margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct the Customs Service to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries during the review period. *See* 19 CFR 351.212(b).

Cash-Deposit Requirements

To calculate the cash-deposit rate for each respondent (*i.e.*, each exporter and/or manufacturer included in this review), we divided the total dumping margins for each company by the total net value for that company's sales of merchandise during the review period.

In order to derive a single weighted-average margin for each respondent, we weight-averaged the export-price and CEP deposit rates (using the export price and CEP, respectively, as the weighting factors). To accomplish this when we sampled CEP sales, we first calculated the total dumping margins for all CEP sales during the review period by multiplying the sample CEP margins by the ratio of total days in the review period to days in the sample weeks. We then calculated a total net value for all CEP sales during the review period by multiplying the sample CEP total net value by the same ratio. Finally, we divided the combined total dumping margins for both export-price and CEP sales by the combined total value for both export-price and CEP sales to obtain the deposit rate.

Entries of parts incorporated into finished bearings before sales to an unaffiliated customer in the United States will receive the respondent's deposit rate applicable to the order.

Furthermore, the following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of ball bearings from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash-deposit rates for the reviewed companies will be the rates established in the final results of review; (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 period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value 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 45.83 percent, the ''All Others'' rate made effective by the final results of review published on July 26, 1993. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 3, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–5635 Filed 3–7–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Forged Stainless Steel Flanges from India: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results and partial rescission of antidumping duty administrative review.

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Helen Kramer at (202) 482–0405 (Snowdrop Trading, Pvt. Ltd.), Shireen Pasha at (202) 482–0193 (Echjay Forgings Ltd./Pushpaman Exports), or Dena Aliadinov at (202) 482–3362 (Viraj Forgings, Ltd.), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain forged stainless steel flanges from India (''SS flanges'') manufactured/exported by Echjay Forgings Pvt. Ltd. (''Echjay'') and Viraj Forgings Ltd. (''Viraj''), and exported by Snowdrop Trading Pvt. Ltd. (''Snowdrop''). The period of review (POR) covers the period February 1, 2001, through January 31, 2002. We have preliminarily determined, based in part on adverse facts available, that Echjay sold subject merchandise at less than normal value (''NV'') and that Viraj had a *de minimis* margin. Lastly, we have preliminarily determined to apply a facts available (''FA'') rate to Snowdrop's sale. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on entries of the subject merchandise for which the importer-specific assessment rates are above *de minimis*. We invite interested parties to comment on these preliminary results. We request parties who submit argument in these proceedings to submit with the argument: (1) a statement of the issues and (2) a brief summary of the argument.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1994, the Department published the antidumping duty order on SS flanges (59 FR 5994). On February 1, 2002, the Department published a notice of opportunity to request an administrative review for this order covering the period February 1, 2001, through January 31, 2002 (67 FR 4945). On February 28, 2002, Snowdrop and Metal Forgings Rings & Bearings Pvt. Ltd. (''MF'') requested review in accordance with 19 CFR 351.213(b)(2), and the petitioners requested review of Bhansali Ferromet Pvt. Ltd. (''Bhansali''), Echjay, Isibars Ltd., Panchmahal Steel Ltd. (''Panchmahal''), Patheja Forgings and Auto Parts, Ltd. (''Patheja''), and Viraj under 19 CFR 351.213(b)(1). The petitioners are the Coalition Against Indian Flanges (Ideal Forging Corporation and Maass Flange Corporation). They have not participated further in this review. The Department initiated these reviews on March 27, 2002 (see Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part, 67 FR 14696). The Department rescinded the review of Isibars on December 6, 2002, after

determining that Isibars did not produce or sell subject merchandise to the United States during the period of review (POR) (67 FR 72644). On October 25, 2002, we extended the time limit for the preliminary results of this administrative review to February 28, 2003 (67 FR 65538).

Partial Rescission

On May 8, 2002, Bhansali submitted a statement that it had no sales to the United States during the POR. On May 21, 2002, Panchmahal submitted a similar statement. On May 29, 2002, MF withdrew its request for review because it did not have any U.S. sales. Patheja did not respond to the questionnaire and the Department ascertained that this company is defunct. The Department conducted a query of U.S. Customs Service data on entries of SS flanges from India made during the POR, and confirmed that these companies made no entries during this period. Therefore, we preliminarily determine to rescind the review with respect to Bhansali, Panchmahal, MF and Patheja.

Scope of the Review

The products under review are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A–182, and made in alloys such as 304, 304L, 316, and 316L. The scope includes five general types of flanges. They are weld-neck, used for butt-weld line connection; threaded, used for threaded line connections; slip-on and lap joint, used with stub-ends/butt-weld line connections; socket weld, used to fit pipe into a machined recession; and blind, used to seal off a line. The sizes of the flanges within the scope range generally from one to six inches; however, all sizes of the above-described merchandise are included in the scope. Specifically excluded from the scope of this order are cast stainless steel flanges. Cast stainless steel flanges generally are manufactured to specification ASTM A–351. The flanges subject to this order are currently classifiable under subheadings 7307.21.1000 and 7307.21.5000 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

Period of Review

The POR is February 1, 2001, through January 31, 2002.

Verification

As provided in section 782(i) of the Act, we verified sales information provided by Echjay from December 11 through December 13, 2002, and sales and cost information provided by Viraj from December 16 through December 18, 2002, using standard verification procedures, including an examination of relevant sales, cost, financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports and are on file in the Department's Central Records Unit located in Room B–099 of the main Department of Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Use of Facts Available

A. Echjay

Echjay's initial Sections B and C response of July 23, 2002, was deficient and/or unresponsive to many of the questions asked in the Department's questionnaire. There were no sales of subject merchandise in the home market during the POR, and Echjay reported sales to its three largest third country markets, Belgium, Germany and the United Kingdom (''U.K.''). Echjay claimed it had no direct or indirect selling expenses, and omitted the information requested for variable and total costs of manufacturing, stating that there are identical sales in the U.S. and U.K. markets. However, the Department found that there were identical matches for only one-fourth of the products sold in the United States. On August 12, 2002, we transmitted the Section D questionnaire to Echjay, with a deadline of August 26, 2002, for their response. On August 22, 2002, we received Echjay's request for a three-week extension of time. We granted a two-week extension until September 9, 2002. On September 5, 2002, we received a letter from Echjay in which it acknowledged that the merchandise sold in the U.K. market did not have identical matches for the entire range of the merchandise sold in the United States, but asked that the Department consider the prices in which the merchandise was sold in the U.K. as NV. Echjay asked for another extension of time until October 31, 2002, to respond to Section D. Echjay also explained that it would be computing the weighted average cost of production (''COP'') based on total tonnage produced during the year (instead of the product-specific production quantity, per the Section D instructions). On September 6, 2002, we granted an extension of time until September 18, 2002. We stated that inasmuch as certain U.S. sales will not have identical or similar matches, Echjay must report cost data for all reported products by control numbers (''CONNUMs''). We explained that when comparing similar products, the Department considers differences in variable costs associated with the physical characteristics of the products in its margin calculation. Further, we noted that the Department's preference is to use the third country market with the highest volume to determine NV, which in this case was Belgium. We explained that we need Echjay's response to Section D so that we can match products that are not identical by greatest similarity or CV. We warned that if Echjay did not respond to Section D, or if due to statutory time limits we have insufficient time to analyze a new submission, it might be necessary to resort to facts available. Finally, we instructed Echjay to prepare its response strictly in accordance with the instructions, *i.e.*, ''Calculate COP and CV figures on weighted-average basis using the CONNUM specific production quantity, regardless of market sold, as the weighing factor.''

We sent Echjay a supplemental Section B and C questionnaire on September 10, 2002, with a due date of September 24, 2002. We received Echjay's Section D response by the extended due date, September 18, 2002. Question II.A.6 asks respondents to: ''Identify those inputs, and other items * * * that your company receives from affiliated parties. For each item received from an affiliated party, provide the name of the affiliated party and state the nature of the affiliation. Finally, state whether the transfer price of the good or service reflects the market price of the item. * * * '' Footnote 2 instructs respondents to report the ''cost'' of affiliated purchases in accordance with the amounts as recorded in their normal accounting system. Question 7 on the same page asks respondents to list the major inputs purchased from affiliated parties that are used to produce the merchandise under consideration, and to complete a chart comparing purchases from affiliated and unaffiliated suppliers. In response, Echjay stated ''We do not receive any input or any other item from any affiliated parties. * * * Hence, we are leaving the chart below and the subpoints blank.'' Section D response, page 8 (September 18, 2002).

On November 1, 2002, the Department sent Echjay a second supplemental questionnaire with a due date of November 12, 2002, in which we asked

the company to list the exact functions performed by its wholly owned affiliate, Pushpaman Exports (''PE'') in the exporting of SS flanges and to report all costs incurred by PE during the POR. We stated: ''Failure to provide this information as requested will result in the use of facts available, which will be adverse to you.'' Further, we informed Echjay that we would be using its reported sales to Belgium, its largest third country market, to determine NV, in accordance with the Department's practice.

We received Echjay's response on November 21, 2002, in which it stated that it diverts some of its orders to PE, which then either purchases finished products, including SS flanges, or supplies Echjay with stainless steel billets procured from unaffiliated suppliers, which then produces the merchandise on a ''labor charge basis.'' Echjay explained that in its previous responses, it had already included sales made by PE, declaring:

> In our previous responses, we have already included expenses made by Pushpaman Exports as far as Ocean Freight, Marine Insurance, Packing are concerned. As per the instructions of this questionnaire we are now providing the other costs incurred by Pushpaman Exports, in the appropriate fields.

Although Echjay stated that sample worksheets showing the cost allocations for the CONNUMs with the highest sales volume in Belgium and the United States were attached in Annexures D and E, in fact they were missing from the submission, which was received uncollated and therefore not in proper condition for placement on the record of this proceeding.

On December 2, 2002, we sent Echjay the third supplemental questionnaire for sections B–D via email, facsimile and courier, asking Echjay to identify any other manufacturers of SS flanges sold by PE, and setting a deadline of December 5, 2002. As of the close of business on December 6, 2002, the last workday before the verification team's departure for India, the Department had not received Echjay's response. See Memorandum to the File from Shireen Pasha, Case Analyst, Third Supplemental Questionnaire for Sections B–D, December 6, 2002.

During verification, between December 11 and 13, 2002, we discovered that Echjay had failed to report the costs, transfer prices and market prices for billets supplied by PE, which are major inputs that constituted a substantial part of Echjay's direct material costs. Furthermore, Echjay's packing expenses could not be verified. In addition, worksheets Echjay prepared for verification to demonstrate how it calculated the product-specific variable and total costs revealed that it had again ignored the explicit instructions in the Section D questionnaire and supplemental requests for information, instead adopting a methodology of its own devising without consultation with the Department.

At verification, we found that Echjay had failed to provide product-specific costs by control number (''CONNUM'') to account for the cost differences associated with the physical characteristics of the products under review. A respondent's product-specific sales and cost data are the most basic and significant data needed in order for the Department to perform a dumping analysis and margin calculation. The specific physical characteristics identified at the beginning of each case, which make up a control number, are those physical characteristics determined to be the most significant in differentiating between products. These are the physical characteristics that define a unique product for sales comparison purposes. The level of detail within each physical characteristic reflects the importance the Department places on comparing the most similar products in a price-to-price comparison. In this review, the Department identified five characteristics for matching purposes: grade of stainless steel, type of flange, size, pressure rating, and finish. Echjay assigned the same costs to all products within a stainless steel grade, accounting only for cost differences due to the price and weight of the direct material input of stainless steel billets. Absent product-specific cost information, the Department lacks the necessary information to calculate a difference-in-merchandise (''DIFMER'') adjustment to account for differences in physical characteristics when comparing sales of similar merchandise. In addition, without this information, we cannot determine matches between U.S. and comparison market sales for price-to-price comparisons, nor can we determine accurate constructed values for use as normal value, as required.

When a respondent's normal accounting system does not differentiate among products nor provide product-specific costs to the level of detail required by the Department, our consistent practice is to have the respondent start with the costs established in their normal accounting system and then further allocate the costs to specific products based upon a reasonable method available to them. *See* section 773(f)(1)(A) of the Act. If there is little or no cost difference associated with a particular physical characteristic, then the respondent may provide an analysis as to why there is virtually no cost difference relating to the characteristic in question. If there is a significant difference then the respondent is required to develop a reasonable method to quantify such a difference.

Echjay's methodology allocated expenses in proportion to the weight of billets used to produce SS flanges instead of using the CONNUM-specific production quantity, as instructed, thereby failing to account for yield losses. Moreover, as the billet weight used to allocate costs did not include the billets supplied by PE, the costs of the products sold by PE in the Belgian market are understated, thereby distorting DIFMER calculations. Further, Echjay included in CV various expenses the Department normally treats as sale-specific circumstances of sale (''COS'') adjustments and movement expenses. Therefore, we cannot rely on the product-specific variable and total costs Echjay reported in its sales listings for U.S. and comparison market sales to calculate DIFMERs for the purpose of comparing similar products sold in the respective markets.

The Department uses its model matching methodology to determine which comparison market sales should be used to calculate NV for sales for which there are no identical matches. We reject comparisons if the difference in the variable costs of manufacture between the product sold in the comparison market and the product sold in the United States exceeds 20 percent of the total cost of the U.S. product. Without accurate costs, we cannot reliably determine which sales should be compared in the respective markets. Moreover, if some U.S. sales cannot be matched with comparison market sales, either because of insufficient similarity or because of lack of contemporaneousness, we must be able to calculate the CV of the products sold in the United States. Therefore, without accurate costs we cannot reliably calculate whether dumping margins exist.

Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot

be verified as provided in section 782(i), the administering authority * * * shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.''

Pursuant to section 776(a)(2), we find that in failing to report a substantial percentage of its direct material costs supplied by an affiliated party, Echjay withheld information requested by the Department. Further, Echjay failed to provide its cost of production data in the form and manner requested and failed to meet the deadlines for submission of information. Moreover, Echjay did not notify the Department prior to verification of any inability to report the cost data in the form and manner requested, nor did it propose an alternative acceptable methodology that would account for yield losses. Finally, the packing cost information Echjay provided could not be verified. Therefore, pursuant to section 776(a)(2)(A), (B), and (D), we preliminarily determine that the use of facts otherwise available (''FA'') is warranted in order to calculate a margin for Echjay.

Section 782(e) of the Act provides that the Department ''shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by (the Department)'' if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, and if the Department can use the information without undue difficulties, the statute requires it to do so.

For these preliminary results, we have revised Echjay's reported CV data to conform to the Department's standard methodology, to the extent that information already on the record permits. Using cost data from Echjay's most recent fiscal year financial statements, we calculated direct labor costs, overhead costs, general and administrative expenses, and revised interest expenses per kilogram by dividing by the total weight of production of all products, subject and non-subject. However, despite repeated requests to do so, Echjay failed to report all of its direct material costs pursuant to the major input rule (19 CFR 351.407(b)). As a result, the Department was unable to verify the material costs which account for most of the total costs of production. In addition, although the Department asked Echjay several times to report its labor cost for packing, we found at verification that Echjay's explanations of the method it used to calculate packing costs were unsubstantiated and that neither the material cost nor the labor cost for packing could be verified. Therefore, pursuant to section 776(b) of the Act, we preliminarily determine that Echjay has failed to cooperate to the best of its ability.

Section 776(b) 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 information that is adverse to the interests of the party as the facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See Statement of Administrative Action* (SAA) accompanying the URAA, H.R. Doc. No. 103–316 (1994), at 870. Furthermore, ''an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties, Countervailing Duties; Final Rule,* 62 FR 27340 (May 17, 1997).

Accordingly, we have preliminarily determined to make an adverse inference and apply the highest cost per kilogram Echjay reported in its Section D response for stainless steel material used to produce flanges to all of Echjay's direct material costs. In addition, we have preliminarily determined to add the highest reported packing expense for Belgian sales to CV for U.S. packing.

B. Snowdrop

Snowdrop made one sale of rough flanges to the United States during the POR. As there were no sales in the home market, Snowdrop reported its sales to its three largest third country markets. The Department found no identical matches to the merchandise sold to the United States. It therefore determined that it would be necessary to use CV to calculate a margin. On October 21, 2002, the Department sent Section D questionnaires to the two producers of the flanges Snowdrop exported to the United States, Panchmahal and Paramount Forge (''Paramount''), with a request that they report CV for the merchandise they sold to Snowdrop and respond by November 7, 2002. Panchmahal notified the Department via email that it would not complete the questionnaire, as it had made the sale to Snowdrop in the belief that it was for the Indian market. On November 14, 2002, the Department sent a letter to Paramount asking them to inform us of their intentions. On November 18, 2002, Paramount asked the Department for an extension of time of unspecified duration. On the same day, we replied that we could extend the deadline only to November 22, 2002, which is a total of 32 days from our original request for information. Subsequent to this date, we received no further communication from Paramount. Panchmahal and Paramount, by not providing the Department with the necessary CV information to conduct a margin analysis, as described above, repeatedly failed to respond to the Department's request for information within the meaning of section 782(d)(1) of the Act.

Although Snowdrop provided the Department with some information, that information was too incomplete for the Department to conduct a margin analysis. Pursuant to sections 776(a)(1) and 776(a)(2)(A) of the Act, we have preliminarily determined to use the facts otherwise available in reaching the applicable determination. Further, because Panchmahal and Paramount, which, as producers of subject merchandise, are interested parties in this proceeding, did not act to the best of their abilities in withholding information and significantly impeded this review, we preliminarily find that it is appropriate to make adverse inferences pursuant to section 776(b) of the Act. *See Coumarin From the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 66 FR 34614 (June 29, 2001); *Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review and New Shipper Reviews, and Final Partial Rescission of Antidumping Duty Administrative Review,* 66 FR 20634 (April 24, 2001); *Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review,* 67 FR 19546 (April 22, 2002); and *Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Preliminary Results of Antidumping Duty Administrative Review,* 67 FR 63877 (October 16, 2002). When making adverse inferences, the SAA authorizes the Department to consider the extent to which a party may benefit from its own lack of cooperation (SAA at 870). Because Panchmahal currently has a cash deposit rate of 210.00 percent based on the highest rate in the original petition and antidumping duty order,

and both Paramount and Snowdrop have the ''All Others'' rate of 162.14 percent, the Department determines that assigning a 210.00 percent rate will prevent non-responding firms from benefiting from their failure to respond to the Department's requests for information. Anything less than the current 210 percent cash deposit rate would effectively reward non-responding firms for not cooperating by not acting to the best of their ability.

Section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. *See* SAA at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. Id. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

To assess the reliability of the petition margin, in accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the calculations of export price and normal value upon which the petitioners based their margins for the petition. The U.S. prices in the petition were based on quotes to U.S. customers, most of which were obtained through market research. *See* Petition for the Imposition of Antidumping Duties, December 29, 1993. We were able to corroborate the U.S. prices in the petition, which were used as the basis of the 210 percent rate, by comparing these prices to publicly available information based on IM–145 import statistics from the U.S. International Trade Commission's Web site via dataweb for HTS numbers 7307215000 and 7307211000. We noted that the average reported Customs unit value for these products in calendar year 2001, which overlaps eleven months of the POR, was lower than those cited in the petition, which ranged from $4.77 to $47.32, thus corroborating the petition's U.S. price. The NVs in the petition were based on actual price quotations obtained through market research. The Department is not aware of other independent sources of information that would enable it to corroborate the margin calculations in the petition further.

With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. *See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812 (February 22, 1996), where the Department disregarded the highest dumping margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Further, in accordance with *F. LII De Cecco Di Filippo Fara S. Martino S.p.A. v. United States,* 216 F. 3d 1027 (Fed. Cir. June 16, 2000), we also examine whether information on the record would support the selected rates as reasonable facts available.

We find that the 210 percent rate which we are using for these preliminary results does have probative value. We know that, during the POR, one of Snowdrop's suppliers was Panchmahal Steel Ltd. (Panchmahal), which currently has a 210 percent margin rate from the prior administrative review of this proceeding. Thus, this rate is relevant for Snowdrop because it was recently applied to Panchmahal in the prior administrative review, Panchmahal was a supplier to Snowdrop during the POR, and we are not aware of any circumstances that would render this rate inappropriate. Also, we note that four Indian manufacturers currently have a 210 percent margin under this order.

The implementing regulation for section 776 of the Act, codified at 19 CFR 351.308(d), states, ''(t)he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question.'' Additionally, the SAA at 870 states specifically that, where ''corroboration may not be practicable in a given circumstance,'' the Department may nevertheless apply an adverse inference. The SAA at 869 emphasizes that the Department need not prove that the facts available are the best alternative information. Therefore, based on our efforts, described above, to corroborate information contained in the petition and in accordance with 776(c) of the Act, which discusses facts available and corroboration, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this preliminary determination (*see Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 76, 84 (January 4, 1999)).

Fair Value Comparisons: Echjay and Viraj

To determine whether sales of subject merchandise were made in the United States at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated EPs and CEPs and compared these prices to weighted-average normal values or CVs, as appropriate.

Export Price and Constructed Export Price

In accordance with section 772 of the Act, we calculated either an EP or a CEP, depending on the nature of each sale. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold by the foreign exporter or producer before the date of importation to an unaffiliated purchaser in the United States, or to an unaffiliated purchaser for exportation to the United States. We have preliminarily determined that all of Echjay's U.S. sales during the POR were EP sales, and that direct sales made by Viraj to unaffiliated U.S. customers were EP sales.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772(c) and (d) of the Act. We have preliminarily considered sales Viraj made through Viraj USA, Inc. (''VUI'') during the POR to be CEP sales.

We calculated EP and CEP, as appropriate, based on prices charged to the first unaffiliated customer in the United States. We used the date of invoice as the date of sale. We based EP on the packed CIF duty paid prices to the first unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including: foreign inland freight, foreign

brokerage and handling, ocean freight, and marine insurance.

For CEP sales, in accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (*i.e.*, bank charges, U.S. Customs clearance expenses, and interest for discounted U.S. sales receivables), and indirect selling expenses. In accordance with section 772(d)(3) of the Act, we deducted an amount for profit allocated to the expenses deducted under sections 772(d)(1) and (2) of the Act. We did not deduct imputed credit expenses from the starting price because Viraj discounted its U.S. sales receivables, and therefore did not incur any opportunity cost of capital.

Duty Drawback

Section 772(c)(1)(B) of the Act provides that EP or CEP shall be increased by ''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 there is (1) a sufficient link between the import duty and the rebate, and (2) sufficient imports of the imported material to account for the duty drawback received for the export of the manufactured product (the ''two pronged test''). *See Rajinder Pipes Ltd. v. United States*, 70 F. Supp. 2d 1350, 1358 (CIT 1999). *See*, also, *Certain Welded Carbon Standard SteelPipes and Tubes from India:Final Results of New Shippers Antidumping Duty Administrative Review*, 62 FR 47632 (September 10, 1997) and *Federal Mogul Corp.* v. *United States*, 862 F. Supp. 384, 409 (CIT 1994).

We found at verification of Echjay that it had received Duty Entitlement Pass Book (''DEPB'') certificates from the Indian government, which it booked as ''export incentives'' in its Profit and Loss Statements, although it had imported no raw materials, and had sold all of these DEPB certificates on the secondary market. Echjay therefore fails both prongs of the duty drawback test, and we are preliminarily denying this adjustment.

At verification the Department found that Viraj used DEPB licenses received from the Indian government on the basis of the FOB value of its exports to offset the Indian customs duties otherwise payable on imported raw materials used in the production of SS flanges. Viraj reported these payments received from the Indian government in its profit and loss accounts as income under ''Import Duty Drawback Credit Under Pass Book/ DEPB Schemes.'' Although in the previous segment of this proceeding, the Department granted a duty drawback adjustment, we note that each segment is independent of any other. In this review, at verification Viraj traced the total quantities of raw materials which it imported and used in the production of subject merchandise, and accounted for all customs duties amounts not paid but offset against DEPB Duty Entitlement Certificates. However, Viraj was unable to demonstrate the necessary link between the amount of import duties not paid on raw materials used to make subject merchandise and the duty drawback rebate given by the government of India, thus failing the second part of the two-pronged test. Indeed, a company official explained at verification that Viraj sold DEPB licenses in excess of import duties owed on the secondary market for these licenses. Since Viraj did not meet both prongs of the Department's two-pronged test for granting a duty drawback adjustment, we have not added duty drawback to Viraj's U.S. sales prices for the preliminary results.

Normal Value

A. Viability

In order to determine whether there is sufficient volume of sales in the comparison market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of comparison market sales of the foreign like product during the POR is equal to or greater than five percent of the aggregate volume of U.S. sales of subject merchandise during the POR), we compared the volume of Echjay's Belgian sales and Viraj's home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Since we found no reason to determine that quantity (weight) was not the appropriate basis for these comparisons, we did not use value as the measure. *See* 19 CFR 351.404(b)(2). We determined that the comparison markets were viable because comparison market sales were greater than five percent of Echjay's and Viraj's respective U.S. sales, based on aggregate volume by weight.

B. Arm's Length Sales

Since no information on the record indicates any comparison market sales to affiliates, we did not use an arm's-length test.

C. Cost of Production Analysis

In the previous review of Viraj's sales, the Department found that certain home market sales failed the cost test. Accordingly, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether Viraj's sales of subject merchandise were made at prices below COP during the POR. We determined that only grade, type, size, pressure rating, and finish were required to define products for purposes of matching U.S. sales to home market sales. We converted costs from a per-piece basis to a per-kilogram basis. See the company-specific analysis memorandum for Viraj, dated February 28, 2003, (''Viraj Analysis Memo'') a public version of which is available in the Central Records Unit.

In accordance with section 773(b)(3) of the Act, we calculated COP for Viraj based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (''SG&A''), net interest expenses (''INTEX'') and packing. See below under Comparison Market Price for a discussion of revisions the Department made to Viraj's reported INTEX.

After calculating COP, we tested whether home market sales of SS flanges were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less movement charges.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's home market sales for a model are at prices less than the COP, we do not disregard any below-cost sales of that model because we determine that the below-cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of a respondent's home market sales of a given model are at prices less than COP, we disregard the below-cost sales because they are (1) 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 comparisons of prices to weighted-average COPs for the POR, 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.

The results of our cost test for Viraj indicated that for certain comparison market models, less than 20 percent of

the sales of the model were at prices below COP. We therefore retained all sales of these comparison market models in our analysis and used them as the basis for determining NV. Our cost test also indicated that within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), for certain comparison market models, more than 20 percent of the comparison market sales were sold at prices below COP and were at prices which would not permit the recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we therefore excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

Price-to-Price Comparisons: Viraj

We compared Viraj's U.S. sales with contemporaneous sales of the foreign like product in the comparison market. We considered SS flanges identical based on grade, type, size, pressure rating and finish. We used a 20 percent DIFMER cost deviation cap as the maximum difference in cost allowable for similar merchandise, which we calculated as the absolute value of the difference between the U.S. and comparison market variable costs of manufacturing divided by the total cost of manufacturing of the U.S. product. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sale observation resulted in DIFMER adjustments exceeding 20 percent of the COM of the U.S. product, we based NV on CV.

For those product comparisons for which there were sales at prices above the COP, we based NV on the home market prices to home market customers. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In accordance with section 773(a)(6)(A) and (B), we deducted home market packing costs and added U.S. packing costs. Based on findings at verification, we corrected Viraj's reported packing expenses for finished flanges to include packaging materials. In addition, we made adjustments for differences in COS, as appropriate. Because we were unable to verify Viraj's interest rate for calculating home market credit expenses, we did not make an adjustment for this expense. See pages 13 and 14 of the Department's Viraj Verification Report, dated January 23, 2003. During verification, we reviewed Viraj's U.S. and home market sales with the largest sales volume and found that Viraj incurred sale-specific interest expenses as a result of discounting its U.S. sales receivables, and that these expenses were incorrectly included in INTEX instead of being reported as direct selling expenses. Hence, we calculated a weighted average percentage rate for these interest expenses based on the five U.S. sales we reviewed during verification. We divided this total by the sales revenue for these five sales and took the weighted average percent ratio and multiplied it by the gross unit price (GRSUPRU) for each U.S. sale. We then deducted this interest expense total from INTEX and included it as one of the direct selling expenses which were deducted from the starting price for CEP sales. *See* Viraj Analysis Memo. For comparison to EP, we made COS adjustments by deducting comparison market direct selling expenses and adding U.S. direct selling expenses.

Price-to-CV Comparisons

A. Viraj

In accordance with section 773(a)(4) of the Act, we based NV on CV if we were unable to find a contemporaneous comparison market match for the U.S. sale. We calculated CV based on the cost of materials and fabrication employed in producing the subject merchandise, SG&A, INTEX and profit. In accordance with 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts Viraj incurred and realized in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in India. For selling expenses, we used the weighted-average home market selling expenses. Where appropriate, we made COS adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 351.410.

B. Echjay

We based NV on CV for all U.S. sales because as noted above in the Facts Available section of this notice, we could not calculate reliable DIFMERs based on Echjay's cost data. In accordance with 773(e)(2)(B)(i) of the Act, we based SG&A expenses and profit on Echjay's financial statements. We made adjustments for differences in COS between the U.S. and Belgian markets, as appropriate, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The LOT in the comparison market is the LOT of the starting-price sales in the comparison market or, when NV is based on CV, the LOT of the sales from which we derive SG&A expenses and profit. With respect to U.S. price for EP transactions, the LOT is also that of the starting-price sale, which is usually from the exporter to the importer. For CEP, the LOT is that of the constructed sale from the exporter to the importer. To determine whether comparison market sales are at a different LOT from U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. In analyzing Echjay's and Viraj's selling activities, we did not note any significant differences in functions provided in any of the markets. Based upon the record evidence, we have determined that for Viraj there is one LOT for all EP and CEP sales, the same LOT as for all comparison market sales. Accordingly, because we find the U.S. sales and comparison market sales to be at the same LOT for both respondents, no LOT adjustment under section 773(a)(7)(A) is warranted, nor did Echjay or Viraj request one.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margins for the period February 1, 2001, through January 31, 2002, to be as follows:

Manufacturer/Exporter	Margin (Percent)
Echjay Forgings/Pushpaman Exports	125.78
Snowdrop Trading	210.00
Viraj	0

The Department will disclose calculations performed in connection with these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). An interested party may request a hearing within 30 days of publication. See CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date per 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in

these proceedings are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. The Department will issue the final results of this administrative review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total quantity (in kilograms) of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of merchandise of that manufacturer/exporter made during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of the review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of flanges 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 rates for the reviewed companies will be the rates established in the final results of administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this review or any previous reviews, the cash deposit rate will be 162.14 percent, the ''all others'' rate established in the LTFV investigation (59 FR 5994, February 9, 1994).

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.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 28, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–5634 Filed 3–7–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China; Notice of Amended Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Amended Final Results of Antidumping Duty Administrative Review.

SUMMARY: On January 30, 2003, the Department of Commerce published the final results of an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The period of review is November 1, 2000, through October 31, 2001. The petitioners requested the correction of two ministerial errors with respect to the final results of review for Taian Fook Huat Tong Kee Pte. Ltd. Based on the correction of these two ministerial errors, we have concluded that this company's sale was *bona fide* and that the two corrections do not result in a change to the calculation of the final weighted-average margin for this company.

EFFECTIVE DATE: March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Edythe Artman, Office of AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3931.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 2003, the Department of Commerce (the Department) published the final results of an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China in the **Federal Register.** *See Fresh Garlic from the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review in Part* (68 FR 4758).

On January 29, 2003, the petitioners, the Fresh Garlic Producers Association and its individual members, filed an allegation of two ministerial errors in the final results of review with respect to the respondent company Taian Fook Huat Tong Kee Pte. Ltd. (FHTK). FHTK did not file comments on the allegations.

Allegation of Ministerial Errors

In its January 29, 2003, submission, the petitioners alleged that the Department made two ministerial errors in its January 21, 2003, final results analysis memorandum (Final Results Analysis Memorandum) regarding the calculation of FHTK's margin. First, the petitioners asserted that the Department erred in the amount it listed as the quantity of subject merchandise sold by FHTK. Second, they asserted that the Department erred in its statement of FHTK's reported sales price by stating the price as a per-kilogram amount instead of as a per-pound amount. The petitioners claimed that, because of this error, the Department had improperly dismissed their argument concerning the *bona fides* of FHTK's sale. Specifically, the petitioners claimed that the Department's conclusion that FHTK's price was not unreasonably high when compared to the average export price for Chinese garlic exported to the United States at the time of the sale was not supported by the price comparison that the Department explained in its Final Results Analysis Memorandum since the Department stated the FHTK price incorrectly. The petitioners requested that the Department revise its analysis using the correct price, conclude that the transaction in question was not a *bona fide* commercial sale, and issue amended final results in this review.

We have reviewed the record and agree that the quantity sold and the sales price were stated incorrectly in the Final Results Analysis Memorandum. By correcting the sales price, we find that the price was higher than the average export prices for Chinese garlic exported to the United States that we