



A-533-877
Administrative Review
POR: 3/28/2018 - 9/30/2019
Public Document
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February 17, 2021

MEMORANDUM TO: Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of the
Antidumping Duty Administrative Review: Stainless Steel
Flanges from India; 2018-2019

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on stainless steel flanges (flanges) from India, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The review covers 45 producers or exporters of the subject merchandise, and we selected Chandan Steel Limited (Chandan) as the sole mandatory respondent. The period of review (POR) is March 28, 2018, through September 30, 2019. We preliminarily find that sales of subject merchandise were made at prices below normal value (NV) during the POR.

II. BACKGROUND

On October 9, 2018, Commerce published the AD order on flanges from India in the *Federal Register*.¹ On October 1, 2019, Commerce published in the *Federal Register* a notice of opportunity to request an administrative review of the *Order* for the POR.²

Pursuant to section 751(a)(1) of the Act, and 19 CFR 351.213(b)(1), Commerce received timely requests to conduct an administrative review of the *Order*. Specifically, in October 2019, we

¹ See *Stainless Steel Flanges from India: Antidumping Duty Order*, 83 FR 50639 (October 9, 2018) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 52068 (October 1, 2019).



received review requests from nine³ individual companies,⁴ as well from the Coalition of American Flange Producers (the petitioner).⁵ The petitioner's review request covered 42 companies, including most of the companies who self-requested a review.⁶

On December 11, 2019, in accordance with 19 CFR 351.221(c)(1)(i), we published in the *Federal Register* a notice of initiation of this administrative review covering the 45 companies for which we received a request for review.⁷ In the *Initiation Notice*, we indicated that, in the event that we limited the respondents selected for individual examination in accordance with section 777A(c)(2) of the Act, we intended to select respondents based on U.S. Customs and Border Protection (CBP) data.⁸

On January 13, 2020, Commerce released CBP data to all interested parties under an administrative protective order and requested comments regarding the data and respondent selection.⁹ No party submitted comments. On March 13, 2020, pursuant to section 777A(c)(2)(B) of the Act, we selected Chandan, the producer/exporter accounting for the largest volume of the subject merchandise that could reasonably be examined, as the sole mandatory

³ These companies are: Bebitz Flanges Works Private Limited (Bebitz); Chandan; Echjay Forgings Private Limited (Echjay); Hilton Metal Forging Limited (Hilton); Jai Auto Pvt. Ltd. (Jai Auto); Jay Jagdamba Limited (Jay Jagdamba); Jay Jagdamba Profile Private Limited; Jay Jagdamba Forgings Private Limited; Shree Jay Jagdamba Flanges Private Limited (Shree Jay Jagdamba) (collectively, Jagdamba); and Pradeep Metals Limited (Pradeep).

⁴ See Bebitz's Letter, "Stainless Steel Flanges from India: AD/CVD Administrative Review Request," dated October 30, 2019; Chandan's Letter, "Stainless Steel Flanges from India (A-533-877) - Request for Administrative Review of Anti-dumping Duty Order on Behalf of Chandan Steel Limited," dated October 30, 2019; Echjay's Letter, "Request for Anti-Dumping Duty Administrative Review of Stainless Steel Flanges from India," dated October 30, 2019; Hilton's Letter, "Stainless Steel Flanges from India: Request for Administrative Review," dated October 23, 2019; Jai Auto's Letter, "Request for Anti-Dumping Duty Administrative Review of Stainless Steel Flanges from India," dated October 30, 2019; Jagdamba's Letter, "Request for Anti-Dumping Duty Administrative Review of Stainless Steel Flanges from India," dated October 25, 2019; and Pradeep's Letter, "Stainless Steel Flanges from India (A-533-877) - Request for Administrative Review of Anti-dumping Duty Order on Behalf of Pradeep Metals Limited," dated October 30, 2019.

⁵ See Petitioner's Letter, "Stainless Steel Flanges from India: Request for Administrative Review," dated October 29, 2019; and Petitioner's Letter, "Stainless Steel Flanges from India: Supplemental Request for Administrative Review," dated October 30, 2019.

⁶ These companies are: Arien Global; Armstrong International Pvt. Ltd.; Avinimetal; Balkrishna Steel Forge Pvt. Ltd.; Bee Gee Enterprises; Bsl Freight Solutions Pvt., Ltd.; CD Industries (Prop. Kisaan Engineering Works Pvt. Ltd.); Chandan; Cipriani Harrison Valves Pvt. Ltd.; CTL Logistics (India) Pvt. Ltd.; Echjay; Fivebros Forgings Pvt. Ltd.; Fluid Controls Pvt. Ltd.; Geodis Oversea Pvt., Ltd.; Globelink WW India Pvt., Ltd.; Goodluck India Ltd.; Hilton; Jai Auto; Jay Jagdamba; Kisaan Die Tech; Kunj Forging Pvt. Ltd.; Montane Shipping Pvt., Ltd.; Noble Shipping Pvt. Ltd.; Paramount Forge; Pashupati Tradex Pvt., Ltd.; Peekay Steel Castings Pvt. Ltd.; Pradeep; R D Forge Pvt., Ltd.; Rolex Fittings India Pvt. Ltd.; Rollwell Forge Pvt. Ltd.; Safewater Lines (I) Pvt. Ltd.; Saini Flange Pvt. Ltd.; SAR Transport Systems; Shilpan Steelcast Pvt. Ltd.; Shree Jay Jagdamba; Teamglobal Logistics Pvt. Ltd.; Technical Products Corporation; Technocraft Industries India Ltd.; Transworld Global; VEEYES Engineering Pvt. Ltd.; Vishal Shipping Agencies Pvt. Ltd.; and Yusen Logistics (India) Pvt. Ltd.

⁷ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 67712 (December 11, 2019) (*Initiation Notice*). We note that the *Initiation Notice* lists 50 names subject to this review; however, we have combined company names in five instances where there was a duplicate name that had only a minor spelling variation.

⁸ *Id.*

⁹ See Memorandum, "Antidumping Duty Administrative Review of Stainless Steel Flanges from India: Placing Customs Data on the Record," dated January 13, 2020.

respondent in this review,¹⁰ and we issued the standard AD questionnaire to it.¹¹ On March 17, 2020, the petitioner requested that Commerce: (1) verify Chandan's responses in this administrative review, and (2) select a second company for individual examination.¹² We note that verification in this review is not mandatory under Commerce's regulations, and that, in light of our finding that Chandan's reported data are unreliable (*see* "Use of Facts Available and Adverse Inferences" below), verification of Chandan's data is not appropriate. Additionally, for the reasons stated in the Respondent Selection Memorandum, Commerce continues to determine that selection of Chandan as the sole mandatory respondent, the producer/exporter accounting for the highest volume of subject merchandise sales, is appropriate in this review.¹³

In April 2020, Commerce tolled all deadlines in administrative reviews by 50 days.¹⁴ Also in this month, Chandan submitted a timely response to section A of the questionnaire, *i.e.*, the section related to general information.¹⁵ Thereafter, we issued two supplemental questionnaires to Chandan related to this information,¹⁶ and Chandan filed timely responses.¹⁷

In June and July 2020, Chandan submitted its response to the remainder of Commerce's AD questionnaire,¹⁸ and the petitioner submitted comments on Chandan's response.¹⁹ Also in July 2020, Commerce further tolled all deadlines in administrative reviews by an additional 60 days.²⁰

¹⁰ See Memorandum, "Antidumping Duty Administrative Review of Stainless Steel Flanges from India, 2018-2019: Respondent Selection," dated March 13, 2020 (Respondent Selection Memorandum).

¹¹ See Commerce's Letter, "Antidumping Duty Administrative Review of Stainless Steel Flanges from India: Request for Information," dated March 13, 2020 (AD Questionnaire).

¹² See Petitioner's Letters, "Stainless Steel Flanges from India: Request for Verification," dated March 17, 2020; and "Stainless Steel Flanges from India: Request to Add Second Mandatory Respondent," dated March 17, 2020.

¹³ See Respondent Selection Memorandum.

¹⁴ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

¹⁵ See Chandan's Letter, "Certain Stainless Steel Flanges from India (A-533-877), Section A Questionnaire Response," dated April 3, 2020.

¹⁶ See Commerce's Letters, "Antidumping Duty Administrative Review of Stainless Steel Flanges from India: Section A Supplemental Questionnaire," dated April 10, 2020; and "Antidumping Duty Administrative Review of Stainless Steel Flanges from India: Section A Supplemental Questionnaire," dated May 5, 2020.

¹⁷ See Chandan's Letter, "Certain Stainless Steel Flanges from India (A-533-877), Section A Supplemental Questionnaire Response," dated April 24, 2020; and "Certain Stainless Steel Flanges from India (A-533-877), Section A 2nd Supplemental Questionnaire Response," dated May 15, 2020.

¹⁸ See Chandan's Letters, "Certain Stainless Steel Flanges from India (A-533-877), Section-B and Section-C Response," dated June 30, 2020 (Chandan June 30, 2020 BCQR); and "Certain Stainless Steel Flanges from India (A-533-877), Re-submission of Section-D Response with Corrected Segment Cluster Information," dated July 6, 2020 (Chandan July 6, 2020 DQR).

¹⁹ See Petitioner's Letters, "Stainless Steel Flanges from India: Petitioner's Comments on Chandan's Section A Questionnaire Response," dated April 21, 2020; "Stainless Steel Flanges from India: Petitioner's Comments on Chandan's Section B and C Questionnaire Response," dated July 20, 2020; and "Stainless Steel Flanges from India: Petitioner's Comments on Chandan's Section D Questionnaire Response," dated July 29, 2020.

²⁰ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

Between August and December 2020, Commerce issued additional supplemental questionnaires to Chandan,²¹ to which the company responded.²² Thereafter, the petitioner submitted comments on Chandan's responses.²³

On October 1, 2020, Commerce extended the time limit for completion of the preliminary results of the review to no later than February 17, 2021.²⁴ On January 26, 2021, the petitioner submitted comments for consideration in the preliminary results.²⁵

III. SCOPE OF THE ORDER

The products covered by this order are certain forged stainless-steel flanges, whether unfinished, semi-finished, or finished (certain forged stainless-steel flanges). Certain forged stainless steel flanges are generally manufactured to, but not limited to, the material specification of ASTM/ASME A/SA182 or comparable domestic or foreign specifications. Certain forged stainless steel flanges are made in various grades such as, but not limited to, 304, 304L, 316, and 316L (or combinations thereof). The term "stainless steel" used in this scope refers to an alloy steel containing, by actual weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements.

Unfinished stainless-steel flanges possess the approximate shape of finished stainless steel flanges and have not yet been machined to final specification after the initial forging or like operations. These machining processes may include, but are not limited to, boring, facing, spot

²¹ See Commerce's Letters, "Antidumping Duty Administrative Review of Stainless Steel Flanges from India: Section B and C Supplemental Questionnaire," dated August 19, 2020 (Commerce August 19, 2020 Supplemental); "Antidumping Duty Administrative Review of Stainless Steel Flanges from India: Section D Supplemental Questionnaire," dated September 2, 2020 (Commerce September 2, 2020 Supplemental); and "Antidumping Duty Administrative Review of Stainless Steel Flanges from India: Supplemental Questionnaire," dated November 25, 2020 (Commerce November 25, 2020 Supplemental).

²² See Chandan's Letters, "Certain Stainless Steel Flanges from India (A-533-877): Resubmission of Section A 2nd Supplemental Questionnaire Response of Question 1 and Question 3," dated June 25, 2020; "Certain Stainless Steel Flanges from India (A-533-877), Section B & C Supplemental Questionnaire Response," dated September 9, 2020 (Chandan September 9, 2020 SBCQR); "Certain Stainless Steel Flanges from India (A-533-877), Section B & C Supplemental Questionnaire Response for Question 21," dated September 11, 2020 (Chandan September 11, 2020 SBCQR); "Certain Stainless Steel Flanges from India (A-533-877), Bracketing Final Version of Section D Supplemental Questionnaire Response," dated September 23, 2020 (Chandan September 23, 2020 SDQR); "Certain Stainless Steel Flanges from India (A-533-877), Section B & C Supplemental Questionnaire Response to Questions 1 through 30," dated December 9, 2020 (Chandan December 9, 2020 SBCDQR); and "Certain Stainless Steel Flanges from India (A-533-877), Section B & C Supplemental Questionnaire Response to Questions 31 through 58," dated December 11, 2020 (Chandan December 11, 2020 SDQR).

²³ See Petitioner's Letters, "Stainless Steel Flanges from India: Petitioner's Comments on Chandan's Supplemental Section A Questionnaire Response," dated May 5, 2020; "Stainless Steel Flanges from India: Petitioner's Comments on Chandan's Supplemental Section B and C Questionnaire Response," dated September 22, 2020; and "Stainless Steel Flanges from India: Petitioner's Comments on Chandan's Supplemental Section D Questionnaire Response," dated September 29, 2020 (Petitioner September 29, 2020 Comments).

²⁴ See Memoranda, "Stainless Steel Flanges from India: Extension of Deadline for Preliminary Results of 2018-2019 Antidumping Duty Administrative Review," dated October 1, 2020; and "Stainless Steel Flanges from India: Extension of Deadline for Preliminary Results of 2018-2019 Antidumping Duty Administrative Review," dated December 7, 2020.

²⁵ See Petitioner's Letter, "Stainless Steel Flanges from India: Petitioner's Pre-Preliminary Determination Comments," dated January 26, 2021.

facing, drilling, tapering, threading, beveling, heating, or compressing. Semi-finished stainless steel flanges are unfinished stainless-steel flanges that have undergone some machining processes.

The scope includes six general types of flanges. They are: (1) weld neck, generally used in butt weld line connection; (2) threaded, generally used for threaded line connections; (3) slip-on, generally used to slide over pipe; (4) lap joint, generally used with stub-ends/butt-weld line connections; (5) socket weld, generally used to fit pipe into a machine recession; and (6) blind, generally used to seal off a line. The sizes and descriptions of the flanges within the scope include all pressure classes of ASME B16.5 and range from one-half inch to twenty-four inches nominal pipe size. Specifically excluded from the scope of this investigation are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A351.

The country of origin for certain forged stainless-steel flanges, whether unfinished, semi-finished, or finished is the country where the flange was forged. Subject merchandise includes stainless steel flanges as defined above that have been further processed in a third country. The processing includes, but is not limited to, boring, facing, spot facing, drilling, tapering, threading, beveling, heating, or compressing, and/or any other processing that would not otherwise remove the merchandise from the scope of the *Order* if performed in the country of manufacture of the stainless-steel flanges.

Merchandise subject to the *Order* is typically imported under headings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings and ASTM specifications are provided for convenience and customs purposes, the written description of the scope is dispositive.

IV. USE OF FACTS AVAILABLE AND ADVERSE INFERENCES

In accordance with sections 776(a) and (b) of the Act, we determine that the use of facts available with adverse inferences is appropriate for these preliminary results with respect to Chandan.

A. Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or if an interested party: (1) withholds information requested by Commerce; (2) fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, Commerce shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act states that Commerce shall consider the ability of an interested party to provide information in the form and manner requested upon a prompt notification by that

party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information.

Section 782(e) of the Act states further that Commerce shall not decline to consider submitted information if all of the following requirements are met: (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.

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

In this administrative review, Chandan has failed to provide accurate and complete responses to our requests for information. Commerce issued multiple supplemental questionnaires to Chandan, affording it an opportunity to explain how its reported information is accurate and/or to remedy any deficiencies in that information. Despite this, however, Chandan's responses continue to contain a number of fundamental reporting deficiencies and errors. For the reasons detailed below, we determine that Chandan withheld information requested by Commerce, failed to provide information in the form and manner requested, and significantly impeded this proceeding.

1. Comparison Market Window Sales

In the initial AD questionnaire issued to Chandan, we requested that Chandan:

report all sales of the foreign like product during the three months preceding the earliest month of U.S. sales, all months from the earliest to the latest month of U.S. sales, and the two months after the latest month of U.S. sales.²⁶

The sales during this five-month period are known as “window period” sales. Despite this explicit instruction, Chandan reported to Commerce only the comparison market sales that it made during the POR itself, *i.e.*, not for the window period.²⁷ Therefore, we again asked Chandan to report comparison market sales “for the two months after the latest month of U.S. sales,” and to “include sales for three months preceding the earliest month of U.S. sales.”²⁸ In response to this question, Chandan provided the requested information.²⁹

²⁶ See AD Questionnaire at B-1.

²⁷ See Chandan June 30, 2020 BCQR at Exhibit B-2.

²⁸ See Commerce August 19, 2020 Supplemental at 4-7.

²⁹ See Chandan September 11, 2020 SBCQR at attached “CSLHM03” comparison market database.

In a subsequent supplemental questionnaire, we requested substantial revisions to Chandan's comparison market database.³⁰ When it responded to this questionnaire, Chandan once again submitted a comparison market database without including sales covering the full five-month window period.³¹ This omission is significant. While one of the prior versions contained window sales,³² this information is so inaccurate as to be unusable, given that Commerce requested that Chandan substantially revise that information in response to a supplemental questionnaire.³³

As a consequence, necessary information is missing from the record, within the meaning of section 776(a)(1) of the Act because Chandan failed to report complete sales information in its comparison market database. Further, where Chandan did provide requested data, Chandan failed to report that data in the form or manner required, within the meaning of section 776(a)(2)(B) of the Act, despite the fact that Commerce requested this information on two separate occasions.

Making appropriate product comparisons is fundamental to Commerce's dumping analysis, and without them, Commerce cannot calculate an accurate overall dumping margin for a respondent company.³⁴ The requested information is critical to Commerce's price-to-price margin calculation, as the best NV "match" for U.S. sales may be comparison market sales in the window period.³⁵ Therefore, by excluding these data from its most recent comparison market database, Chandan has also impeded this proceeding, within the meaning of section 776(a)(2)(C) of the Act.

2. *Control Number (CONNUM)*³⁶ *Cost Reporting*

Commerce requires that respondents report costs on a CONNUM-specific basis. This information is necessary because Commerce relies on such costs in applying the "cost test" in the comparison market program and in our identification of "identical" or "similar" products (for

³⁰ See Commerce November 25, 2020 Supplemental at 1-2.

³¹ See Chandan December 9, 2020 SBCDQR at attached "CSLAR1HM03" comparison market database.

³² See Chandan September 11, 2020 SBCQR at attached "CSLHM03" comparison market database.

³³ See Chandan December 9, 2020 SBCDQR at 1-6 and attached "CSLAR1HM03" comparison market database. Chandan failed to report flanges under a certain size in CSLHM03. Therefore, the "window period" sales reported in CSLHM03 were incomplete. We also asked Chandan to revise its gross unit price, quantity discount, and other discounts/billing adjustment for its subsequent submission; these adjustments would have potentially impacted the sales reporting in the earlier database. Accordingly, accurate window sales are missing from the record.

³⁴ See, e.g., *Certain Carbon and Alloy Steel Cut-to-Length Plate from Italy: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 82 FR 16345 (April 4, 2017), and accompanying Issues and Decision Memorandum at Comment 2 (stating "the ability to make appropriate product comparisons goes to the heart of {Commerce's} dumping methodology").

³⁵ In administrative reviews, Commerce normally compares the export price (or constructed export price) of an individual U.S. sale to an average NV based on a contemporaneous month in the comparison market. The preferred month for NV is the month in which the particular U.S. sale was made. If, during the preferred month, there are no sales in the foreign market of a product that is identical to the subject merchandise, Commerce may then base NV on identical or similar sales in the "window period," which extends from three months prior to the month of the U.S. sales in question until two months after the final month of U.S. sales.

³⁶ A CONNUM is an identifier for a product, or a group of products, with a unique and specifically-defined set of physical characteristics.

price-to-price matching purposes) in the margin program. Chandan's response contains pervasive reporting deficiencies relating to its assignment of costs at the CONNUM-specific level.

In its initial response, Chandan explained that it had calculated the reported weighted-average costs as requested, and it directed Commerce to "Exhibit D-24 for the cost calculation for the highest volume {CONNUM in} the {third-country (comparison)} market {(CONNUM A)} and U.S. market {(CONNUM B)}."³⁷ Chandan also provided, at Exhibit D-15, the raw material cost allocation calculation and the direct material cost calculation. However, during our initial review of Chandan's response, we found that: (1) Exhibit D-24 did not, in fact, include weighted-average CONNUM costs, and (2) in comparing Exhibits D-15 and D-24, Chandan's response contained discrepancies in the reported total raw material costs between these two exhibits.³⁸

Therefore, in a supplemental questionnaire, we requested that Chandan "provide a detailed explanation of why the information provided in Exhibit D-24 is inconsistent with information provided in other parts of Chandan's questionnaire response."³⁹ Contrary to this instruction, Chandan provided no explanation of these discrepancies, instead simply stating that "Chandan is resubmitting Exhibit D-24 as Exhibit D-39 to provide information consistent with that provided in other parts of Chandan's questionnaire response."⁴⁰ A comparison of Exhibits D-24 and D-39 indicates that Chandan did not make any adjustments, as these exhibits are identical.⁴¹

In our supplemental questionnaire, we also directed Chandan to "provide a detailed description of how you compiled the CONNUM-specific worksheet in Exhibit D-39," and to "provide all source documentation (*i.e.*, documentation generated in the normal course of business) relied on to compile the worksheet. If referencing other exhibits, please identify what specific details you used in {Exhibit D-39} with page numbers and/or spreadsheet column/row, *i.e.*, cell references."⁴² Chandan responded:

Chandan has compiled the Exhibit D-39 based on the **product drawings and the cycle times that are defined for production of these products. These drawings include the details of ... technical parameters required for allocation of cost. All attributes for all products that are produced by Chandan have been populated based on these drawings** to ensure accuracy in reporting CONNUM characteristics and deciding cost parameters. For example, the raw material cost is prepared by using the steel grade mentioned on the product drawing with the input weight of raw materials and the output weight of the product.

³⁷ See Chandan July 6, 2020 DQR at 37. The specific CONNUMs constitute BPI, and Commerce has identified the CONNUMs in question in the BPI addendum dated concurrently with this memorandum (BPI Addendum), at Note 1.

³⁸ See Chandan July 6, 2020 DQR at Exhibits D-15 and D-24.

³⁹ See Commerce September 2, 2020 Supplemental at 4.

⁴⁰ See Chandan September 23, 2020 SDQR at 19.

⁴¹ See Chandan July 6, 2020 DQR at Exhibit D-24; and Chandan September 23, 2020 SDQR at Exhibit D-39.

⁴² See Commerce November 25, 2020 Supplemental at 9.

Further, the machining cycle time is derived ... based on the size and shape of each product. *See* Exhibit D-57 for a copy of the supporting documents for products reporting {sic} in Exhibit D-39.⁴³

To support its explanation, Chandan provided product drawings for the majority of products comprising CONNUM A and CONNUM B.⁴⁴ When we reviewed these product drawings, however, we found that the theoretical weights reported in most of them do not tie to the theoretical weights reported in Chandan's raw material cost allocation, *i.e.*, for the majority of products comprising CONNUMs A and B, the figures contained in the product drawings do not match the figures reported in the cost database.⁴⁵ Therefore, we find that, in developing its cost reporting, Chandan did not follow the methodology that it stated that it used to assign raw material costs.⁴⁶

It is clear that Chandan reported inaccurate costs for certain products. These deficiencies relate to the CONNUMs with the highest volume of sales in each market, which were specifically sampled by Commerce as test cases for closer scrutiny. The nature and extent of these errors, in turn, give us no confidence in the accuracy of the reported costs for the remaining products. In other words, the pervasive deficiencies surrounding Chandan's assignment of costs to these two CONNUMs call into question the reliability of Chandan's cost reporting more broadly.

Chandan's failure to provide information is not limited to the above-described reporting deficiencies. Chandan also failed to provide certain supporting documentation and worksheets explicitly requested by Commerce. For instance, in its initial response, Chandan did not provide weighted-average costs on a CONNUM-specific basis.⁴⁷ Therefore, we directed Chandan to "report the weighted-average per-unit cost for each CONNUM," and "provide a weighted-average calculation worksheet" for CONNUM A and CONNUM B reported in Exhibit D-24, as well as two additional CONNUMs (CONNUM C and CONNUM D).⁴⁸ In response, Chandan explained that it revised its cost database "to report the weighted-average per-unit cost for each CONNUM," and also stated that weighted-average calculation worksheets for the four requested CONNUMs were "provided in Exhibit D-39."⁴⁹ However, Chandan did not provide calculation worksheets for CONNUM C and CONNUM D, and provided incomplete weighted-average calculation worksheets for CONNUM A and CONNUM B.⁵⁰

Because Chandan failed to respond to specific questions, necessary information is not available on the record, and, thus, we preliminarily find that facts available are warranted in accordance with section 776(a)(1) of the Act. Further, as described above, Chandan withheld information that was requested by Commerce, and it provided inaccurate data in this review, thereby

⁴³ *See* Chandan December 11, 2020 SDQR at 11 (emphasis added).

⁴⁴ *See* Chandan September 23, 2020 SDQR at 7 and Exhibit D-34. Although Chandan provided product drawings in its December 11, 2020 response, these drawings do not include weight information. Accordingly, we retrace the product drawings contained in Exhibit D-34. *See* BPI Addendum at Note 2.

⁴⁵ *See* BPI Addendum at Note 3.

⁴⁶ *See* Chandan December 11, 2020 SDQR at Exhibits D-53, D-56, and D-59.

⁴⁷ *See* Chandan July 6, 2020 DQR at CSLCOP01.

⁴⁸ *See* Commerce September 2, 2020 Supplemental at 4.

⁴⁹ *See* Chandan September 23, 2020 SDQR at 20.

⁵⁰ *See* Chandan July 6, 2020 DQR at Exhibit D-24; and Chandan September 23, 2020 SDQR at Exhibit D-39.

substantially impeding this proceeding. Thus, we preliminarily find that facts available are also warranted in accordance with sections 776(a)(2)(A) and (C) of the Act.

3. *Additional Reporting Issues*

Chandan's response contained additional deficiencies that Chandan failed to remedy. Thus, we find that, as described in detail below, additional information is missing from the record and/or was not provided in the manner requested. We further find that Chandan withheld requested information, and significantly impeded this proceeding. Thus, in accordance with sections 776(a)(1) and 776(a)(2)(A)-(C) of the Act, we find that the use of facts available is appropriate based on the totality of the circumstances in this review.

i. Gross Unit Price

In its initial questionnaire response, Chandan reported the gross unit price in its database.⁵¹ However, in response to a supplemental questionnaire, Chandan provided a calculation worksheet for the reported "other discounts" field, and the worksheet demonstrated that Chandan reported "gross unit price" less the reported "other discounts."⁵² Therefore, we asked Chandan to revise its database to "report the actual gross unit price as the gross unit price, *i.e.*, do not report the price less any discounts, rebates, or any other adjustments" and "{p}lease provide documentation to substantiate your response."⁵³ In response, Chandan stated that it "reported the gross unit price for all transactions without deducting any discounts or rebates."⁵⁴

However, Chandan did not provide any documentation to substantiate its response, and a comparison of the comparison market database provided with Chandan's September 9, 2020, response and the database provided with Chandan's December 9, 2020, response indicates that Chandan did not make any adjustments to its reported gross unit price field. In fact, Exhibits B-23 and B-24 demonstrate that the gross unit price in Chandan's December 9, 2020 database is the value contained in the column representing gross unit price net of "other discounts." Therefore, Chandan's reported "gross unit price" is improperly reported net of certain adjustments and, therefore, was not provided in the manner in which Commerce requested.⁵⁵

ii. Quantity Discounts

In its initial questionnaire response, Chandan reported that "quantity discounts are being reported against each invoice in the subsequent calendar year for which the customer has qualified {sic} the quantity discount conditions in the previous calendar year," and that it "has prepared a summary of the discounts allowed to its customers in {the comparison market} and allocated these discounts uniformly across the sales of all products sold to these customers."⁵⁶ In a

⁵¹ See Chandan June 30, 2020 BCQR at B-34.

⁵² See Chandan September 9, 2020 SBCQR at 6-7 and Exhibits B-23 and B-24.

⁵³ See Commerce August 19, 2020 Supplemental at 2.

⁵⁴ See Chandan December 9, 2020 SBCDQR at 4.

⁵⁵ As a result, relying on Chandan's database as reported would result in a double deduction of "other discounts" from U.S. price.

⁵⁶ See Chandan June 30, 2020 BCQR at B-36.

supplemental questionnaire, we asked Chandan for additional explanation and supporting information of its quantity discount reporting.⁵⁷

In response, Chandan explained that “{w}hen a customer purchases a predetermined level of aggregate quantity in a calendar year as per agreement with the particular customer, discount is allowed on the value of purchases **in next calendar year** to that customer.”⁵⁸ Chandan further explained that it calculated the quantity discount based on a certain percentage of “gross invoice value as per the agreement,” and it provided a quantity discount calculation in Exhibit B-21.⁵⁹ Exhibit B-21, however, indicates that Chandan calculated the amount of the quantity discount based on sales volume then applied this discount to sales made in the same year, as opposed to in the following year.⁶⁰

Therefore, we requested that Chandan: “(i) clarify the manner in which you apply quantity discounts (ii) revise your reported quantity discounts to be consistent with this manner, and (iii) provide documentation to substantiate your response.”⁶¹ Chandan explained that:

{Commerce} correctly notes that Chandan has ‘calculated the amount of the quantity discount based on sales volume in 2018 they applied this discount to sales made in 2018.’ Chandan has reported the quantity discounts allowed for sales during each calendar year in which the “qualifying sales” are made. Chandan allows to make payment of this discount through credits in invoices for the subsequent years. Chandan does not reduce the individual sales price for sales made to customers in the subsequent year, but has adjusted the sales for the calendar year eligible for quality discount. Therefore, Chandan has reported the quantity discount **for the year in which the ‘qualifying sales’ have been made**. For this purpose, the term ‘qualifying sale’ indicates the sales in the calendar year for which the quality discount has been agreed and qualified by the customer.”⁶²

We, accordingly, requested that Chandan adjust its quantity discount to be consistent with the stated methodology (*i.e.*, to apply the discount to sales in the year in question) and to revise its “reported quantity discounts to be allocated on the gross invoice value and provide documentation to substantiate your response.”⁶³ In response, Chandan simply stated that “Chandan has provided the revised calculation for quantity discounts on the gross invoice value as requested by the Department in the revised sales database CSLHMAR103.”⁶⁴ A comparison of the comparison market databases provided with Chandan’s September 9, 2020, response and with its December 9, 2020, response indicates that Chandan did not make any adjustments to its reported quantity discounts. Therefore, Chandan’s reported quantity discount values are unreliable, and were not presented in the manner in which Commerce requested.

⁵⁷ See Commerce August 19, 2020 Supplemental at 2.

⁵⁸ See Chandan September 9, 2020 SBCQR at 5 (emphasis added).

⁵⁹ *Id.* at 6 and Exhibit B-21.

⁶⁰ *Id.* at Exhibit B-21.

⁶¹ See Commerce November 25, 2020 Supplemental at 1.

⁶² See Chandan December 9, 2020 SBCDQR at 2-3 (emphasis added).

⁶³ See Commerce November 25, 2020 Supplemental at 2.

⁶⁴ See Chandan December 9, 2020 SBCQR at 3.

iii. Other Discounts

In its initial response, Chandan stated that “the amount of claims and debit notes raised by the customers against sales made in the foreign markets,” are reported as other discounts.⁶⁵ In a supplemental questionnaire, we asked Chandan to: (a) “provide a summary of the types of discounts allowed to all customers in the {comparison market} during the POR;” and (b) “provide a detailed explanation of how you identified and calculated the amounts reported as “other discounts,” and provide a calculation worksheet.⁶⁶ Chandan explained that “{b}illing adjustments pertaining to errors in invoice quantity, rejections or other adjustments are included in Other Discounts. These may also arise to give effect to billing adjustments for a previous invoice to a particular customer.”⁶⁷ Chandan further explained that it “adjusts the amount of claim and debit notes pertaining to an invoice in the next invoice to that customer. This adjustment is not actually a discount allowed by Chandan but only the adjustment on account.”⁶⁸

In an additional supplemental questionnaire, we requested that Chandan revise its comparison market sales database to “report the credit and debit notes included as ‘other discounts’ as a separate billing adjustment field” and “provide documentation to substantiate your response” with respect to these adjustments.⁶⁹ In response, Chandan stated that it “is reporting the other discounts against each invoice to which this billing adjustment relates. The revised values are reported in the comparison market database at field BILLADJ.”⁷⁰ We note that Chandan did not provide any documentation to substantiate its response, and a comparison of the comparison market database provided with Chandan’s September 9, 2020 response and the database provided with Chandan’s December 9, 2020 response indicates that Chandan did not make any adjustments to the other discounts field and did not, in fact, report a separate billing adjustments field. Therefore, Chandan did not provide information relating to its other discounts and billing adjustments in the manner in which Commerce requested.

iv. Duty Refund

Chandan reported a field relating to “U.S. customs duty refund” (*i.e.*, USDUTYREFU) in which Chandan reported “the difference in the amount of duty wrongly assessed by the {U.S. Customs and Border Protection (CBP)} at the time of importation of both {subject merchandise} and {non-subject merchandise}, and the duty actually payable on import of {subject merchandise} in {the United States}.”⁷¹ Chandan intended that this field constitute an offset to the value reported in the USDUTYU field.

In light of reporting inconsistencies we identified during our review, we requested that, for each reported refund, Chandan must “identify the date that the refund was received and provide documentation to support your reporting,” and to report “0” for any refunds not yet received.⁷²

⁶⁵ See Chandan June 30, 2020 BCQR at B-36-37.

⁶⁶ See Commerce August 19, 2020 Supplemental at 2-3.

⁶⁷ See Chandan September 9, 2020 SBCQR at 5.

⁶⁸ *Id.* at 7 and Exhibit B-24.

⁶⁹ See Commerce November 25, 2020 Supplemental at 2.

⁷⁰ See Chandan December 9, 2020 SBCDQR at 4.

⁷¹ See Chandan June 30, 2020 BCQR at C-39.

⁷² See Commerce November 25, 2020 Supplemental at 4.

In response, Chandan simply stated that it “has updated the US sales database as instructed.”⁷³ However, a comparison of the comparison market databases provided with Chandan’s September 9, 2020, response and Chandan’s December 9, 2020, response indicates that Chandan did not make any adjustments to its reported duty refund. Given the unresolved discrepancies and lack of supporting documentation concerning such refunds, the entry documentation submitted in support of the USDUTYREFU field was unreliable and not reported in the manner in which Commerce requested.

B. Use of Adverse Inference

Section 776(b) of the Act provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, Commerce is not required to determine, or make any adjustments to, a dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.

Further, section 776(b)(2) of the Act states that use of an adverse inference when selecting from the facts otherwise available may include reliance on information derived from the petition, the final determination from the less-than-fair-value (LTFV) investigation, a previous administrative review, or other information placed on the record. In addition, the Statement of Administrative Action (SAA) explains that Commerce may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁷⁴ Affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference in selecting from the facts available.⁷⁵ It is Commerce’s practice to consider, in employing adverse facts available (AFA), the extent to which a party may benefit from its own lack of cooperation.⁷⁶

In *Nippon Steel*, the U.S. Court of Appeals for the Federal Circuit (CAFC) noted that, while the statute does not provide an express definition of the “failure to act to the best of its ability” standard, the ordinary meaning of “best” is “one’s maximum effort.”⁷⁷ Thus, according to the CAFC, the statutory mandate that a respondent act to the “best of its ability” requires the respondent to do the maximum it is able to do. The CAFC indicated that inadequate responses to an agency’s inquiries would suffice to find that a respondent did not act to the best of its ability.

⁷³ See Chandan December 9, 2020 SB CDQR at 11.

⁷⁴ See SAA, H.R. Doc. 103-316, vol. 1 (1994) (SAA) at 870; see also *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

⁷⁵ See, e.g., *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon Steel*); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); and *Antidumping Duties, Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

⁷⁶ See SAA at 870; see also *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Preliminary Decision Memorandum at 4; unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476, 14477 (March 14, 2014).

⁷⁷ See *Nippon Steel*, 337 F. 3d at 1382.

While the CAFC noted that the “best of its ability” standard does not require perfection, it does not condone inattentiveness, carelessness, or inadequate record keeping.⁷⁸ The “best of its ability” standard recognizes that mistakes sometimes occur; however, it requires a respondent to, among other things, “have familiarity with all of the records it maintains,” and “conduct prompt, careful, and comprehensive investigations of all relevant records that refer or relate to the imports in question to the full extent of” its ability to do so.⁷⁹

The reporting deficiencies identified above demonstrate that Chandan has failed to cooperate to the best of its ability. First, Commerce repeatedly requested that Chandan report its window sales.⁸⁰ This information was in Chandan’s possession, and Chandan’s failure to correct the deficiencies in that data and then to report the revised sales information in its ultimate comparison market database indicates that Chandan did not act to the best of its ability to comply with our requests for information.⁸¹ Second, and equally important, Chandan failed to provide complete and accurate CONNUM-specific costs. Again, Chandan had complete and accurate information in its possession, and its failure to provide that information to Commerce – whether through inattentiveness or carelessness – rendered its entire cost response unusable. Pervasive deficiencies remain, despite Commerce’s identification of errors associated with Chandan’s assignment of CONNUM costs in each round of supplemental questionnaires. Because Chandan reported costs for numerous products that do not match the underlying documentation, which Chandan itself identified as the basis of its reporting, we preliminarily find that Chandan failed to act to the best of its ability in this review for this reason as well. Third, despite explicit requests from Commerce, Chandan failed to: correct its reported gross unit price; revise/support its reporting of quantity and “other” discounts; and revise/support its reporting of duty refunds. Chandan also had this information within its possession, and its failure to provide it is yet another example of Chandan’s failure to act to the best of its ability here.

In determining that these failures require application of an adverse inference, we also note that the record contains additional indications that Chandan’s reporting was inattentive and unreliable throughout this segment of the proceeding. For instance, in its initial comparison market sales and cost databases, Chandan failed to report substantial portions of sales because it omitted all sales of, and costs for, flanges below a certain diameter measurement. However, these flanges unequivocally fall within the description of products covered by the scope of the *Order*.⁸² Similarly, Chandan’s reporting contained multiple inconsistencies in the assignment of products to particular CONNUMs.⁸³ Accurate aggregation of product-level costs into CONNUM-level costs is critical because Commerce’s comparison market and margin analyses are performed on a CONNUM basis. Mistakes of this magnitude illustrate the pervasiveness of Chandan’s reporting failures.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ See AD Questionnaire at B-1; and Commerce August 19, 2020 Supplemental at 4-7.

⁸¹ See Chandan December 9, 2020 SBCDQR.

⁸² Although Chandan subsequently corrected this omission in response to a Commerce supplemental questionnaire, this error highlights Chandan’s general pattern of inattentiveness and/or carelessness in responding to our requests for information. Additionally, Chandan’s failure to submit fundamental data early in the proceeding – such as through this omission of a meaningful portion of subject sales – limited the time available for Commerce to examine such reporting for accuracy and to issue supplemental questionnaires.

⁸³ See BPI Addendum at Note 4.

As noted above, Commerce required substantial revisions to Chandan's questionnaire responses throughout this review. In each supplemental questionnaire, Commerce consistently asked Chandan to provide an explanation for any changes made in response to Commerce's instructions, and to provide supporting documentation for the changes. Despite these explicit requests, Chandan often simply stated that it was updating its reporting without providing the accompanying explanation and/or documentation. Such responses constitute a refusal to provide information in the form and manner requested.⁸⁴

Moreover, we note that between April and December 2020, Commerce provided Chandan with numerous extensions of time to provide its responses in this review.⁸⁵ Additionally, as detailed above, we issued multiple rounds of supplemental questionnaires concerning each section of Chandan's response during the course of this review. In fact, Commerce provided Chandan with these extensions and additional opportunities to provide information despite objections from other interested parties.⁸⁶

Finally, we emphasize that Chandan participated in the underlying investigation in this proceeding and, therefore, has knowledge and experience regarding the reporting requirements associated with AD proceedings. Further, Chandan was also the largest Indian exporter of subject merchandise to the United States during the POR, by a substantial margin.⁸⁷ Therefore, we find it significant that Chandan – a large exporter, with prior experience in Commerce proceedings – provided incomplete and unreliable information, notwithstanding multiple opportunities to correct its data and generous extensions of time to do so. In light of these considerations, the record demonstrates that Chandan did not participate to the best of its ability in this review.⁸⁸ The level of inattentiveness and inaccuracy of its reporting throughout this review undermines the reliability of Chandan's responses and, in accordance with section 776(b) of the Act, warrants the application of an adverse inference in selecting from the facts available.

⁸⁴ Even in instances where Chandan did provide an explanation, the explanation often did not evince cooperation to the best of its ability, or the explanation called into question other aspects of Chandan's reporting. For instance, with respect to widespread cost-reporting deficiencies, Chandan explained that it "linked the file for the cost of production for the period of review (POR) with the old file which was prepared for the Investigation." *See* Chandan December 11, 2020 SDQR at 7. With respect to inconsistencies in its financial statement, Chandan explained that the audited financial statement "provided by Chandan in Exhibit D-38 contained clerical errors in the numbering of paragraphs, referencing of paragraphs and Annexures in the auditors' report," and when "realizing these errors, the auditors had corrected these clerical errors in the paragraphs numbering when they provided the signed audit reports to the company." *See* Chandan December 9, 2020 SBCDQR at 12.

⁸⁵ We granted extension requests to Chandan on April 15, 2020, May 11, 2020, May 14, 2020, June 26, 2020, August 26, 2020, September 2, 2020, September 9, 2020, September 16, 2020, and December 3, 2020.

⁸⁶ *See, e.g.*, Petitioner September 29, 2020 Comments; and Petitioner's Letter, "Stainless Steel Flanges from India: Comments in Opposition of Additional Extensions," dated December 2, 2020.

⁸⁷ *See* Respondent Selection Memorandum at 4 (noting that an individual examination of the largest exporter and producer, Chandan, would account for a significant volume of subject merchandise during the POR).

⁸⁸ *See Nippon Steel*, 337 F.3d at 1382.

C. Selection and Corroboration of the AFA Rate

As noted above, section 776(b)(2) of the Act states that Commerce, when employing an adverse inference, may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.⁸⁹ In selecting a rate based on AFA, Commerce selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁹⁰

When using facts otherwise available, section 776(c) of the Act provides that, in general, where Commerce relies on secondary information (such as a rate from the petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination from the LTFV investigation concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.⁹¹ The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information to be used has probative value.⁹² To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used.⁹³

Finally, under section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins.⁹⁴ The Act also makes clear that when selecting an AFA margin, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.⁹⁵

When assigning adverse rates in a review, Commerce’s practice is to select as AFA the higher of: (a) the highest corroborated rate from the petition; or (b) the highest calculated rate for any

⁸⁹ See 19 CFR 351.308(c).

⁹⁰ See SAA at 870.

⁹¹ *Id.*

⁹² *Id.*; see also 19 CFR 351.308(d).

⁹³ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

⁹⁴ See section 776(d)(1)-(2) of the Act.

⁹⁵ See sections 776(d)(3)(A) and (B) of the Act.

respondent from any segment of the proceeding⁹⁶ which, under section 776(c)(2) of the Act, Commerce is not required to corroborate.⁹⁷

As AFA, we are preliminarily assigning Chandan a dumping margin of 145.25 percent, which was the highest dumping margin calculated in the petition. Pursuant to section 776(c)(2) of the Act, Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding. Because the 145.25 percent rate was applied in a separate segment of this proceeding (*i.e.*, it was applied as an AFA rate to Bebitz in the LTFV investigation),⁹⁸ Commerce need not corroborate that rate in this review.

V. RATE FOR NON-SELECTED COMPANIES

The Act and Commerce's regulations do not address the rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an LTFV investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review.

Under section 735(c)(5)(A) of the Act, the all others rate is normally "an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}." Under section 735(c)(5)(B) of the Act, if the estimated weighted average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* margins, or are determined entirely under section 776, the administering authority may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted-average dumping margins determined for the exporters and

⁹⁶ See *Diamond Sawblades and Parts Thereof from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 73420 (December 12, 2012), unchanged in *Diamond Sawblades and Parts Thereof from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 2010-2011*, 78 FR 36524 (June 18, 2013); see also *Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results, Partial Rescission of Sixth Antidumping Duty Administrative Review and Determination Not To Revoke in Part*, 77 FR 53856 (September 4, 2012); *Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Final Determination of Sales at Less than Fair Value*, 65 FR 5554, 5567 (February 4, 2000); *Emulsion Styrene-Butadiene Rubber from the Republic of Korea: Final Determination of Sales at Less than Fair Value*, 64 FR 14865, 14866 (March 29, 1999); and *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Determination of Sales at Less than Fair Value*, 64 FR 30664, 30687 (June 8, 1999).

⁹⁷ See section 776(c)(2) of the Act.

⁹⁸ The AFA rate was corroborated in the LTFV investigation relying on Chandan's calculated margin in the investigation. *Stainless Steel Flanges from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 13246 (March 28, 2018) and accompanying Preliminary Decision Memorandum at 22 ("To corroborate the 145.25 percent AFA rate we selected, we compared the petition rate to the transaction-specific dumping margins for the mandatory respondent, Chandan" and "{w}e found product-specific margins at the petition rate"), unchanged in *Stainless Steel Flanges from India: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstance Determination*, 83 FR 40745 (August 16, 2018).

producers individually investigated (*i.e.*, the zero/*de minimis* and AFA rates). This provision of the Act is known as the “expected method.”

The only margin determined for a respondent in this review is Chandan’s margin, which is based entirely on the basis of AFA. In accordance with the U.S. Court of Appeals for the Federal Circuit’s decision in *Albemarle*,⁹⁹ and pursuant to section 735(c)(5)(B), we have preliminarily applied this rate to the companies subject to this review that were not individually examined, consistent with the expected method.¹⁰⁰

VI. RECOMMENDATION

Based on our analysis, we recommend adopting the above positions in these preliminary results. If this recommendation is accepted, we will publish the preliminary results of the review and the preliminary dumping margins in the *Federal Register*.

☒

Agree

☐

Disagree

2/17/2021

X 

Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

⁹⁹ See *Albemarle Corp. v. United States*, 821 F. 3d 1345 (Fed. Cir. 2016) (*Albemarle*).

¹⁰⁰ *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017-2018*, 84 FR 64455 (November 22, 2019) (applying a rate based on the mandatory respondent’s total AFA rate to the companies not selected for individual examination); see also *Certain Steel Nails from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019*, 85 FR 19138 (April 6, 2020) (applying a rate based on the mandatory respondents’ total AFA rates to the companies not selected for individual examination), unchanged in *Certain Steel Nails from Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019*, 85 FR 76014 (November 27, 2020).