Product	Country	Review period	Initiation date	Prelm due date	Final due date*
Solid Urea (A–429–601)	Germany	95/96	08/15/96	06/02/97	09/30/97

*The Department shall issue the final determination 120 days after the publication of the preliminary determination. This final due date is estimated based on publication of the preliminary notice five business days after signature.

Dated: April 2, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 97–9115 Filed 4–8–97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–811]

Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order.

SUMMARY: On December 3, 1996, the Department of Commerce (the Department) published the preliminary results of its 1995–96 administrative review of the antidumping duty order on steel wire rope from the Republic of Korea and intent to revoke in part (61 FR 64058). The review covers 12 manufacturers/exporters for the period March 1, 1995, through February 29, 1996 (the POR). We have analyzed the comments received on our preliminary results and have determined that no changes in the margin calculations are required. The final weighted-average dumping margins for each of the reviewed firms are listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: April 9, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Rosenbaum or Thomas O. Barlow, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On December 12, 1996, the Department published in the **Federal Register** the preliminary results of its 1995–96 administrative review of the antidumping duty order on steel wire rope from the Republic of Korea and intent to revoke in part (61 FR 64058) (Preliminary Results). We gave interested parties an opportunity to comment on our preliminary results. We received case briefs from the petitioner, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee), and rebuttal briefs from six respondents, including Chung-Woo Rope Co., Ltd. (Chung Woo), Chun Kee Steel & Wire Rope Co., Ltd. (Chun Kee), Manho Rope & Wire Ltd. (Manho), Kumho Wire Rope Mfg. Co., Ltd. (Kumho), Ssang Yong Steel Wire Co., Inc. (Ssang Yong), and Sungjin Company (Sungjin). There was no request for a hearing.

We have conducted this administrative review in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 353.22.

Revocation In Part

We are revoking the order for Chun Kee and Manho. Chun Kee and Manho have sold the subject merchandise at not less than normal value (NV) for three consecutive review periods, including this review. Further, on the basis of no sales at less than NV for these periods and the lack of any indication that such sales are likely in the future, we have determined that Chun Kee and Manho are not likely to sell the merchandise at less than NV in the future. Chun Kee and Manho have also submitted certifications that they will not sell at less than NV in the future, along with an agreement for immediate reinstatement of the order if such sales occur. See our discussion in response to Comment 1 below.

Scope of Review

The product covered by this review is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass-plated wire. Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7312.10.9030, 7312.10.9060, and 7312.10.9090. Excluded from this review is stainless steel wire rope, *i.e.*, ropes, cables and cordage other than stranded wire, of stainless steel, not fitted with fittings or made up into articles, which is classifiable under HTS subheading 7312.10.6000. Although HTS subheadings are provided for convenience and Customs purposes, our own written description of the scope of this review is dispositive.

Use of Facts Otherwise Available

We have determined, in accordance with section 776(a) of the Act, that the use of facts available is appropriate for Boo Kook Corporation (Boo Kook), Dong-Il Steel Mfg. Co., Ltd. (Dong-Il), and Yeonsin Metal (Yeonsin) because they did not respond to our antidumping questionnaire. We find that these firms have not provided ''information that has been requested by the administering authority.'' Furthermore, we determine that, pursuant to section 776(b) of the Act, it is appropriate to make an inference adverse to the interests of these companies because they failed to cooperate by not responding to our questionnaire.

Where the Department must base the entire dumping margin for a respondent in an administrative review on facts otherwise available because that respondent failed to cooperate, section 776(b) of the Act authorizes the use of an inference adverse to the interests of that respondent in choosing the facts available. Section 776(b) of the Act also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. (*See* H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994).)

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 total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. 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, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812 (Feb. 22, 1996) (where the Department disregarded the highest margin as adverse best information available (BIA) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

For a discussion of our application of facts available regarding specific firms, see our response to Comment 3 below.

Analysis of Comments Received

Comment 1: The Committee contends that Chun Kee and Manho failed to establish the second of three requisite regulatory criteria for revocation of an antidumping duty order. It argues, citing *Toshiba Corp. v. United States,* 15 CIT 597, 600 (1991), that the burden is on the respondent requesting revocation to demonstrate, by placing substantial evidence on the record, that there is no likelihood of a resumption of sales at less than normal value and that Chun Kee and Manho failed to demonstrate this.

The Committee claims that several factors demonstrate that Chun Kee and Manho are likely to resume selling steel wire rope at less than normal value. First, it contends that the U.S. steel wire rope market is characterized by intensely competitive conditions among many foreign suppliers who compete against one another based mainly on price. According to the Committee, since the antidumping duty order on this product went into effect (March 26, 1993), total U.S. imports of steel wire rope have decreased and foreign competition has increased. The Committee argues that these market trends place pressure on Chun Kee and Manho to reduce their prices and remain competitive in the U.S. market. The Committee further contends that these pressures are intensified by the fact that both Chun Kee and Manho export only to the United States and that the U.S. market represents a substantial percentage of each company's total sales. The Committee contends that neither Chun Kee nor Manho can afford to abandon the U.S. market and must price their products competitively, forcing them sell steel wire rope at the lowest possible price.

The Committee claims that the volatility of the Korean won makes it inappropriate to conclude that there is no likelihood of a resumption of sales at less than normal value. The Committee states that, in *Brass Sheet and Strip from Germany; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part,* 61 FR 49731 (September 23, 1996) (Brass Sheet and Strip), the Department determined that it could not conclude that there was no likelihood of a resumption of sales at less than normal value, in part due to the continued strengthening of the Deutsche mark. The Committee also notes that in *Titanium Sponge from Japan; Preliminary Results of Antidumping Duty Administrative Review,* 53 FR 26099 (July 11, 1988) (*Titanium Sponge*), the Department refused to grant partial revocation due in part to the decline in purchasing power of the U.S. dollar against the Japanese yen.

The Committee claims that throughout the three periods of review in this case, the Korean won appreciated against the U.S. dollar, which increases the likelihood that a respondent's future sales will be made at less than normal value. The Committee notes that, since the end of this POR, the Korean won has depreciated quickly and steadily against the U.S. dollar, illustrating the volatility of the Korean currency. The Committee further notes that such volatility suggests that the currency could experience a sudden and substantial appreciation in the future. The Committee argues that this appreciation could force Korean exporters to decrease their prices on steel wire rope sales to the United States to maintain their competitiveness.

The Committee also claims that the Korean won's fluctuation vis-a-vis the Japanese yen militates against a finding of no likely future dumping. The Committee states, first, that the won depreciated against the yen during the 1993/94 and 1994/95 periods, thereby increasing the costs of inputs into subject merchandise. The Committee claims that, despite this increase in costs, the Korean respondents continued to sell subject merchandise in the United States at unfairly low prices. The Committee suggests that the won's subsequent appreciation against the yen (since the last quarter of the 1994/95 period) will allow respondents to sell in the United States at even lower prices.

The Committee also argues that the Department should not revoke the antidumping duty order in part because Chun Kee and Manho have failed to provide any evidence on the record of this proceeding to establish that there is no likelihood of a resumption of sales at less than normal value. The Committee claims that, because the Department conducted verifications of Chun Kee's and Manho's sales responses, both companies had ample time to submit evidence in support of their revocation requests. Therefore, according to the Committee, the Department does not have the authority to revoke the order with respect to Chun Kee and Manho because of the lack of verification of any evidence in support of their requests for verification.

Finally, the Committee contends that, although Chun Kee and Manho received *de minimis* or zero-percent dumping margins in the 1993/94 and 1994/95 reviews and in the preliminary results of this review, the Department determined that both companies sold subject merchandise in the home market at prices below the cost of production. It argues that this pattern of selling below cost greatly increase the likelihood that the companies will sell at less than normal value in the future. The Committee also suggests that the Department must consider the fact that Chun Kee received *de minimis* rather than zero-percent margins in the prior reviews. Hence, claims the Committee, the slightest shift in Chun Kee's pricing practice could easily result in a resumption in sales at less than fair value.

Chun Kee and Manho respond that they have both established all of the requisite regulatory criteria for revocation. They state that the Department's regulations authorize the

Department to revoke an antidumping order when: (1) The producer has sold the merchandise at not less than normal value for three consecutive years; (2) it is not likely that the producer will in the future sell the merchandise at less than normal value; and (3) the producer agrees in writing to immediate reinstatement of the order if the Department later finds that the revoked producer is selling the merchandise at less than normal value (*citing* 19 CFR 353.25(a)(2)). Respondents claim that, since the current version of 19 CFR 353.25 was adopted in 1989, the Department has granted revocation in virtually every case where a respondent has established three consecutive years of no dumping and furnished the required certifications.

Respondents cite *Tatung Company* v. *United States,* 18 CIT 1137 (December 14, 1994) (*Tatung Company*), where the court found that past behavior constitutes substantial evidence of expected future behavior. Respondents state that, during the history of this proceeding, the only dumping margin found for any responding company was a 1.51 percent margin for Manho during the 1992 less-than-fair-value (LTFV) investigation. They further note that, under the post-URAA law, a 1.51 percent margin is *de minimis*; therefore, they contend, under the current law neither Chun Kee nor Manho have ever sold the subject merchandise at less than normal value.

With respect to the Committee's arguments concerning competitive U.S. market conditions, respondents state that they have been selling steel wire rope in the United States without dumping for at least 18 years and that the Korean market is equally if not more competitive than the U.S. market and becoming more competitive with a depreciating currency (*citing Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order*, 61 FR 63822, 63825 (December 2, 1996) (*Fresh Cut Flowers*), where the Department granted revocation to a respondent while agreeing that the devaluation of the home market currency makes dumping less likely).

Respondents dispute the Committee's argument that an increase in imports into the United States from countries other than the Republic of Korea will cause Chun Kee and Manho to sell subject merchandise at unfair prices in the United States in the future. Respondents note that Korean imports have decreased relative to total imports since the 1992 LTFV investigation, during which time they have not sold at less than normal value.

Respondents also state that they have not artificially decreased or manipulated product lines to ensure revocation. Respondents distinguish this case from *Brass Sheet and Strip* where the respondent had an incentive to continue dumping, intentionally avoided sales of lower-priced subject merchandise, and purposefully sold small and controlled quantities for a three-year period.

Respondents claim that there is no evidence on the record to support the assertion that either company depends on sales to the United States for financial viability or that this alleged financial dependence will cause Chun Kee and Manho to sell at prices below the normal value in the future. In this regard, respondents claim that the Committee misrepresents the facts by claiming that Chun Kee and Manho do not sell subject merchandise to third countries. Respondents claim that they both sold significant volumes of subject merchandise to third countries and proved so at verification.

Respondents characterize as illogical the Committee's argument that the Department should deny revocation now that the Korean won is depreciating relative to the U.S. dollar. Respondents state that a depreciating Korean won in facts makes selling at below normal value *less* likely to occur and note that Chun Kee and Manho have a proven record of selling subject merchandise above normal value when the Korean won appreciates. They claim that the Department has granted revocation in past cases when respondents have shown a proven track record that it had not sold its merchandise at less than fair value when the home market currency appreciated during past administrative reviews (*citing Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Finding*, 61 FR 57650, (November 7, 1996) (*TRBs*), and *Color Television Receivers, Except for Video Monitors, From Taiwan; Final Results*, 55 FR 47093 (November 9, 1990) (*Color TVs*)). Respondents also note that, in *Color TVs*, as in this case, respondents were never found to have sold at less than normal value either before or since the order was issued, and respondents sold substantial and increasing quantities of subject merchandise throughout the three review periods.

Respondents also deny the Committee's claim that Chun Kee and Manho imported wire rod from Japan in the period of review and argue that, even if they did import from Japan, the cost for the input would be reflected in the home market and in the United States price.

With respect to the Committee's argument that respondents did not demonstrate ''no likelihood'' to resume selling at prices below the normal value at verification, respondents claim that the Department's verifications of Chun Kee and Manho were consistent with its regulations and claim that the Committee never asked prior to verification that the Department consider the issue of likelihood of resumption of sales at less than fair value at verification. Respondents cite 19 CFR 353.36(c) and claim that at verification the Department's only obligation is to have access to all files, records and personnel which the Secretary considers relevant to submitted factual information. They claim that at both verifications the Department had access to all the information it needed to make a preliminary finding to partially revoke the order and it had the responsibility to request any other information it considered relevant.

Finally, respondents state that the Department considers a weighted-average *de minimis* margin to be equivalent to a zero margin for all sales regardless of the actual margin on individual sales for purposes of eligibility for revocation (*citing Color TVs*). Therefore, argue respondents, the Committee's statement that Chun Kee's margin was 0.1 percent rather than zero is irrelevant.

Department's Position: We disagree with the Committee and are revoking in part the antidumping duty order with respect to Chun Kee and Manho. Both respondents have obtained *de minimis* margins for the requisite consecutive review periods and have provided us with the necessary certifications in accordance with our regulations. In addition, based on the evidence on the record, we have concluded that it is not likely that in the future that these respondents will sell the subject mechandise at less than normal value. As noted above, in the past two reviews and for the final results of review, Chun Kee and Manho have had *de minimis* weighted-average margins. As the CIT affirmed in *Tatung Company*, past behavior constitutes substantial evidence of expected future behavior.

The Committee claims that recent market trends place pressure on Chun Kee and Manho to reduce their prices in

the United States and state this is partially because Chun Kee and Manho export only to the United States. There is no evidence to suggest that competition in the United States steel wire rope industry is any more fierce than in past years, during which Chun Kee increased its sales of steel wire in the United States and Manho's sales volume has fluctuated, both without selling at prices below normal value. Further, both Chun Kee and Manho sell steel wire rope in countries other than the Republic of Korea and the United States and are not solely dependent on the United States for financial viability as suggested by the Committee. *See Home Market and Export Price Verification of Chun Kee Steel & Wire Rope Company* at 3 and *HM and Export Price Verification of Manho Rope & Wire, Ltd.* at 3.

While the Committee argues that the volatility of the Korean won and a possible future appreciation of the Korean won make it difficult to conclude that it is not likely that these respondents will resume sales at less than normal value, neither Chun Kee nor Manho have had above *de minimis* weighted-average dumping margins over the past three reviews during which the Korean won has appreciated against the U.S. dollar. During a period of a depreciating Korean won, as the Committee acknowledged has occurred since the end of this review period, there is even less pressure to engage in less-than-normal-value pricing. Given that the past appreciation of the Korean won did not cause Chun Kee and Manho to sell steel wire in the United States at prices below normal value, we have no basis to conclude that a possible currency appreciation in the future will cause them to change their pricing practices. *See Fresh Cut Flowers* at 63825. Further, while in *Brass Sheet and Strip* we acknowledged that the continued strengthening of the home market currency provides an impetus to resume sales at less than normal value in the absence of an antidumping duty order, this was only one of many reasons to deny revocation of the antidumping duty order. We stated in *Brass Sheet and Strip* that the exchange rate trend was one element in determining the likelihood of resumption of sales at less than normal value. Further, in *Brass Sheet and Strip*, we were concerned with a continuing strengthening of the home market currency whereas in this case the Korean won is currently depreciating relative to the U.S. dollar. *See Brass Sheet and Strip*, 61 FR at 49731. The present case is also distinct from *Titanium Sponge*, where at the time of the decision not to revoke the antidumping duty order the Japanese yen was appreciating against the U.S. dollar.

Regarding the fluctuations of the Korean won against the Japanese yen as an influence on respondents' costs, the Committee did not point to any evidence on the record in this review that Chun Kee or Manho purchased any inputs of steel wire rope from Japan. Further, the Committee acknowledges that, since the 1994/95 period, the Korean won has appreciated against the Japanese yen, thereby making purchases of Japanese inputs less expensive. For the three consecutive review periods and during the volatility of the Korean won against the Japanese yen, we have consistently calculated a zero-percent weighted-average dumping margin for Manho and a 0.01 percent weighted-average dumping margin for Chun Kee. Finally, any changes in respondents' input costs due to currency fluctuations would be reflected in both the home market and U.S. prices.

Moreover, the Committee provides no support for its claim that, because we have found Chun Kee and Manho to have sold steel wire rope at prices below cost in the home market, they are likely to sell at prices at less than fair value in the future. All of the evidence in this case, as mentioned above, leads us to believe that it is not likely that Chun Kee and Manho will sell at prices below the normal value in the future.

Finally, the Committee is incorrect in citing *Titanium Sponge* to argue that the Department must consider the fact that Chun Kee's weighted-average antidumping duty margin has been *de minimis* rather than zero in denying revocation to Chun Kee. *Titanium Sponge* does not imply that a *de minimis* margin should be treated as anything other than equivalent to a zero margin for the purposes of eligibility for revocation. In *Titanium Sponge*, 53 FR at 26100, we stated only that the contributing factors to our decision not to revoke the antidumping duty order include ''the large surplus of titanium sponge inventories, the decline in purchasing power of the dollar against the yen, and the minimal pricing differential currently existing between the U.S. and domestic market.'' In fact, in *Color TVs*, 55 FR at 47097, the Department stated that it ''considers a *de minimis* margin to be equivalent to a zero margin, and a weighted-average *de minimis* margin to be equivalent to zero for all sales, regardless of the actual margin on individual sales, for purposes of eligibility of revocation.''

Chun Kee and Manho have each met the requirement established by our regulations of *de minimis* margins for the requisite consecutive number of years. In addition, each has agreed to immediate reinstatement in the order if we conclude that subsequent to the partial revocation of the order, the particular respondent sold the merchandise at less than normal value. Finally, based on the evidence on the record of this review and conclusions drawn from our experience with these respondents in prior reviews, we conclude that it is not likely that in the future these respondents will sell the subject merchandise at less than normal value. Therefore, we are revoking the order with respect to Chun Kee and Manho.

Comment 2: The Committee claims that, because the Department performed the arm's-length test on a customer-specific basis by comparing the average net price to affiliated parties against prices to unaffiliated parties, the Department used sales to affiliated parties which were found not to be arm's-length transactions in its calculation of normal value. The Committee asserts that the Department must examine home market sales to affiliated parties on a transaction-by-transaction basis and exclude those particular sales which are found not to be arm's-length transactions. The Committee maintains that the inclusion of such sales is violative of the controlling regulation, precedent and the proposed regulations (citing 19 CFR 353.45(a), 19 CFR 351.403 (proposed regulation), and *Welded Carbon Steel Pipe and Tube Products From Turkey: Final Results of Antidumping Duty Administrative Review*, 55 FR 42230 (October 18, 1990) (*Pipe and Tube*)). The Committee asserts, therefore, that the Department must recalculate NV excluding such sales by Chun Kee. The Committee notes an apparent discrepancy between the preliminary results analysis memorandum and the notice of Preliminary Results, the latter of which suggests such sales were excluded.

Respondents assert that sales to affiliated parties are not automatically removed from consideration as part of the home market sales database and are included in the margin calculation as long as they are deemed to be arm's-length transactions (*citing Connors Steel Company v. United States*, 527 F. Supp. 350, 354 (CIT 1981), and *Usinor Sacilor et al. v. United States*, 872 F. Supp. 1000, 1002 (CIT 1994) (*Usinor*)). Respondents state that the Department's 99.5% arm's-length test, which compares the customer-specific average

prices at which the respondent sells to affiliated and unaffiliated customers, is well established and note that Chun Kee's sales passed the test (*citing Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57393 (November 6, 1996) (*TRBs Prelim.*)). Respondents maintain that the Department uses customer-specific averages rather than individual sales to ensure that the comparison is not distorted by normal price fluctuations. Respondents note that this practice has been upheld by the Court of International Trade (CIT).

Department's Position: We disagree with the Committee that we must perform the arm's-length test on a transaction-by-transaction basis. Performing the test in such a manner would conflict with our long-standing practice of using customer-specific weighted-average prices (*see, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 60 FR 10900, 10946 and 10947 (February 28, 1995); *Industrial Phosphoric Acid From Belgium; Final Results of Antidumping Duty Administrative Review*, 61 FR 51424, 51425 (October 2, 1996); *TRBs Prelim.*, 61 FR at 57393–94). The Committee's reliance on *Pipe and Tube* to support its position that average prices cannot be used in an arm's-length test is misplaced. In *Pipe and Tube*, 55 FR at 42231, we merely confirmed our practice of disregarding sales not made at arm's length; we did not expound on the methodology for determining the arm's-length nature of such sales.

In addition, the CIT has implicitly approved of our use of weighted-average prices to conduct the test. In *Usinor*, we used the same arm's-length test as in the instant review. In finding the Department's application of the arm's-length test reasonable on other grounds, the CIT implicitly approved of the Department's practice of weight-averaging prices (*Usinor*, 872 F. Supp. at 1002–04). We believe that our application of the test is reasonable and have maintained our approach for the final results.

Comment 3: The Committee argues that the Department's use of a 1.51 percent dumping margin as adverse facts available for Boo Kook, Dong-Il and Yeonsin undercuts the cooperation-inducing purpose of the facts-available provision of the statute. The Committee contends that, instead of using the highest rate available from any prior segment of the proceeding, the Department should apply a dumping rate based on the rate calculated in the petition of the original investigation (148.94 percent) or the calculations set forth in the Committee's submissions to the Department in the 1994/95 administrative review (23.5 percent).

The Committee states that, pursuant to section 776(a) of the Act, if the Department finds that an interested party has not cooperated with the Department's request for information, the Department may use an inference that is adverse to the interests of that party in selecting from facts available; further, this adverse inference may be based on information derived from the petition or any other information placed on the record. The Committee also contends that the SAA states that the Department does not need to prove that the facts available that it selects constitute the best alternative, but that the facts available need only to be information or inferences which are reasonable to use under the circumstances (*citing* H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994)).

The Committee states that the SAA provides that the Department may employ an adverse inference about missing information to ensure that the non-responding party does not obtain a more favorable result by failing to cooperate that if it had cooperated fully. It argues that it is apparent that continuing use of the 1.51 percent rate has failed to achieve the cooperation-inducing purpose of the facts-available rule. The Committee argues that Boo Kook, Dong-Il and Yeonsin have expressly failed to cooperate with the Department's request for information and have never submitted a response to the Department's questionnaire in the three reviews of this antidumping duty order. It further claims that the 1.51 facts-available rate that the three companies have received has remained low enough to encourage them not to respond to the Department's requests for information. The Committee also argues that the Department's rigid application of the facts-available methodology employed in prior reviews provides a safe harbor for the companies that did not respond in this proceeding and allows the respondent to control the proceeding. The Committee cites *Olympic Adhesives, Inc. v. United States*, 899 F.2d 1565, 1571–72 (Fed. Cir. 1990) (*Olympic Adhesives*), in arguing that parties should not be allowed to control the magnitude of the dumping margin by selectively providing the Department with information.

Department's Position: We disagree with the Committee that reliance on the petition rate from the original investigation or petitioner-supplied data from the 1994/95 review as a basis for facts available would be appropriate in the context of this review.

The Department has broad discretion in determining what constitutes facts available in a given situation. *Krupp Stahl AG v. United States*, 822 F. Supp 789, 792 (CIT 1993); *see also Allied-Signal Aerospace Co. v. United States*, 996 F.2d. 1185, 1191 (Fed. Cir. 1993) (''[b]ecause Congress has 'explicitly left a gap for the agency to fill' in determining what constitutes the [best information available], the ITA's construction of the statute must be accorded considerable deference,'' citing *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 833–44 (1984)).

In any given review, a respondent will have knowledge of the antidumping rates from the investigation and past reviews but not of the rates that will be established in the ongoing review. Because under our facts-available policy we consider the highest rate from the current review as one possible source of facts available, potentially uncooperative respondents will generally be less able to predict their facts-available rate as the number of participants in the ongoing review increases. Thus, respondents that do not participate and receive their own known rates risk receiving a potentially much higher unknown rate. Accordingly, this uncertainty in the facts-available rate which may be selected ordinarily satisfies the cooperation-inducing function of the facts-available provision.

In addition, respondents have an incentive to respond to our request for information because of the possibility of eventual revocation of the antidumping duty order with respect to the company. A respondent with a rate above *de minimis* that does not participate in the administrative review is not eligible for revocation. Hence, a further reason the rate assigned to uncooperative respondents in reviews in accordance with our practice may be considered adverse because it results in respondents with a rate above *de minimis* remaining subject to the order without eligibility for revocation.

We recognize that there are instances in which the uncooperative rate resulting from our standard

methodology may not induce respondents to cooperate in subsequent segments of the proceeding. We recognize that this case may be an instance where our methodology may no longer be inducing cooperation; however, we are unable to make such a determination based on the facts of this record.

The few cases in which we have not relied on our standard approach have involved an extremely limited number of participants and, therefore, a consequently small number of rates available for use as a basis for the uncooperative rate.[1] For instance, in *Sodium Thiosulfate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 59 FR 12934 (March 8, 1993) (*Sodium Thiosulfate*), we used information supplied by the petitioner to establish the uncooperative rate for the only respondent that had shipments of subject merchandise during the POR. Similarly, in *Silicon Metal From Argentina: Final Results of Antidumping Duty Administrative Review,* 58 FR 65336, 65337 (December 14, 1993) (*Silicon Metal*), we resorted to petitioner-supplied data where we had a calculated rate for only one firm: ''[i]n this instance, we have only Andina's rate from the LTFV investigation * * *. Because Andina's rate is also the 'all other' rate, Silarsa would be assured a rate no higher than Andina's, *the only respondent who cooperated fully with the Department in this administrative review.* The use of the uncooperative BIA methodology, *in this instance,* restricts the field of potential BIA rates *to the rate established for one firm*.'' *Silicon Metal,* 58 FR at 65336 and 65337 (emphasis added).

Our determination in *Certain Malleable Cast Iron Pipe Fittings from Brazil; Final Results of Antidumping Duty Administrative Review,* 60 FR 41876 (August 14, 1995) (*Pipe Fittings*), is a further example of a situation in which the circumstances of the case clearly demonstrated that the uncooperative rate was not sufficient to induce the respondent to cooperate. In *Pipe Fittings,* we applied a petition-based rate to a non-responsive company that was the only company to have ever been investigated or reviewed: ''[we] have only calculated one margin, which was in the LTFV investigation. Due to the unusual situation, we have determined to use as BIA the simple average of the rates from the petition. * * * In not responding to our requests for information, Tupy could be relying upon our normal BIA practice to lock in a rate that is capped at its LTFV rate'' (*see Pipe Fittings,* 61 FR at 41877–78).

The concern in such cases with respect to the uncooperative-rate methodology is that the lack of past rates, as well as the small number of participants in the current review, could allow a respondent in such a review to manipulate the proceeding by choosing not to comply with our requests for information. In such cases the cooperation-inducing function of the facts-available provision of the Act may not be achieved by use of the uncooperative-rate methodology, in which case the Department will resort to alternatives sources in determining the appropriate rate for uncooperative respondents. That is not to say that we will deviate from our standard uncooperative-rate methodology only when those case facts are present.

These cases establish that we will consider, on a case-by-case basis as appropriate, petitioner-supplied data in situations involving a number of calculated rates insufficient to induce cooperation by respondents in the proceeding. Unlike the instant case, in these cases, we did not have rates for more than one company and therefore determined that the use of a BIA rate higher than the highest rate in the history of the case was appropriate to encourage future cooperation. However, as expressed above, this case may be an instance where deviation from our standard uncooperative-rate methodology might be appropriate with the proper facts of record.

While the Committee cites *Olympic Adhesives* in support of its position that a party should not be allowed to control the proceeding by using evasive tactics, this case essentially addresses whether a company should be assigned facts available (formerly the best information available) and not the magnitude of the facts-available rate as is the issue in this case. In the instant case we are assigning facts available to the three above-mentioned companies, whereas in *Olympic Adhesives* the court found that we should not apply facts available to the participating company in the relevant case.

Because we have calculated rates from three companies in the LTFV final determination, eight companies in the 1992/94 review, six companies in the 1994/95 review, and six companies in this review, the concern over potential manipulation of antidumping rates cited in *Sodium Thiosulfate, Silicon Metal,* and *Pipe Fittings* is less likely to be present in this review. As mentioned above, based on the facts of this record, we feel that the facts-available rate in this case satisfies the cooperation-inducing function of the facts-available provision and does not allow the three non-responding companies in this review to control the proceeding. However, the facts-available rate available to us in this review may no longer be having the desired effect of inducing cooperation by potential respondents. Therefore, in the event a subsequent review is conducted, we will collect information bearing on this issue to permit us to make a determination on the cooperation-inducing effect of our rate and, if necessary, adjust our rate accordingly.

Final Results of Review

We determine the following percentage weighted-average margins exist for the period March 1, 1995, through February 29, 1996:

Manufacturer/exporter	Margin (percent)
Boo Kook Corporation	1.51
Chun Kee Steel & Wire Rope Co., Ltd	0.01
Chung Woo Rope Co., Ltd	0.24
Dong-Il Steel Manufacturing Co., Ltd	1.51
Hanboo Wire Rope, Inc	1.51
Kumho Wire Rope Mfg. Co., Ltd	0.01
Manho Rope & Wire, Ltd	0.00
Myung Jin Co	[1] 1.51
Seo Jin Rope	1.51
Ssang Yong Steel Wire Co., Ltd	0.01
Sung Jin	0.03
Yeonsin Metal	1.51

[1] No shipments subject to this review. Rate is from the last relevant segment of the proceeding in which the firm had shipments/sales.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following 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 these final results of this administrative review, as provided by section 751(a)(1) of the Act. (1) For Chun Kee and Manho, the revocation of the antidumping duty order applies to all entries of subject merchandise

[1] As noted, although we have explained our practice in terms of a two-tiered methodology in pre-URAA reviews, the cases where we deviated from this approach, as cited by the Committee, involved first-tier, uncooperative respondents, and our practice regarding the derivation of the dumping margin assigned to uncooperative companies has not changed.

entered, or withdrawn from warehouse, for consumption on or after March 1, 1996. The Department will order the suspension of liquidation ended for all such entries and will instruct the Customs Service to release any cash deposits or bonds. The Department will further instruct the Customs Service to refund with interest any cash deposits on post-March 1, 1995 entries. (2) The cash deposit rates for the other reviewed companies will be those rates established above (except that, if the rate for a firm is *de minimis, i.e.*, less than 0.5 percent, a cash deposit of zero will be required for that firm). (3) 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. (4) If the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise. (5) If neither the exporter nor the manufacturer is a firm covered in this or any previous review or the original investigation, the cash deposit rate will be 1.51 percent, the ''All Others'' rate established in the *LTFV Final Determination* (58 FR 11029).

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

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 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 notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the 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.

This administrative review and notice are in accordance with section 751(a)(1) and 751(d) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 and 19 CFR 353.25.

Dated: April 2, 1997.

Robert S. LaRussa,

Acting Assistant Secretary, for Import Administration.

[FR Doc. 97–9114 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Automotive Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Closed meeting of U.S. Automotive Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the ''Committee'') advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) Reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

DATE AND LOCATION: The meeting will be held on April 28, 1997 from 10:30 a.m. to 3 p.m. at the U.S. Department of Commerce in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, Office of Automotive Affairs, Trade Development, Room 4036, Washington, DC. 20230, telephone: (202) 482–1418.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on July 5, 1994, pursuant to section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c) (4) and (9) (B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: April 2, 1997.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 97–9084 Filed 4–8–97; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of Availability of Evaluation Final Findings.

SUMMARY: Notice is hereby given of the availability of the final evaluation findings for the Virginia, Maine, New Hampshire, Rhode Island, and Oregon Coastal Management Programs, and Sapelo Island (Georgia) National Estuarine Research Reserve (NERR). Sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, require a continuing review of the performance of coastal states with respect to approved coastal management programs and the operation and management of NERRs.

The States of Virginia, Maine, New Hampshire, Rhode Island, and Oregon were found to be implementing and enforcing their Federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA section 303(2)(A)–(K), and adhering to the programmatic terms of their financial assistance awards.

Sapelo Island NERR was found to be adhering to programmatic requirements of the NERR system. Copies of these final evaluation findings may be obtained upon written request from: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 11th Floor,