

practice. *See Bearings from France*, 75 FR at 53663.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis*. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable. *See* 751(a)(2)(C) of the Act.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Assessment Policy Notice*. This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, 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, or the original less-than-fair-value (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 5.34 percent, the all-others rate made effective by the *Section 129 Determination*.¹³ These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: February 28, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-810]

Stainless Steel Bar From India: Preliminary Results of, and Partial Rescission of, the Antidumping Duty Administrative Review, and Intent Not To Revoke the Order, in Part

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

SUMMARY: The Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on stainless steel bar ("SS Bar") from India for the period of review ("POR") February 1, 2009, through January 31, 2010. The Department initiated this review of Facor Steels Ltd./Ferro Alloys Corporation, Ltd. ("Facor"); Mukand, Ltd. ("Mukand"); India Steel Works, Limited ("India Steel"); and Venus Wire

¹³ Effective January 16, 2009, there is no longer a cash deposit requirement for certain producers/exporters in accordance with the *Implementation of the Findings of the WTO Panel in United States Antidumping Measure on Shrimp from Thailand: Notice of Determination under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Frozen Warmwater Shrimp from Thailand*, 74 FR 5638 (Jan. 30, 2009) (*Section 129 Determination*).

Industries Pvt. Ltd. ("Venus Wire") and its affiliates Precision Metals and Sieves Manufacturers (India) Private Limited ("Sieves"). Based on timely withdrawal of the request for review, the Department is rescinding the review with respect to India Steel.

We preliminarily determine Venus Wire, Mukand and Facor made sales of the subject merchandise at prices below normal value ("NV"). The Department also preliminarily determines that total adverse facts available ("AFA") is warranted for Mukand because it failed to cooperate to the best of its ability in this proceeding. Finally, we have preliminarily determined not to revoke the antidumping duty order on SS Bar from India with respect to SS Bar exported and/or sold by Venus Wire.

Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on appropriate entries. We will issue the final results no later than 120 days from the date of publication of this notice.

DATES: *Effective Date:* March 4, 2011.

FOR FURTHER INFORMATION CONTACT: Seth Isenberg, Mahnaz Khan, Austin Redington, Scott Holland or Yasmin Nair, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482-0588, (202) 482-0914, (202) 482-1664, (202) 482-1279 or (202) 482-3813, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, the Department published in the **Federal Register** the antidumping duty order on SS Bar from India. *See Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (February 21, 1995) ("the Order"). On February 1, 2010, the Department published a notice of opportunity to request an administrative review of the Order on SS Bar from India for the period February 1, 2009, through January 31, 2010. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 75 FR 5037 (February 1, 2010).

On February 24, 2010, Venus Wire submitted a request, in accordance with 19 CFR 351.222(e), that the Department revoke the Order with respect to Venus Wire's sales of the subject merchandise

to the United States. In this submission, Venus Wire also timely requested an administrative review of the Order for the POR. See Letter from Venus Wire requesting revocation and an administrative review, dated February 22, 2010, which is on file in the Central Records Unit (“CRU”) in room 7046 in the main Department building.

On February 26, 2010, domestic interested parties Carpenter Technology Corp.; Crucible Specialty Metals, a division of Crucible Materials Corp.; Electralloy Co., a G.O. Carlson, Inc. company; and Valbruna Slater Stainless, Inc. (collectively, “Petitioners”), timely filed a request for administrative review of Venus Wire, Facor, Mukand, and India Steel, and their respective affiliates. See Petitioners’ request for administrative review, dated February 26, 2010, on file in the CRU.

On March 30, 2010, in accordance with section 751(a) of the Tariff Act of 1930, as amended (“the Act”), we initiated an administrative review covering Venus Wire and its affiliates Precision Metal and Sieves; Facor; Mukand; and India Steel. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 75 FR 15679 (March 30, 2010). On April 7, 2010, Petitioners timely withdrew their request for administrative review of India Steel.

On April 13, 2010, the Department issued antidumping duty questionnaires to Venus Wire, Mukand, and Facor. Venus Wire, Mukand, and Facor submitted timely filed responses to the antidumping questionnaire in May and June 2010. The Department issued supplemental questionnaires to Venus Wire, Mukand, and Facor to clarify or correct information contained in the initial questionnaire responses.

We received timely filed responses to supplemental questionnaires from Venus Wire (and its collapsed affiliates, see Affiliation section, below) from August 2010 through February 2011. We received timely filed responses to supplemental questionnaires from Mukand from July 2010 through February 2011. We received timely filed responses to supplemental questionnaires from Facor from June 2010 through February 2011.

On October 25, 2010, the Department published in the **Federal Register** an extension of the time limit for the completion of the preliminary results of this review until no later than February 28, 2011, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2). See *Stainless Steel Bar From India: Extension of Time Limit for the Preliminary Results of the*

Antidumping Duty Administrative Review, 75 FR 65449 (October 25, 2010).

Period of Review

The POR is February 1, 2009, through January 31, 2010.

Scope of the Order

Imports covered by the Order are shipments of SS Bar. SS Bar means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SS Bar includes cold-finished SS Bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-to-length flat-rolled products (*i.e.*, cut-to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes, and sections.

The SS Bar subject to this review is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the Order is dispositive.

On May 23, 2005, the Department issued a final scope ruling that SS Bar manufactured in the United Arab Emirates out of stainless steel wire rod from India is not subject to the scope of the Order. See Memorandum from Team to Barbara E. Tillman, “Antidumping Duty Orders on Stainless Steel Bar from India and Stainless Steel Wire Rod from India: Final Scope Ruling,” dated May 23, 2005, which is on file in the CRU. See also *Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

Rescission of the Review in Part

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws the request within 90 days of the date of publication of the initiation notice of the requested review. Further, pursuant to 19 CFR 351.213(d)(1), the Department is permitted to extend this time if it is reasonable to do so.

Petitioners were the only party to request an administrative review of India Steel on February 26, 2010, and on April 7, 2010, Petitioners timely withdrew this request. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review with respect to India Steel.

Affiliation

Precision Metals

In the 2005–2006 antidumping duty administrative review of SS Bar from India, the Department determined that Venus Wire and Precision Metals were affiliated within the meaning of section 771(33) of the Act, and that these two companies should be treated as a single entity for the purposes of that administrative review. See *Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 72 FR 51595, 51596 (September 10, 2007) (“2005–2006 Final Results”). In the 2007–2008 and 2008–2009 antidumping duty administrative reviews of SS Bar from India, the Department again determined that these two companies should be treated as a single entity. See *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 74 FR 47198 (September 15, 2009) (“2007–2008 Final Results”); see also *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 75 FR 54090 (September 3, 2010) (“2008–2009 Final Results”).

The Department re-examined Venus Wire’s corporate affiliation relationship with Precision Metals for the instant administrative review. Because this relationship is unchanged from the 2005–2006 *Final Results*, 2007–2008 *Final Results*, and 2008–2009 *Final Results*, the Department continues to treat Venus Wire and Precision Metals as a single entity for the instant review. See Venus Wire’s May 24, 2010 section A questionnaire response (“AQR”) at A–2, 4–13. See also Memorandum from Austin Redington to the File, “Relationship of Venus Wire Industries Pvt. Ltd. and Precision Metals,” dated

May 20, 2010, which is on file in the CRU.

Sieves

In the 2007–2008 and 2008–2009 administrative reviews, the Department determined that Venus Wire and Sieves are affiliated within the meaning of section 771(33) of the Act, and that these two companies should be treated as a single entity for purposes of those administrative reviews. *See 2007–2008 Final Results; see also 2008–2009 Final Results.*

The Department re-examined Venus Wire's corporate affiliation relationship with Sieves for the instant administrative review. Because this relationship is unchanged from the 2007–2008 *Final Results* and 2008–2009 *Final Results*, the Department continues to treat Venus Wire and Precision Metals as a single entity for the instant review. *See Venus Wire's* May 24, 2010 section AQR at A–2, 4–13. *See also* Memorandum from Austin Redington to the File, “Relationship of Venus Wire Industries Pvt. Ltd. and Sieves Manufacturers (India) Pvt. Ltd.,” dated May 20, 2010, which is on file in the CRU.

Hindustan Inox (Formerly Hindustan Stainless)

In the 2008–2009 administrative review, Petitioners alleged that Hindustan Inox (“Hindustan”), formerly known as Hindustan Stainless, should be collapsed with Venus Wire. *See* Petitioners’ June 12, 2009, and January 29, 2010, filings. After reviewing record information in that proceeding, the Department determined that because Hindustan was not a producer/exporter of SS Bar during that POR, it should not be collapsed with Venus Wire for the purposes of that administrative review. *See 2008–2009 Final Results.*

In the current administrative review, the Department re-examined Hindustan's operations and sales information. The Department determined that Hindustan was a producer/exporter of SS Bar during the instant POR. The Department also determined that, according to information presented in Venus Wire's and Hindustan's responses to the Department's questionnaires, Venus Wire and Hindustan are affiliated within the meaning of section 771(33) of the Act. *See Venus Wire's* section AQR at A–5–13; *see also* Hindustan's August 19, 2010 section AQR. The Department issued a memorandum announcing the collapsing of Venus Wire and Hindustan for the preliminary results and gave interested parties an opportunity to comment. *See* Memorandum to the File

“Whether to Collapse Venus Wire Industries Pvt. Ltd. and Hindustan Inox in the Preliminary Results,” dated July 20, 2010, which is on file in the CRU. No comments were received. Therefore, for these preliminary results, we find that Hindustan and Venus Wire are affiliated and for the purposes of this administrative review, should be treated as a single entity.

The collapsed entity of Venus Wire, Precision Metals, Sieves, and Hindustan is hereafter referred to as “Venus.”

Verification

During December 2010, we verified the sales information provided by Venus in India using standard verification procedures, including examination of relevant sales and financial records, and selection of original documentation containing relevant information, as provided in section 782(i) of the Act. The Department reported its findings on January 20, 2011. *See* Memorandum to the File, “Verification of the Sales Response of Venus Wire Industries Pvt. Ltd. and Precision Metal in the Antidumping Duty Administrative Review of Stainless Steel Bar from India,” dated January 20, 2011; Memorandum to the File, “Verification of the Sales Response of Hindustan Inox Limited in the Antidumping Duty Administrative Review of Stainless Steel Bar from India,” dated January 20, 2011; and Memorandum to the File, “Verification of the Sales Response of Sieves Manufacturers (India) Pvt. Ltd. in the Antidumping Duty Administrative Review of Stainless Steel Bar from India” dated January 20, 2011. These reports are on file in the CRU.

Intent Not To Revoke, In Part

On February 22, 2010, Venus requested revocation of the Order as it pertains to its sales. On January 26, 2011, the Department requested quantity and value information for the one year period prior to the imposition of the Order. On February 3, 2011, Venus responded that it did not keep shipment records beyond eight years and, therefore, could not meet the Department's request. *See* February 3, 2011, letter from Venus to the Department.

On February 8, 2011, Petitioners commented that the Department should deny Venus's revocation request because it did not ship in commercial quantities to the United States following the imposition of the Order. Petitioners also argued that the request for revocation of the Order should not be granted because Venus is subject to antidumping and countervailing duty

investigations in the European Union (“EU”) and, therefore, would be likely to engage in unfair trading practices in other markets including the United States. On February 18, 2011, Venus responded that it sold in commercial quantities to the United States in all administrative reviews it had participated in since the imposition of the Order. Venus further argued that the antidumping and countervailing duty investigations in the EU should not be considered in determining the merit of a revocation request.

Under section 751(d)(1) of the Act, the Department “may revoke, in whole or in part” an antidumping duty order upon completion of a review. Although Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is set forth at 19 CFR 351.222. Under 19 CFR 351.222(b)(2)(i), the Department may revoke an antidumping duty order in part if it concludes that (A) an exporter or producer has sold the merchandise at not less than NV for a period of at least three consecutive years; (B) the exporter or producer has agreed in writing to its immediate reinstatement in the order if the Secretary concludes that the exporter or producer, subsequent to the revocation, sold the subject merchandise at less than NV; and (C) the continued application of the antidumping duty order is no longer necessary to offset dumping. Section 351.222(b)(3) of the Department's regulations states that, in the case of an exporter that is not the producer of subject merchandise, the Department normally will revoke an order in part under 19 CFR 351.222(b)(2) only with respect to subject merchandise produced or supplied by those companies that supplied the exporter during the time period that formed the basis for revocation.

In accordance with 19 CFR 351.222(e)(1) a request for revocation of an order in part for a company previously found dumping must address three elements. The company requesting the revocation must do so in writing and submit the following statements with the request: (1) The company's certification that it sold the subject merchandise at not less than NV during the current review period and that, in the future, it will not sell at less than NV; (2) the company's certification that, during each of the consecutive years forming the basis of the request, it sold the subject merchandise to the United States in commercial quantities; (3) the company's agreement to reinstatement in the order if the Department concludes

that, subsequent to revocation, the company has sold the subject merchandise at less than NV. See 19 CFR 351.222(e)(1). We preliminarily determine that the request dated February 22, 2010, from Venus meets all of the criteria under 19 CFR 351.222(e)(1).

However, with regard to the criteria of 19 CFR 351.222(b)(2)(i), our preliminary margin calculations show that Venus sold SS Bar at less than NV during the current review period. See "Preliminary Results of the Review" section below.

As such, we preliminarily find that Venus does not qualify for revocation.

Use of Facts Otherwise Available

Section 776(a)(1) and (2) of the Act provides that the Department will apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party (A) withholds information requested by the Department; (B) fails to provide information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information which cannot be verified as provided by section 782(i) of the Act.

We have determined that the use of facts otherwise available is appropriate for the preliminary results with respect to Mukand because of Mukand's: 1) Repeated failure throughout this review to provide product-specific cost data by size; 2) failure to provide any meaningful explanation of why such data could not be provided; and 3) failure to provide factual information to support its claim that cost differences due to size were insignificant.

Normally, a respondent's reported product costs should reflect cost differences attributable to the different physical characteristics, as defined by the Department, to ensure that the product-specific costs used for the sales-below-cost test and constructed value ("CV") accurately reflect the corresponding product's physical characteristics. See sections 773(b)(1) and 773(e) of the Act. Similarly, the product-specific costs should incorporate differences in variable costs associated with the physical differences in the merchandise in accordance with 19 CFR 351.411(b) to account for the difference-in-merchandise adjustment.

For this administrative review, product size must be reflected in the cost-of-production ("COP") and the CV because sales prices are compared to production costs on a size-specific basis. These comparisons cannot accurately be made without knowing how COP varies

with size. In addition, section 773(a)(6)(C)(iii) of the Act requires that we account for any differences attributable to physical differences between the subject merchandise and foreign like product if similar products are compared.

Control numbers ("CONNUMs") for SS Bar products, under this order and other orders on SS Bar, reflect six product characteristics (*i.e.*, general type of finish, grade, re-melting, type of final finish, shape, and size). Mukand produces SS Bar in a wide range of sizes, but has failed to provide COP differences for the physical characteristic of size.

Specifically, Mukand failed in its original and four supplemental responses¹ to provide unique product costs that account for the differences in the physical characteristic size, as defined by the Department. Mukand assigned the same per kilogram conversion costs to all products irrespective of the final size of the product produced. See cost database from Mukand's Section D questionnaire response dated June 11, 2010. That methodology fails to provide the Department with product-specific COP and CV information. In addition, it fails to provide the Department with information necessary to calculate a difference in merchandise adjustment to account for differences in physical characteristics when comparing sales of similar merchandise. As explained to Mukand in the first Section D supplemental questionnaire, "without accurate data for size, we cannot perform a reliable sales-below-cost test; we cannot calculate accurate CVs for use as normal value; nor can we make accurate price-to-price comparisons of similar merchandise." We issued Mukand four supplemental questionnaires requesting that it correct these errors, but it failed to do so. See supplemental questionnaires dated August 9, 2010, October 4, 2010, November 22, 2010, and January 21, 2011 ("Mukand's SQDs"). While we acknowledge that Mukand does not allocate cost to specific sizes in its normal books and records, we informed Mukand that it should use information reasonably available to the company to account for size-specific cost differences. We further instructed Mukand that if it believed that size did not contribute to cost differences between products, it should quantify and explain its reasons for not reporting

a cost difference. In response, Mukand failed to provide cost differences for size, but did provide its reasoning as to why it considered the cost differences insignificant. However, Mukand's explanation does not support the position that cost differences for different sizes are insignificant. In addition, we gave Mukand the opportunity to provide factual information to show the significance or insignificance of cost differences associated with the different sizes of SS Bar it produced. Mukand again failed to do so. Accordingly, Mukand's failure to provide the requested data renders its response unusable for these preliminary results. Therefore, in light of Mukand's continued failure to provide requested information necessary to calculate accurate dumping margins in this case, in accordance with section 776(a) of the Act, we determine that the use of facts otherwise available with an adverse inference is appropriate for these preliminary results.

Adverse Facts Available

Section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available. See *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 13, 2005), and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. 103–316, Vol. 1, 103d Cong. (1994) ("SAA"), explains that the Department 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." See SAA at 870; and, *e.g.*, *Certain Polyester Staple Fiber from Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 69663 (December 10, 2007). Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference. See, *e.g.*, *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); *Antidumping*

¹ Mukand submitted initial and supplemental Section D responses on June 11, 2010, August 31, October 26, and December 15, 2010, and February 10, 2011.

Duties, Countervailing Duties, 62 FR 27296, 27340 (May 19, 1997); and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (CAFC 2003) (“*Nippon*”). It is the Department’s practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.

The Federal Circuit has stated that, “while the adverse facts available standard does not require perfection and recognizes that mistakes sometimes occur, it does not condone inattentiveness, carelessness, or inadequate record keeping.” See *Nippon*, 337 F.3d at 1373, 1382–83. The AFA standard, moreover, assumes that because respondents are in control of their own information, they are required to take reasonable steps to present information that reflects their experience for reporting purposes before the Department. Therefore, we find it appropriate to use an inference that is adverse to the company’s interests in selecting from among the facts otherwise available.

In this case, we have determined that Mukand has not acted to the best of its ability in responding to the Department’s request for size-specific cost information. In our supplemental questionnaires we repeatedly instructed Mukand to rely not only on its existing financial and cost accounting records, but on other information which would allow it to reasonably allocate its costs to the many different sizes of SS Bar products it produced. See Mukand’s SQDs. It is standard procedure for the Department to request product-specific cost data and we routinely receive such information from respondents, as we did from the other respondents, Venus and Facor, in this case. See section D questionnaire responses dated June 4, 2010 for Facor, and dated June 14, 2010 for Venus. Even if a company does not calculate product-specific costs to the level of detail required by the Department in its normal financial and cost accounting records as is the case here, we require that the company account for such cost differences using information reasonably available to it. See section D questionnaire dated June 11, 2010 at D–25.

Under section 782(c) of the Act, a respondent has a responsibility not only to notify the Department if it is unable to provide requested information, but also to provide a “full explanation and suggested alternative forms.” In response to our numerous requests for product-specific cost data, Mukand maintained its position that it would not provide the requested data because cost differences related to size are

insignificant and the company’s accounting system does not track them. The Department repeatedly asked Mukand to support its claim that size-specific cost differences for SS Bar products are not significant. However, to date, Mukand has failed to provide the Department with any actual data to support its claim. As such, this case can be distinguished from *Polyethylene Terephthalate Film, Sheet and Strip From Taiwan: Final Results of Antidumping Duty Administrative Review*, 76 FR 9745 (February 22, 2011), and accompanying Issues and Decision Memorandum at Comment 1, where the respondent provided an adequate explanation of why the cost differences for surface treatment was insignificant and provided actual data to support its claim.

Cooperation in an antidumping investigation requires more than a simple statement that a respondent cannot provide certain information from its previously prepared accounting records. If a party cannot provide certain information from its accounting records, then it may notify the Department that it is unable to submit this information in the form and manner requested but it must also provide explanation and suggest alternative forms in which it is able to submit the information. See section 782(c) of the Act. See also *Notice of Preliminary Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey*, 65 FR 1127, 1132 (January 7, 2000). To meet that burden, a respondent must explain what steps it has taken to comply with the information request, and propose alternative methodologies for getting the necessary information. See *Allied-Signal Aerospace Co. v. United States*, 996 F.2d 1185, 1192 (Federal Circuit 1993). Mukand has failed to do either. Logically, at a minimum, in order to produce bars of different sizes, Mukand personnel would need to set the machine parameters to produce the specific size desired (*i.e.*, set the machine speed and the number of passes through the rolling stand). It is reasonable to expect that Mukand has manufacturing plans or engineering standards associated with the production of specific sizes of bar that could have been used to reasonably allocate costs to specific sizes. As Mukand continues to produce SS Bar, Mukand personnel could have also timed current production runs to provide rolling times for specific sizes, which could have been used as a reasonable basis for allocating costs to

specific sizes. It is also reasonable to expect that Mukand does know the grade-specific, length-to-weight conversion factors for different sizes of bar with the engineering knowledge the company possesses to manufacture SS Bar. While Mukand’s financial and cost-accounting records may not allocate unique costs to the different sizes of bar produced, the company could have developed a reasonable methodology to allocate costs to different sized products on a CONNUM-specific per-unit weight basis, using the company’s normal cost-accounting records as a starting point to calculate CONNUM-specific costs. The Department repeatedly requested that Mukand look beyond its financial and cost-accounting records and select from a variety of available data using, for example, engineering studies, rolling mill processing times, production experience, relative length-to-weight conversion factors, or other production records for allocating costs to products on a CONNUM-specific per-unit weight basis. See Mukand’s SQDs.

Although we provided Mukand with notice informing it of the consequences of its failure to respond fully to our antidumping questionnaire, Mukand’s repeated failure throughout the review to provide size-specific cost data or to provide any meaningful explanation of why such data could not be provided, demonstrates that Mukand did not cooperate to the best of its ability. See Mukand’s SQDs. Mukand has participated in previous segments of this Order and, thus, has experience in responding to the Department’s requests for information and is well aware of the types of information the Department requires. See *e.g.*, *Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review*, 63 FR 13622 (March 20, 1998). Moreover, Mukand is a large, sophisticated company that has the resources to gather the information requested by the Department in this review. Therefore, we find that an adverse inference is warranted in selecting facts otherwise available.

Where the Department applies an AFA rate because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See also 19 CFR 351.308(c) and the SAA at 870. Section 776(c) of the Act provides that, when the Department relies on secondary information as facts available, it must, to the extent practicable,

corroborate that information from independent sources that are reasonably at its disposal. The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870; *see also* 19 CFR 351.308(d). The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics, and customs data as well as information obtained from interested parties during the particular proceeding. *Id.* Information from a prior segment of the proceeding constitutes secondary information. *Id.*

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as AFA a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews, Final Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not To Revoke in Part*, 69 FR 55581 (September 15, 2004), and accompanying Issues and Decision Memorandum at Comment 18.

As AFA for Mukand, we have assigned a margin of 22.63 percent. This margin was calculated for Ambica Steels Limited (“Ambica”) in the 2006 antidumping duty new shipper review and represents the highest calculated weighted-average margin determined for any respondent in any segment of this proceeding. *See Stainless Steel Bar from India: Final Results of Antidumping Duty New Shipper Review*, 72 FR 72671 (December 21, 2007). This rate was reliable when it was first used because it was calculated as the AFA rate for Ambica, based upon its own submitted information. *Id.* No additional information has been presented in the current review which calls into question the reliability of the information. The Federal Circuit has held that the Department “is permitted to use a ‘common sense inference that the highest prior margin is the most probative evidence of current margins because, if it were not so, the importer, knowing of the rule, would have produced current information showing

the margin to be less.” *See KYD, Inc. v. United States*, 607 F.3d 760 (Fed. Cir. 2010) (quoting *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990)(emphasis deleted)).

With respect to relevance aspect of corroboration, we have used the transaction-specific margins we calculated for Venus and Facor in this review to determine, in the absence of any response from Mukand regarding its cost by size, whether the rate of 22.63 percent could bear a rational relationship to the commercial practices for sales of subject merchandise. Specifically, we analyzed transaction-specific margins of Venus and Facor to determine whether they made U.S. sales at prices that would result in transactional margins at or above 22.63 percent during the POR.

We found that the 22.63 percent margin falls within the range of individual transaction margins and that there was a significant number of sales in commercial quantities, made in the ordinary course of trade, by Facor and Venus, with margins near or exceeding 22.63 percent. *See* Memorandum from Mahnaz Khan to File regarding Preliminary Results Calculation Memorandum for Facor Steels, Ltd., at Attachment 2 (February 28, 2011) and Memorandum from Austin Redington to File regarding Preliminary Results Calculation Memorandum for Venus Wire Industries Pvt. Ltd., at Attachment 2 (February 28, 2011).

The number of U.S. transactions receiving a margin of 22.63 percent or greater is a representative figure whether it is measured by the number, value or quantity of the transactions. Because we find that both of the other Indian respondents in this administrative review made a significant percentage of sales of subject merchandise to the United States during the POR at prices that resulted in transaction-specific margins at or above 22.63 percent, we find that the rate of 22.63 percent bears a rational relationship to the commercial practices of sales of subject merchandise. Selecting a rate representing a substantial percentage of total U.S. sales transactions by Venus and Facor is in line with *PAM, S.p.A. v. United States*, 582 F.3d 1336, 1340 (Fed. Cir. 2009), where the court upheld an AFA rate even though only 0.5% of the respondent’s total sales were above the selected rate. Moreover, there is no information on the record of this review that demonstrates that the rate selected is not an appropriate AFA rate for Mukand.

Finally, we find that the rate of 22.63 percent as AFA is sufficiently high to

ensure that Mukand does not benefit from failing to cooperate in our review by refusing to respond to our questionnaire. *See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review in Part*, 73 FR 15132, 15133 (March 21, 2008).

Date of Sale

The Department normally will use the date of the invoice, as recorded in the producer’s or exporter’s records kept in the ordinary course of business, as the date of sale, but may use a date other than the invoice date if the Department is satisfied that a different date better reflects the date on which the material terms of sale are established. *See* 19 CFR 351.401(i).

Venus and Mukand reported that the material terms of their U.S. and comparison market sales are established by the invoice date; thus, we are relying on the invoice date as the sale for these companies. Facor reported that the material terms of its comparison market sales are established by the invoice date, however, for its U.S. sales, the quantity and price are not determined until issuance of the excise invoice. Accordingly, we are relying on invoice date as date of sale for Facor’s comparison market sales and excise date for its U.S. sales.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, we determined NV using home market sales at the same level of trade as the U.S. sales.

To determine whether home-market sales are at the same or different level of trade than U.S. sales, we examine stages in the marketing process and selling functions² along the chains of distribution between the producer and unaffiliated customers. Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for export price (“EP”) and comparison market sales (*i.e.*, NV based on either comparison market or third country prices),³ we consider the starting prices before any adjustments. If the home-market sales are at a different level of

² Selling functions associated with a particular chain of distribution help us to evaluate the level of trade(s) in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: Sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

³ Where NV is based on CV, we determine the NV level of trade of the sales from which we derive selling expenses, general and administrative expenses (“G&A”) and profit for CV, where possible.

trade from that of a U.S. sale and the difference affect price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. *See, e.g., Stainless Steel Bar From Germany: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 5493 (February 5, 2004) (unchanged at the final).

(A) *Venus*

Our level of trade determination for Venus relies on the sales activities of the collapsed entity of Venus Wire, Precision Metal, Sieves, and Hindustan.

Venus reported one channel of distribution and a single level of trade in both the home market and the U.S. market. Venus reported that it sells to trading companies, distributors, and end users at this single level of trade in the home market, and to distributors, trading companies, and end users at the same level of trade in the U.S. market. Venus reported that its prices did not vary based on channel of distribution and/or customer category. *See Venus Wire's section AQR at A-16.*

We examined the information reported by Venus regarding its sales processes for its home market and U.S. market sales, including customer categories and the type and level of selling activities performed. *See Venus Wire's section AQR at A-13-16.* Specifically, we considered the extent to which sales process/marketing support, freight/delivery, inventory maintenance, and quality assurance/warranty service varied with respect to the different customer categories and channels of distribution across the markets.

Because there was only one channel of distribution and because we determined that the selling functions were similar for all home market sales, we found that the home market channel of distribution comprises one level of trade. We evaluated the U.S. channel of distribution and because the selling functions were identical for all U.S. sales, we found that it also comprises one level of trade.

Next, we compared the U.S. level of trade to the home market level of trade. Venus reported similar levels of freight/delivery in both the home market and U.S. market. *Id.* Further, Venus reported no inventory maintenance in either the home market or the U.S. market, and reported that it provided no warranty services in any of its channels of distribution. *Id.*

Based on our examination of the selling functions performed in the single

channel of distribution in the U.S. market, we preliminarily find that Venus's sales in the home market and the United States were made at the same level of trade. Thus, we were able to match Venus's EP sales to sales at the same level of trade in the home market.

(B) *Facor*

Facor reported that it had two levels of trade in the home market: (1) Sales to end-users from its factory warehouse in Nagpur and from its distribution warehouses located in Chennai and Kolkata ("LOTH 1"), and (2) sales to retailers from its factory warehouse in Nagpur ("LOTH 2"). *See Facor's section AQR dated May 24, 2010, at 17-19 and 21.* Facor reported one level of trade in the U.S. market comprised of sales to retailers from its factory warehouse in Nagpur. *See Facor's section AQR dated May 24, 2010, at 21.* Facor requested a level of trade adjustment, claiming that its LOTH 1 "end-user" customers pay higher prices than its LOTH 2 "retail" customers. *Id.*

In support of its claim, Facor reported that it performs more selling activities for LOTH 1 end-users than it does for LOTH 2 end-users, including but not limited to, product chemical guarantees, product performance guarantees, a higher level of negotiation of sales terms, and timely delivery guarantees. *Id.* Facor states that sales negotiations take longer for LOTH 1 end-users, as opposed to LOTH 2 retailers. *See Facor's section AQR dated May 24, 2010, at 24.* Regarding inventory maintenance, Facor claims that SS Bar is held in inventory for longer periods of time for LOTH 1 end-users than for LOTH 2 end-users. *See Facor's QR dated February 7, 2011 at 1.* Facor reported that it uses third-party freight providers for its LOTH 1 sales for shipment from its Chennai and Kolkata warehouses. Further, for LOTH 1 sales, Facor generally advertises through its product brochures or displays. *See Facor's QR dated August 9, 2010, at 17.*

Facor reported that it does not necessarily perform additional sales functions for LOTH 2 relating to customers' specifications. *See Facor's QR dated February 7, 2011, at 3.* Facor states in its supplemental questionnaire response that sales negotiations for LOTH 2 retailers are less complicated than negotiations for LOTH 1 end-users because negotiations for LOTH 2 retailers are restricted to a single level. *See Facor's QR dated February 7, 2011, at 3.* Further, because LOTH 2 sales are not produced for specific customers, these sales have a shorter inventory carrying time. *See Facor's QR dated February 7, 2011 at 1.* Facor reported

that it uses third-party freight providers for LOTH 2 sales from its Nagpur warehouse. *See Facor's section AQR dated May 24, 2010, at 24.* Similar to its LOTH 1 end-users, Facor generally advertises through its product brochures or displays for its LOTH 2 retailers. *See Facor's QR dated August 9, 2010, at 17.*

We examined the information regarding the types and levels of selling functions performed for LOTH 1 and LOTH 2. Specifically, we considered the extent to which sales process/marketing support, freight/delivery, inventory maintenance, and quality assurance/warranty service varied with respect to LOTH 1 and LOTH 2. Although Facor reported that sales negotiations take longer for end-users, Facor did not quantify the number of staff, nor did it provide information regarding the allocation of marketing resources dedicated to supporting its LOTH 1 end-users. Moreover, Facor provides a similar level of advertising for both LOTH 1 and LOTH 2 in the home market. The only difference in inventory maintenance reported by Facor was that LOTH 1 sales remained in inventory for longer periods of time than for LOTH 2. Days in inventory is not a meaningful measure of inventory selling activities, and we found no other record information that indicates there were significantly different inventory activities performed between the factory and distribution warehouses. Specifically, there does not appear to be a significant difference in the intensity of resources or staffing.

There also does not appear to be a significant difference in the level of intensity for freight/delivery between LOTH 1 and LOTH 2 because Facor reported that it contracts with third-party freight providers for delivery to its customers at both levels of trade. Our examination of the freight expenses reported by Facor indicates that the allocation of freight delivery expenses to customers at LOTH 1 and LOTH 2 are similar based on information reported in Facor's home market sales data. Finally, Facor reported that certain product guarantees, such as guarantees relating to chemical and mechanical properties and technical performance, are not incurred on every sale because established customers generally waive request for such guarantees. *See Facor QR dated February 7, 2011, at 4.* Therefore, we do not find that product guarantees are a significant difference between LOTH 1 and LOTH 2.

Accordingly, we preliminarily determine that Facor did not experience significant differences in sales process/marketing support, freight/delivery, inventory maintenance and quality

assurance/warranty services between LOTH 1 and LOTH 2. Therefore, we preliminarily determine that a single level of trade exists in Facor's home market.

Facor reported EP sales to unaffiliated customers in the United States. *See* Facor's June 3, 2010, section C response. Facor reported a single channel of distribution and customer type to the U.S. market, direct sales to retailers. The Department compared the selling functions Facor performed in the single, home market level of trade with the selling functions performed for its U.S. sales. The Department found that Facor advertised its products similarly in both markets. Moreover, the Department found that, for both markets, Facor contracted with third-party freight providers to handle all freight arrangements. There were no differences in quality assurances or warranties between the markets. Moreover, there were no significant differences in the level of intensity of inventory maintenance between the markets.

Because the Department did not find any significant differences in sales process/customer support, quality assurances/warranty and inventory maintenance/warehousing between Facor's home and U.S. market sales, we preliminarily find that Facor's sales in the home market and the United States were made at the same level of trade. Thus, we matched Facor's EP sales to sales at the same, single level of trade in the home market.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products sold by Venus and Facor that are covered by the description in the "Scope of the Order" section, above, and were sold in the home market during the POR to be foreign-like products for purposes of determining appropriate product comparisons to U.S. sales.

We relied upon six criteria to compare U.S. sales of subject merchandise to comparison market sales of the foreign-like product: (1) General type of finish; (2) grade; (3) remelting; (4) type of final finishing operation; (5) shape; and (6) size. This is consistent with our practice in the original investigation. *See Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Stainless Steel Bar From India*, 59 FR 39733, 39735 (August 4, 1994) (unchanged at the final). Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar product on the

basis of the characteristics listed above. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we compared U.S. sales to CV.

Export Price

Venus and Facor reported that the subject merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States. Therefore, we based the U.S. price on EP, as defined in Section 772(a) of the Act.

(A) Venus

Venus's EP is based on the packed, delivered, duty paid price to unaffiliated purchasers in the United States. We adjusted the reported gross unit prices, where applicable, for discounts including weight shortages, short payments, or quality claims. Where appropriate, we made deductions for movement expenses, including freight incurred in transporting merchandise to the Indian port, domestic brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, freight incurred in the United States, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act. *See* Memorandum from Austin Redington to File, re: "Venus Preliminary Results Calculation Memorandum," dated February 28, 2011 ("Venus Preliminary Sales Calculation Memo").

(B) Facor

Facor's EP is based on the prepaid destination delivery, duty paid or cost, insurance and freight price to unaffiliated purchasers in the United States. We made deductions for movement expenses from the reported gross unit price, in accordance with section 772(c)(2)(A) of the Act. These deductions included, where appropriate, freight incurred in transporting merchandise to the Indian port, domestic brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, and U.S. customs duties. *See* Memorandum from Mahnaz Khan to File, re: "Facor Preliminary Results Calculation Memorandum," dated February 28, 2011 ("Facor Preliminary Sales Calculation Memo").

Duty Drawback

Section 772(c)(1)(B) of the Act provides that EP shall be increased by, among other things, "the amount of any import duties imposed by the country of exportation which have been rebated, or

which have not been collected, by reason of the exportation of the subject merchandise to the United States." The Department determines that an adjustment to U.S. price for claimed duty drawback is appropriate when a company can demonstrate that: (1) The "import duty and rebate are directly linked to, and dependent upon, one another;" and (2) "the company claiming the adjustment can show that there were sufficient imports of the imported raw materials to account for the drawback received on the exported product." *Rajinder Pipes Ltd. v. United States*, 70 F. Supp. 2d 1350, 1358 (Ct. Int'l Trade 1999). Facor did not claim a duty drawback adjustment. Venus requested a duty drawback adjustment, but did not submit any information to support its request. Therefore, because Venus failed to meet the Department's requirements, we are denying Venus's request for a duty drawback adjustment for these preliminary results. *See* Venus Preliminary Sales Calculation Memo.

Home Market

Based on a comparison of the aggregate quantity of home-market and U.S. sales, and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of foreign like product sold by both respondents in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise pursuant to section 773(a)(1) of the Act. Each company's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the ordinary course of trade and, to the extent practicable, at the same level of trade as the EP sales.

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's length prices. *See* 19 CFR 351.403(c). We excluded from our analysis sales to affiliated customers for consumption in the home market that we determined not to be at arm's length prices. To test whether these sales were made at arm's length prices, we compared them to the prices to unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices

charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's length prices. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We included in our calculation of NV those sales to affiliated parties that were made at arm's length prices. *See Venus Preliminary Sales Calculation Memo and Facor Preliminary Sales Calculation Memo*.

Constructed Value

In accordance with section 773(e) of the Act, we calculated CV for Venus based on the sum of its material and fabrication costs, selling, general and administrative ("SG&A") expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described below in the "Cost of Production Analysis" section of this notice, below. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Venus in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. We did not calculate CV for Facor.

Calculation of Normal Value Based on Home Market Prices

We calculated NV based on packed, ex-factory or delivered prices to unaffiliated customers in the home market. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. When applicable, we also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of (1) the amount of the commission paid in the U.S. market, or (2) the amount of indirect selling expenses incurred in the comparison

market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology.

Cost Averaging Methodology

The Department's normal practice for respondents not in high inflationary economies is to calculate a single weighted-average cost for the entire POR unless this methodology results in inappropriate comparisons. *See Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (December 13, 2000), and accompanying Issues and Decision Memorandum at Comment 18, and *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada*, 71 FR 3822 (January 24, 2006), and accompanying Issues and Decision Memorandum at Comment 5 (explaining the Department's practice of computing a single weighted-average cost for the entire period and the Department's use of annual average costs in order to even out swings in production costs experienced by respondents over short periods of time). However, we recognize that possible distortions may result if we use our normal annual-average cost method during a period of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence using two primary factors: (1) The change in the cost of manufacturing ("COM") recognized by the respondent during the POR must be deemed significant; (2) the record evidence must indicate that sales during the shorter averaging periods could be reasonably linked with the COP or CV during the same shorter averaging periods. *See Stainless Steel Sheet and Strip in Coils From Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010), and accompanying Issues and Decision Memorandum at Comment 6, and *Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) ("*SSPC from Belgium*"), and accompanying Issues and Decision Memorandum at Comment 4.

In prior cases, we established 25 percent as the threshold (between the high- and low-quarter COM) for determining that the changes in COM are significant enough to warrant a departure from our standard annual-cost approach. *See SSPC from Belgium*, and accompanying Issues and Decision

Memorandum at Comment 4. In the instant case, we analyzed the COM for selected highest sales volume SS Bar products. Based on our review of the record evidence, we did not find that Venus and Facor experienced significant changes in their respective COMs during the POR. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

Comparisons to Normal Value

To determine whether sales of SS Bar by Venus and Facor to the United States were made at less than NV, we compared EP to NV, as described in the "Export Price" and "Home Market" sections of this notice, above. Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the weighted-average NV of the foreign like product, where there were sales made in the ordinary course of trade, as discussed in the "Cost of Production Analysis" section, below.

Cost of Production Analysis

Because we disregarded sales by Venus and Facor made at prices below the COP in the most recently completed review of SS Bar from India (*see 2008–2009 Final Results (Venus) and 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) (Facor)), we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review for Venus and Facor may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Venus and Facor.

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the materials and conversion costs for the foreign like product, plus amounts for G&A expense and interest expenses. We relied on home market sales and COP information provided by Venus and Facor in their respective questionnaire responses, except where noted below:

(A) Venus Wire, Sieves, Precision Metals, and Hindustan

1. We increased Venus's reported COM to include the unreconciled difference between the COM from its normal books and records and the reported COM.

2. We revised Venus's G&A expense rate to include the director

remuneration expense in the numerator and we reduced the cost of goods sold ("COGS") used as the denominator by the scrap revenue.

3. We revised Venus's financial expense rate by reducing the COGS denominator by the scrap revenue.

4. For a specific Sieves CONNUM that was missing variable overhead ("VOH") costs, we used the reported VOH from a surrogate CONNUM.

5. We increased Sieves's reported COM to account for inputs obtained from affiliates at less than market prices, and to include the unreconciled difference between the COM from its normal books and records and the reported COM.

6. We revised Sieves's G&A expense rate to include the director remuneration expense in the numerator and we reduced the COGS denominator by the scrap revenue.

7. We revised Sieves's financial expense rate by reducing the COGS denominator by the scrap revenue.

8. We revised Precision Metals's G&A expense rate by reducing the COGS denominator by the scrap revenue.

9. We revised Precision Metals's financial expense rate by reducing the COGS denominator by the scrap revenue.

10. We increased Hindustan's reported COM to include the unreconciled difference between the

COM from its normal books and records and the reported COM.

For additional details, *see* Memorandum to Neal M. Halper, Director of Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Venus Wire Industries Pvt. Ltd.," dated February 28, 2011.

Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were 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 a respondent's sales of a given product were at prices less than the COP we disregarded the below-cost sales because: (1) They were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the indexed weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our cost tests for Venus and Facor revealed that, for home market sales of certain models, less than 20 percent of

the sales of those models were made at prices below the COP. Therefore, we retained all such sales in our analysis and included them in determining NV. Our cost test for Venus and Facor further indicated that for home market sales of other models, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales to determine NV. *See* Venus Preliminary Sales Calculation Memo; *see also* Facor Preliminary Sales Calculation Memo.

Currency Conversion

Pursuant to 19 CFR 351.415 and section 773A of the Act, we made currency conversions based on the exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank. *See* Import Administration Web site at: <http://ia.ita.doc.gov/exchange/index.html>.

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margins exist for the respondents for the period February 1, 2009, through January 31, 2010.

Exporter/manufacturer	Margin (percent)
Venus Industries Pvt. Ltd./Precision Metal/Sieves Manufacturing (India) Pvt. Ltd./Hindustan Inox Ltd	1.32
Mukand, Ltd	22.63
Facor Steels Ltd./Ferro Alloys Corporation, Ltd	9.86

Public Comment

The Department will disclose the calculations performed within five days of publication of this notice to the parties to this proceeding in accordance with 19 CFR 351.224(b). Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of publication of this notice in the **Federal Register**. If a hearing is requested, the Department will notify interested parties of the hearing schedule. Issues raised in the hearing will be limited to those raised in the case briefs.

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, should be filed not later than 5 days after the time limit for filing case briefs. *See* 19 CFR 351.309(d). Parties submitting arguments in this proceeding

are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities, in accordance with 19 CFR 351.309(d)(2). Further, parties submitting case and/or rebuttal briefs are requested to provide the Department with an additional electronic copy of the public version of any such comments on a computer diskette. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

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 or at a hearing, if requested, within 120 days of publication of these preliminary results, unless extended. *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Assessment Rates

The Department shall determine, and CBP will assess, antidumping duties on all appropriate entries in accordance with 19 CFR 351.212(b)(1). The Department intends to issue appropriate assessment instructions for the companies subject to this review directly to CBP 15 days after publication of the final results of review.

Pursuant to 19 CFR 351.212(b)(1), for all sales made by the respondents for which they have reported the importer of record and the entered value of the U.S. sales, we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. Where the respondent did not report the entered value for U.S. sales to an importer, we have calculated importer-specific assessment rates for the

merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales.

To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), the Department calculated importer-specific *ad valorem* ratios based on the entered value or the estimated entered value, when entered value was not reported.

Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (i.e., less than 0.50 percent).

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) ("Assessment Policy Notice"). This clarification will apply to entries of subject merchandise during the POR produced by Venus and Facor for which these companies did not know that their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate involved in the transaction. For a full discussion of this clarification, see *Assessment Policy Notice*.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of SS Bar from India 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 the reviewed companies will be the rate established in the final results of this administrative review, except if the rate is less than 0.5 percent and is, therefore, *de minimis*, the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less than fair value ("LTFV") investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and

(4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 12.45 percent, the "all others" rate established in the LTFV investigation. See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915 (December 28, 1994). These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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 antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protection order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 28, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011-4981 Filed 3-3-11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-802]

Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results, Partial Rescission, and Request for Revocation, In Part, of the Fifth Administrative Review

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

SUMMARY: The Department of Commerce ("Department") is conducting the fifth administrative review of the antidumping duty order on certain frozen warmwater shrimp ("shrimp") from the Socialist Republic of Vietnam ("Vietnam") for the period of review ("POR") February 1, 2009, through January 31, 2010. As discussed below, we preliminarily determine that sales have been made below normal value ("NV"). If these preliminary results are adopted in our final results of 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*.

DATES: *Effective Date:* Insert date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Susan Pulongbarit, Paul Walker, or Jerry Huang, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4031, (202) 482-0413, or (202) 482-4047, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2005, the Department published in the **Federal Register** the antidumping duty order on frozen warmwater shrimp from Vietnam. See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam*, 70 FR 5152 (February 1, 2005) ("Order"). On February 1, 2010, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order* for the period February 1, 2009, through January 31, 2010. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 75 FR 5037 (February 1, 2010).

From February 26, 2010, through March 1, 2010, we received requests to conduct administrative reviews from the American Shrimp Processors Association ("ASPA"), the Louisiana Shrimp Association ("LSA"), the Domestic Producers,¹ and certain Vietnamese companies. The Department also received three requests for revocation. See "Requests for

¹ The Domestic Producers are the Ad Hoc Shrimp Trade Action Committee members: Nancy Edens; Papa Inc.; Carolina Seafoods; Bosarge Boats, Inc.; Knights Seafood Inc.; Big Grapes, Inc.; Versaggi Shrimp Co.; and Craig Wallis.