation substantiating its reported brokerage and handling expenses. *See Verification Report* at 13; *Analysis Memorandum* at 2; *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany,* 67 FR 35497 (May 20, 2002). Finally, as explained in the ''Duty Drawback'' section below, we are not making any adjustment for duty drawback.

We deducted the profit allocated to expenses deducted under sections 772(d)(1) and (d)(2) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and home market.

Duty Drawback

Viraj

In the previous two administrative reviews, the Department denied Viraj's request for an upward adjustment to the U.S. starting price based on duty drawback pursuant to section 772(c)(1)(B) of the Act. *See Stainless Steel Wire Rods from India: Final Results of Antidumping Duty Administrative Review,* 67 FR 37391 (May 29, 2002); *Final Results* at 26290. The Department denied the duty drawback adjustment because the reported duty drawback was not directly linked to the amount of duty paid on imports used in the production of merchandise for export as required by the Department's two-part test, which states there must be: (1) A sufficient link between the import duty and the rebate, and (2) a sufficient amount of raw materials imported and used in the production of the final exported product. *See Rajinder Pipes Ltd.* v. *United States,* 70 F. Supp. 2d 1350, 1358 (CIT Sept. 17, 1999). The Court of International Trade has upheld the Department's past decisions to deny respondent an adjustment for duty drawback because there was not substantial evidence on the record to establish that part one of the Department's test had been met. *See Viraj Group, Ltd.* v. *United States,* 162 F.Supp. 2d 656 (CIT August 15, 2001).

Similarly, in the current review, the Department finds that Viraj has not provided substantial evidence on the record to establish the necessary link between the import duty and the reported rebate for duty drawback. Viraj has reported that it received duty drawback in the form of duty entitlement certificates which are issued by the Government of India to neutralize the incidence of basic custom duty on the import of raw materials used in the production of subject merchandise, but has failed to establish the necessary link between the import duty paid and the rebate given by the Government of India. *See* Viraj's April 4, 2003 response at C–19. As in the previous review, Viraj was not able to demonstrate that the import duty paid and the duty drawback rebate were directly linked. Therefore, the Department is denying a duty drawback credit for the preliminary results of this review.

Normal Value

After testing home market viability, we calculated NV as noted in the ''Price-to-CV Comparisons'' and ''Price-to-Price Comparisons'' sections of this notice.

1. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared the volume of home market sales of the foreign like product by Mukand and Viraj to the volume of each of their U.S. sales of subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because the aggregate volume of home market sales of the foreign like product by Mukand and Viraj were each greater than five percent of the aggregate volume of U.S. sales for the subject merchandise, we determined that sales in the home market provide a viable basis for calculating NV. We therefore based NV on home market sales to unaffiliated purchasers made in the usual commercial quantities and in the ordinary course of trade.

For NV, we used the prices at which the foreign like product was first sold for consumption in India, in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same level of trade (''LOT'') as the EP or CEP as appropriate. After testing home market viability and whether home market sales were at below-cost prices, we calculated NV as noted in the ''Price-to-Price Comparisons'' and ''Price-to-Constructed Value (''CV'') Price Comparisons'' sections of this notice.

Additionally, Viraj reported the home market sales of VSL. Since we have preliminarily determined to collapse the companies of Viraj, we included the home market sales of VSL as the basis of NV for Viraj.

2. Cost of Production Analysis

Mukand

Because the Department disregarded certain Mukand sales made in the home market at prices below the cost of producing the subject merchandise in the most recently completed segment of this proceeding and excluded such sales

from NV, the Department determined that there are reasonable grounds to believe or suspect that Mukand made sales in the home market at prices below the cost of producing the merchandise in this review. *See Final Results,* 68 FR 26290; Department's letter to Mukand, dated May 14, 2003; section 773(b)(2)(A)(ii) of the Act. As a result, the Department requested that Mukand report its cost of production on May 14, 2003, to determine whether Mukand made home market sales during the POR at prices below their respective COPs within the meaning of section 773(b) of the Act. *See* Department's letter to Mukand, dated May 14, 2003.

Viraj

Because the Department disregarded certain Viraj Group sales made in the home market at prices below the cost of producing the subject merchandise in the most recently completed segment of this proceeding and excluded such sales from NV, the Department determined that there are reasonable grounds to believe or suspect that Viraj made sales in the home market at prices below the cost of producing the merchandise in this review. *See Final Results;* section 773(b)(2)(A)(ii) of the Act. As a result, Viraj submitted its Section D questionnaire response to the Department on April 4, 2003.

3. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated cost of production (''COP'') based on the sum of Mukand and Viraj's costs of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative expenses (''SG&A''), including interest expenses, and packing costs. The Department relied on the COP data submitted by Mukand and Viraj in their original and supplemental cost questionnaire responses for this calculation.

Viraj

For the preliminary results, the Department denied Viraj's claimed interest offset because we have determined that Viraj's claimed interest offsets that were not of a short-term nature. *See Verification Report* at 22. Thus, the Department has recalculated Viraj's interest expense. *See Analysis Memorandum* at 4.

4. Test of Home Market Prices

We compared the weighted-average COP for Mukand and Viraj's home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices less than the COP, we examined whether such sales were made: (1) In substantial quantities within an extended period of time; and (2) at prices which permitted the recovery of all cost with all costs within a reasonable period of time, in accordance with sections 773(b)(1)(A) and (B) of the Act. We compared the COP to home market prices, less any applicable billing adjustments, movement charges, discounts, and indirect selling expenses.

5. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the sales made by Mukand and Viraj of a given product were, within an extended period of time, at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of the sales made by Mukand and Viraj of a given product were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time, in accordance with sections 773(b)(2)(B) of the Act and 19 C.F.R. 351.406(b). In such cases, because we used POR average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. We compared the COP for subject merchandise to the reported home market prices less any applicable movement charges. Based on this test, we disregarded below-cost sales. Where all sales of a specific product were at prices below the cost of production, we disregarded all sales of that product.

Price-to-CV Comparisons

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a home market match of identical or similar merchandise. We calculated CV based on the sum of the cost of materials, fabrication employed by Mukand and Viraj in producing the subject merchandise, and SG&A, including interest expenses and profit. We calculated the COPs included in the calculation of CV as noted above in the ''Calculation of COP'' section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expense and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in India. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses. For CV, we made the same adjustments described in the COP section above.

Price-to-Price Comparisons

Mukand

For those products comparisons for which there were sales at prices at or above the COP, we based NV on the home market prices to the home market customers. We made adjustments, where applicable, for inland freight from plant to distribution warehouse, and warehousing in accordance with section 773(a)(6)(B)(i) and (ii) of the Act. We made circumstance-of-sale adjustments for commissions, credit and interest revenue, where appropriate, in accordance with section 773(a)(6)(C) of the Act. We also made commission-offset adjustments, where applicable, for indirect selling expenses, including inventory carrying costs in accordance with section 773(a)(6)(C) of the Act.

We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Additionally, in accordance with section 773(a)(6)(A), we added U.S. packing costs. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale observation resulted in difference-in-merchandise adjustments exceeding 20 percent of the cost of manufacturing (''COM'') of the U.S. product, we based NV on CV. Finally, in accordance with section 773(a)(4) of the Act, where the Department was unable to determine NV on the basis of contemporaneous matches in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on CV.

Viraj

For those products comparisons for which there were sales at prices at or above the COP, we based NV on the home market prices to the home market customers. We made circumstance-of-sale adjustments for commissions and credit, where appropriate in accordance with section 773(a)(6)(C) of the Act. We also made adjustments, where applicable, for other discounts and indirect selling expenses in accordance with section 773(a)(6)(B)(ii) of the Act.

We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Additionally, in accordance with

section 773(a)(6)(A), we added U.S. packing costs. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale observation resulted in difference-in-merchandise adjustments exceeding 20 percent of the cost of manufacturing (''COM'') of the U.S. product, we based NV on CV. Finally, in accordance with section 773(a)(4) of the Act, where the Department was unable to determine NV on the basis of contemporaneous matches in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on CV.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP or CEP transaction. *See also* 19 CFR 351.412. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. *See* 19 CFR 351.412(2)(iii). For EP, the LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. *See* 19 CFR 351.412(2)(i). For CEP, it is the level of the constructed sale from the exporter to the affiliated importer. *See* 19 CFR 351.412(c)(ii).

To determine the LOT of a sale, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. Substantial differences in selling activities are a necessary, but not sufficient condition for determining that there is a difference in the stage of marketing. *See* 19 CFR 351.412(C)(2). If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP sales affect price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

In implementing these principles in this review, we obtained information from Mukand and Viraj about the marketing stages involved in their respective U.S. and home market sales, including a description of the selling activities performed by Mukand and Viraj for each channel of distribution. In identifying levels of trade for CEP, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States,* 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001). Generally, if the reported levels of trade are the same in the home and U.S. markets, the functions and activities of the seller should be similar. Conversely, if a party reports levels of trade that are different categories of sales, the functions and activities should be dissimilar.

In the present review, while Mukand requested an LOT adjustment, Viraj did not; the Department nonetheless considered LOT adjustments for both Mukand and Viraj. To determine whether an adjustment was necessary for either company, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and home markets, including the selling functions, classes of customer, and selling expenses.

Mukand

In the home market (''HM''), Mukand reported three levels of trade. *See* Mukand's Sections B and C questionnaire response, dated April 7, 2003 (''*Mukand's Sections B & C response*'') at 18. Mukand sold through four channels of distribution in the HM. *See Mukand's Sections B & C response,* at 10. The Department has preliminarily determined that in each of these four channels of distribution, only minor differences in selling functions existed during the POR. *See* Antidumping Duty Administrative Review of Stainless Steel Wire Rods from India: Level of Trade Analysis, dated December 12, 2003 (''*LOT Memorandum*''). Because the Department has preliminarily determined that only minor differences exist between selling functions in each of the four HM channels of distribution, we preliminarily determine that there is one LOT in the HM.

For the U.S. market, Mukand reported one level of trade. *See Mukand's Sections B & C response* at 52. For its U.S. sales, Mukand reported two channels of distribution: EP sales made to order to an unaffiliated customer before importation; and CEP sales sold after importation. For details of these sales, *see Agency Sales Memorandum.* For its EP sales, Mukand's sales were made by its wholly-owned subsidiary, MIL, which was based in the United Arab Emirates during the POR, directly to an unaffiliated U.S. customer. For its CEP sales, PMS sold Mukand's subject merchandise after importation on an agency basis to unaffiliated customers in the United States. *See Agency Sales Memorandum.* We examined the claimed selling functions performed by MIL for all U.S. sales and have determined that MIL provided the same level of services for both its EP and CEP sales to the United States. *See LOT Memorandum* at 6.

For EP sales in the U.S. market, Mukand provided the same level of services for both EP and NV sales with only minor differences. *See LOT Memorandum* at 6. After analyzing the selling functions performed for sales in the HM and EP sales in the U.S. market, we preliminarily determine that there is not a significant difference in the selling functions performed in the home market and U.S. market, and that these sales are made at the same LOT. *See LOT Memorandum* at 6.

In order to determine whether NV was established at a different LOT than CEP, we examined stages in the marketing process and selling functions between Mukand and its home market customers. We compared the selling functions performed for home market sales with those performed with respect to the CEP transactions, after deductions for economic activities occurring in the United States, pursuant to section 772(d) of the Act, to determine if the home market level of trade constituted a different level of trade than the CEP level of trade. After analyzing the selling functions performed for sales in the HM and CEP sales in the U.S. market, we preliminarily determine that there is no significant difference in the selling functions performed in the home market and U.S. market, and that these sales are made at the same LOT. *See LOT Memorandum* at 6.

Mukand did not request a CEP offset. Nonetheless, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and the Indian markets, including the selling functions, classes of customer, and selling expenses to determine whether a CEP offset was necessary. In identifying levels of trade for CEP, we considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See LOT Memorandum.* Based on our analysis of the channels of distribution and selling functions performed for sales in the home market and CEP sales in the U.S. market, we preliminarily find that there

is no significant difference in the selling functions performed in the home market and the U.S. market for CEP sales. *See LOT Memorandum* at 6. Thus, we find that Mukand's NV and CEP sales were made at the same LOT, and no LOT adjustment or CEP offset need be granted.

Viraj

In accordance with the principles discussed above, we examined information regarding Viraj's distribution systems in both the United States and Indian markets, including selling functions, classes of customer, and selling expenses for Viraj.

Viraj claimed three levels of trade in the home market. *See* Viraj Section B and C Questionnaire Response, dated April 4, 2003 (''*Viraj Section B and C Response*'') at B–13. Additionally, Viraj reported that it sold through one channel of distribution in the home market: directly to unaffiliated customers (''actual user'', ''trading company'', and ''distributors''). *See Viraj Section B and C Response* at B–6. For sales in the home market, Viraj reported that all of its sales are sold ex-works. *See Viraj Section B and C Response* at B–9. Viraj reported that it performs the following selling functions in the home market: price negotiations, order processing, and customer communication. *See* Viraj Section A Questionnaire Response, dated March 18, 2003, at A–12. Because there is only one channel of distribution in the home market and identical selling functions are performed for all home market sales, we preliminarily determine that there is one LOT in the home market.

Viraj claimed three levels of trade in the U.S. market. *See Viraj Section B and C Response* at C–13. Viraj reported that it sold through one channel of distribution in the U.S. market, directly from its mill to its U.S. affiliate (*i.e.*, VUI). *See Viraj Section B and C Response* at C–6. The Department examined the selling functions and services performed by Viraj to its U.S. affiliate, VUI. We found that the selling functions (*i.e.*, price negotiations, order processing, and customer communication) Viraj performs after the section 772(d) adjustment are the same for all of its U.S. sales. *See* Viraj Section A Questionnaire Response March 18, 2003 (''*Viraj March 18, 2003 Response*'') at A–14. Therefore, we preliminarily determine that Viraj has one LOT in the U.S. market based on its selling functions to the United States.

In order to determine whether NV was established at a different LOT than CEP sales, we examined stages in the marketing process and selling functions along the chains of distribution between (1) Viraj and its home market customers and (2) Viraj and its affiliated U.S. reseller, VUI, after deductions for expenses and profits. Specifically, we compared the selling functions performed for home market sales with those performed with respect to the CEP transaction, after deductions for economic activities occurring in the United States, pursuant to section 772(d) of the Act, to determine if the home market level of trade constituted a different level of trade than the CEP level of trade.

Viraj did not request a CEP offset. Nonetheless, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and Indian markets, including the selling functions, classes of customer, and selling expenses to determine whether a CEP offset was necessary. For CEP sales, we found that Viraj provided many of the same selling functions and expenses for its sale to its affiliated U.S. reseller VUI as it provided for its home market sales, including price negotiation, order processing, and customer communication. Based on our analysis of the channels of distribution and selling functions performed for sales in the home market and CEP sales in the U.S. market, we preliminarily find that there is no significant difference in the selling functions performed in the home market and the U.S. market for CEP sales. Thus, we find that Viraj's NV and CEP sales were made at the some LOT, and no LOT adjustment or CEP offset need be granted.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Act.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for Isibars, Mukand, and Viraj for the period December 1, 2001 through November 30, 2002:

Producer/Manufacturer/Exporter	Weighted-average margin (percent)
Isibars Steel	48.80
Mukand Limited	18.67
Viraj Group	17.16

The Department will disclose calculations performed for these preliminary results within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. *See* 19 CFR 351.310(d). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. *See* 19 CFR 351.309(d). Further, we would appreciate it if parties submitting written comments also provide the Department with an additional copy of those comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment

Upon issuance of the final results of this review, the Department shall determine, and the CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b), the Department has calculated an assessment rate applicable to all appropriate entries. We calculated importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value, or entered quantity, as appropriate, of the examined sales for that importer. Upon completion of this review, where the assessment rate is above de minimis, we will instruct BCBP to assess duties on all entries of subject merchandise by that importer.

Cash Deposit

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for each of the reviewed companies will be the rate listed in the final results of review (except that if the

rate for a particular company is de minimis, *i.e.*, less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 48.80 percent, which is the all others rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 12, 2003.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 03–31354 Filed 12–18–03; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533–839]

Notice of Initiation of Countervailing Duty Investigation: Carbazole Violet Pigment 23 From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 19, 2003.

FOR FURTHER INFORMATION CONTACT: Sean Carey at (202) 482–3964, Office of AD/CVD Enforcement Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Initiation of Investigation

The Petition

On November 21, 2003, the U.S. Department of Commerce (the Department) received a petition filed in proper form by Sun Chemical Corporation and Nation Ford Chemical Company (collectively, the petitioners). The Department received supplemental information to the petition from the petitioners on December 5, 2003.

In accordance with section 702(b)(1) of the Act, petitioners allege that producers or exporters of carbazole violet pigment 23 (CVP-23) in India receive countervailable subsidies within the meaning of section 701 of the Act, and that imports from India are materially injuring, or are threatening material injury, to an industry in the United States.

The Department finds that the petitioners filed the petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the countervailing duty investigation that they are requesting the Department to initiate. *See infra*, ''Determination of Industry Support for the Petition.''

Period of Investigation

The anticipated period of investigation (POI) is January 1, 2002 through December 31, 2002.

Scope of Investigation

The merchandise covered by this investigation is carbazole violet 23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of *diindolo [3,2-b:3',2'-m]triphenodioxazine, 8,18-dichloro-5, 15 5,15-diethy-5,15-dihydro-*, and molecular formula of $C_{34}H_{22}Cl_2N_4O_2$.[1] The subject merchandise includes the crude pigment in any form (*e.g.*, dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.* pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the investigation.

The merchandise subject to this investigation is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. As discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Consultations

In accordance with Article 13.1 of the Agreement on Subsidies and Countervailing Measures and section 702(b)(4)(A)(ii) of the Tariff Act of 1930, we held consultations with the Government of India (''GOI'') regarding this petition on December 9, 2003. *See Memorandum to the File from Sean Carey: Consultations with the Government of India Regarding the Countervailing Duty Petition on Carbazole Violet Pigment 23*, dated December 10, 2003.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition satisfies this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the

[1] Please note that the bracketed section of the product description, [3,2-b:3',2'-m], is not business proprietary information. In this case, the brackets are simply part of the chemical nomenclature. *See* December 4, 2003, amendment to petition (supplemental petition) at 8.