



C-535-904
Investigation
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DATE: October 21, 2016

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman 
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Affirmative
Determination in the Countervailing Duty Investigation of Circular
Welded Carbon-Quality Steel Pipe from Pakistan

I. SUMMARY

The Department of Commerce (the Department) determines that countervailable subsidies are being provided to exporters and producers of circular welded carbon-quality steel pipe (circular welded pipe) from Pakistan, as provided in section 705 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) for which we are measuring subsidies is July 1, 2014, through June 30, 2015.

We analyzed the comments submitted by interested parties in this investigation. We did not make any changes to the subsidy rate calculations for the respondent in this case, International Industries Limited (IIL), as a result of this analysis. A complete list of the issues in this investigation on which we received comments is provided below.

Issue 1: Non-cooperation of IIL
Issue 2: Corroboration of Secondary Information

II. BACKGROUND

On April 8, 2016, the Department published the *Preliminary Determination* for this countervailing duty (CVD) investigation of circular welded pipe from Pakistan and aligned the final determination with the final determination in the companion antidumping duty (AD) investigation of circular welded pipe from Pakistan.¹ Because the calculations in our

¹ See *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 81 FR 20619 (April 8, 2016) (*Preliminary Determination*), and accompanying Department



Preliminary Determination were based entirely on facts otherwise available with adverse inferences, in accordance with section 776 of the Act, the Department did not conduct a verification of the subsidy information submitted by either the Government of Pakistan (the GOP) or IIL in this proceeding. On May 2, 2016, IIL filed a timely case brief.² We did not receive any other case or rebuttal briefs or requests for a public hearing.

On July 4, 2016, the GOP requested additional government-to-government consultations.³ At the Department's request,⁴ the GOP subsequently submitted an outline of proposed topics for discussion.⁵ The GOP's outline, however, contained untimely new arguments and, as such, was rejected and, in accordance with 19 CFR 351.104(a)(2)(ii), retained on the record.⁶ The Department invited the GOP to refile a redacted outline,⁷ but the GOP did not make any further submissions in this proceeding. As such, the Department did not hold any additional government-to-government consultations in this investigation.

III. SCOPE COMMENTS

Prior to the *Preliminary Determination*, several interested parties commented on the scope of the investigation.⁸ On April 1, 2016, in response to such comments, the Department issued a memorandum modifying the scope language for purposes of this CVD proceeding, as well as the concurrent AD proceedings.⁹ These revisions were included in the *Preliminary Determination*.¹⁰ The Department has not received any additional scope comments. Therefore, the scope of this investigation, as referenced in the "Scope of the Investigation" section of this memorandum, is identical to the scope language in the *Preliminary Determination*.

Memorandum, "Circular Welded Carbon-Quality Steel Pipe from Pakistan: Preliminary Affirmative Countervailing Duty Determination Decision Memorandum," April 1, 2016 (PDM).

² See Letter from IIL, "IIL's Response to CVD Investigation of Circular Welded Carbon- Quality Steel Pipe from Pakistan: Preliminary Determination," May 2, 2016 (IIL Case Brief).

³ See Letter from the GOP, "Consultation with USDOC / hearing at ITC in CVD Investigation against Circular Welded Carbon Quality Steel Pipe from Pakistan," July 4, 2016.

⁴ See Letter from the Department, "Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Request for Additional Information Regarding Consultations," August 2, 2016.

⁵ See Letter from the Department, "Countervailing Duty Investigation of Circular Welded Carbon Quality Steel Pipe from Pakistan: Rejection of Request for Consultations," August 11, 2016.

⁶ *Id.*

⁷ *Id.* at 2.

⁸ See Letter from IIL, "CWP from Pakistan – Concerns with respect to scope of Circular Welded Pipe (CWP) definition," February 10, 2016; see also Letter from Bull Moose Tube Company, EXLTUBE, Wheatland Tube Company, and Western Tube and Conduit (collectively, Petitioners), "Request to Revise the Scope Definition in the Investigations of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam," February 19, 2016.

⁹ See Department Memorandum, "Antidumping Duty Investigations of Circular Welded Carbon-Quality Steel Pipe from the Sultanate of Oman, Pakistan, the United Arab Emirates, and the Socialist Republic of Vietnam and Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Scope Comments Decision Memorandum for the Preliminary Determinations," April 1, 2016.

¹⁰ See *Preliminary Determination*, 81 FR at 20621.

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is circular welded pipe from Pakistan. For a full description of the scope of this investigation, see Appendix I to the *Circular Welded Carbon-Quality Steel Pipe from Pakistan: Final Affirmative Countervailing Duty Determination*.

V. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Section 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply “facts otherwise available” if necessary information is not on the record or if an interested party or any other person (A) withholds information that has been requested; (B) fails to provide information within the deadlines established or in the form and manner requested by the Department, subject to section 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified, as provided by section 782(i) of the Act.

Under section 782(c)(1) of the Act, if an interested party, “promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner,” then the Department shall consider the ability of the interested party and may modify the requirements to avoid imposing an unreasonable burden on that party.

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

Section 782(e) of the Act states 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 of the applicable requirements established by the administering authority, if (1) the information is submitted by the established deadline, (2) the information can be verified, (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination, (4) the interested party has demonstrated that it acted to the best of its ability, and (5) the information can be used without undue difficulties.

On June 29, 2015, the President of the United States signed the *Trade Preferences Extension Act of 2015 (TPEA)* into law,¹¹ thereby making numerous amendments to the AD and CVD statutes, including revisions to section 776(b) and (c) of the Act and the addition of section 776(d) of the Act.¹² The *TPEA* does not specify dates of application for those amendments. Therefore, on

¹¹ See *TPEA*, Pub. L. 114-27, 129 Stat. 362 (2015); see also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

¹² See *TPEA*; see also *Applicability Notice*.

August 6, 2015, the Department published an interpretive rule, in which it announced the applicability date for each amendment to the Act, except for amendments contained in section 771(7) of the Act, relating to determinations of material injury by the U.S. International Trade Commission (ITC).¹³ The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.

Section 776(b) of the Act provides that the Department may use an adverse inference in selecting from among facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, pursuant to section 776(b)(1)(B) of the Act, as enacted by the *TPEA*, the Department is not required to determine or make any adjustments to a countervailable subsidy rate based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information. As stated in section 776(b)(2) of the Act, an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or any other information placed on the record. In addition, the SAA explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”¹⁴ Further, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.¹⁵

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review, conducted under section 751 of the Act, concerning the subject merchandise. Furthermore, pursuant to the new section 776(c)(2) of the Act, the Department is not required to corroborate any CVD rate applied in a separate segment of the same proceeding.

Finally, in accordance with the new section 776(d) of the Act, the Department may use any countervailable subsidy rate from any segment of a proceeding under a CVD order when applying an adverse inference, including the highest of such rates. Additionally, the *TPEA* clarifies that, when selecting an adverse facts available (AFA) rate, the Department is not required to estimate what the countervailable subsidy rate would have been if the uncooperative interested party had cooperated or to demonstrate that the subsidy rate reflects an alleged “commercial reality” of the interested party.

¹³ See *Applicability Notice*.

¹⁴ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act (SAA), H. Rep. No. 103-316, vol. 1 at 870 (1994), reprinted in 1994 U.S.C.C.A.N. 4040, 4199; see also *Nan Ya Plastics Corp. v. United States*, 810 F.3d 1333, 1338 (Fed. Cir. 2016).

¹⁵ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); see also *Antidumping Duties, Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997); *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-1383 (Fed. Cir. 2003).

For the reasons discussed below, we find that both the GOP and IIL are uncooperative in this investigation. Therefore, consistent with the *Preliminary Determination*,¹⁶ this final determination continues to be based on AFA.

A. The GOP

As discussed in the *Preliminary Determination*,¹⁷ the GOP failed to provide necessary information within the deadlines established by the Department. As a result, necessary information regarding the countervailability of the programs under investigation is not available on the record.¹⁸ Specifically, the initial questionnaire response filed by the GOP is unusable without the additional explanation and supporting documentation requested in the Department's supplemental questionnaire, to which the GOP did not respond. Therefore, we continue to find that the GOP's initial questionnaire response is wholly deficient under section 782(d) of the Act.¹⁹ Moreover, we continue to find that the GOP's failure to provide a timely supplemental questionnaire response significantly impeded this proceeding. Accordingly, pursuant to sections 776(a)(1) and (2)(B)-(C) of the Act, we continue to resort to facts otherwise available regarding financial contribution and specificity for the programs under investigation.²⁰

In addition, for the reasons articulated in the *Preliminary Determination*,²¹ we continue to find that, because the GOP did not cooperate to the best of its ability in this investigation, an adverse inference is warranted in selecting from among the facts otherwise available, in accordance with section 776(b) of the Act.

B. IIL

As discussed at length in the *Preliminary Determination*, IIL did not provide a usable questionnaire response and, as such, failed to provide the necessary information within the deadlines established by the Department.²² The salient facts have not changed since the *Preliminary Determination*. Furthermore, because IIL did not file its initial questionnaire response in the proper form or within the established deadline for submission, despite numerous opportunities to do so, we continue to find that IIL significantly impeded this proceeding.²³ Therefore, consistent with the *Preliminary Determination* and pursuant to section 776(a)(1) and (2)(B)-(C) of the Act, the Department continues to resorting to "facts otherwise available" for this final determination with regard to IIL's usage of the programs being investigated.²⁴

Furthermore, for the reasons discussed in the *Preliminary Determination* and below at Issue 1 of this memorandum,²⁵ we continue to find that IIL has failed to cooperate to the best of its ability

¹⁶ See PDM at 8-17.

¹⁷ *Id.* at 11.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² See PDM at 8-10.

²³ *Id.* at 10.

²⁴ *Id.*

²⁵ *Id.* at 10-11.

in this proceeding and, as such, that an adverse inference is warranted in selecting from among the facts available, pursuant to section 776(b) of the Act.

C. Selection of the Adverse Facts Available Rate

As described above, in deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. When selecting an adverse rate from among the possible sources of information, the Department's practice is to ensure that the result is sufficiently adverse "as to effectuate the statutory purposes of the AFA rule to induce respondents to provide the Department with complete and accurate information in a timely manner."²⁶ The Department's practice further ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."²⁷

In this proceeding, the Department is examining the programs on which we originally initiated the investigation, as described in the Initiation Checklist.²⁸ Because the GOP and IIL failed to act to the best of their ability, as discussed above, we are making an adverse inference that each of these programs provides a financial contribution within the meaning of section 771(5)(D) of the Act, is specific in accordance with section 771(5A) of the Act, and confers a benefit in accordance with section 771(5)(E) of the Act. Accordingly, in calculating a countervailable subsidy rate for IIL, we are applying AFA rates for all 16 programs under investigation.²⁹

When selecting AFA rates in a CVD investigation, section 776(d)(1)(A) of the Act provides that the Department may use any countervailable subsidy rate applied for the same or a similar program in a CVD proceeding involving the same country or, if there is no same or similar program, any countervailable subsidy rate for a program calculated in a proceeding involving the same country that the Department considers reasonable to use, including the highest of such rates. Consistent with section 776(d) of the Act and our established practice, we selected, to the extent possible, the highest calculated rate for programs that are the same or similar to the programs under investigation as AFA because IIL failed to cooperate to the best of its ability in this investigation.³⁰

²⁶ See, e.g., *Certain Frozen Warmwater Shrimp from Ecuador: Final Affirmative Countervailing Duty Determination*, 78 FR 50389 (August 19, 2013), and accompanying Issues and Decision Memorandum (IDM) at "IV. Use of Facts Otherwise Available and Adverse Inferences"; see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

²⁷ See SAA at 870.

²⁸ See Department Memorandum, "Countervailing Duty Investigation Initiation Checklist: Circular Welded Carbon-Quality Steel Pipe from Pakistan," November 17, 2015 (Initiation Checklist).

²⁹ As noted in the *Preliminary Determination*, "Rebates of Sales, Excise, and Withholding Taxes on Input Materials Used to Produce Exports," was alleged as a single program. However, due to the Department's analyses of sales and excise tax rebates in the three most recent CVD administrative reviews involving Pakistan, we are countervailing rebates of sales taxes, rebates of excise taxes, and rebates of withholding taxes as three separate programs. See PDM at 12, note 66.

³⁰ See *Essar Steel, Ltd. v. United States*, 753 F.3d 1368, 1373-74 (Fed. Cir. 2014) (affirming the Department's use of this AFA practice in a CVD proceeding).

Accordingly, we must first determine if there are any cooperative mandatory respondents in the same investigation, and, if one or more cooperative mandatory respondent benefited from an identical program, we use the highest calculated, above *de minimis* rate for the identical program.³¹ In this investigation, however, we do not have a cooperative mandatory respondent, as IIL is the only mandatory respondent. If there is no above *de minimis* calculated rate for an identical program in the same investigation, we then determine if an identical program was used in another CVD proceeding involving the same country and apply the highest calculated, above *de minimis* rate for the identical program, as determined by any such proceeding.³² If no such rate exists, then we determine if there is a similar/comparable program and apply the highest calculated rate for the similar/comparable program.³³ Finally, when no calculated rate for a similar/comparable program is available, we apply the highest calculated rate for any non-company specific program, excluding rates from programs in which the company under examination could not have participated.³⁴

For all programs under investigation, we are applying, when available, the highest calculated subsidy rate for the same or similar program in a Pakistan CVD investigation or administrative review. Consistent with the *Preliminary Determination*,³⁵ in this final determination, we are able to match the following programs to identical programs from other Pakistan CVD proceedings based on program name, description, and treatment of the benefit:

- Rebates of Sales Taxes on Input Materials Used to Produce Exports,³⁶
- Rebates of Excise Taxes on Input Materials Used to Produce Exports,³⁷
- Preferential Income Tax Rate on Foreign Proceeds,³⁸ and

³¹ See, e.g., *Aluminum Extrusions from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010 and 2011*, 79 FR 106 (January 2, 2014), and accompanying IDM at "Application of Total AFA to Non-Cooperative Companies."

³² *Id.*

³³ See *Countervailing Duty Investigation of Certain Polyethylene Terephthalate Resin from India: Final Affirmative Determination and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 13334 (March 14, 2016), and accompanying IDM at "Selection of the Adverse Facts Available Rate."

³⁴ *Id.*; see also *Galvanized Steel Wire from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 17418 (March 26, 2012), and accompanying IDM at "III. Use of Facts Otherwise Available and Adverse Inferences."

³⁵ See PDM at 13-14.

³⁶ See *Cotton Shop Towels from Pakistan: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 66 FR 18444, 18445-18446 (April 9, 2001) (*Cotton Shop Towels 1999 Preliminary Results*) (calculating a rate for "Sales Tax Rebate Program") (unchanged in *Cotton Shop Towels from Pakistan; Final Results of Countervailing Duty Administrative Review*, 66 FR 42514 (August 13, 2001) (*Cotton Shop Towels 1999 Final Results*) and accompanying IDM at "2. Sales Tax Rebate Program").

³⁷ See *Cotton Shop Towels from Pakistan; Final Affirmative Countervailing Duty Determination*, 49 FR 1408, 1408 (January 11, 1984) (*Cotton Shop Towels Final Determination*) (calculating a rate for "Excise Tax Rebate"); see also *Cotton Shop Towels from Pakistan; Preliminary Results of Countervailing Duty Administrative Review*, 53 FR 34340, 34340 (September 6, 1988) (*Cotton Shop Towels 1984/1985 Preliminary Results*) (calculating a rate for "Excise Tax Rebate") (unchanged in *Cotton Shop Towels from Pakistan; Final Results of Countervailing Duty Administrative Review*, 54 FR 14671 (April 12, 1989) (*Cotton Shop Towels 1984/1985 Final Results*)).

³⁸ See *Cotton Shop Towels from Pakistan; Final Results of Countervailing Duty Administrative Reviews*, 62 FR 24082, 24084 (May 2, 1997) (*Cotton Shop Towels 1992/1993 Final Results*) (calculating a rate for "Income Tax Reductions"). Although a higher rate of 1.88 percent was calculated for "Income Tax Reductions" in a prior review, the Department finds that the rate calculated in the *Cotton Shop Towels 1992/1993 Final Results* reflects

- Short-term Export Financing under the State Bank of Pakistan Act.³⁹

Based on program type and treatment of the benefit, we are able to match the following programs to similar/comparable programs from other Pakistan CVD proceedings:

- Input Material Import Duty Exemptions for Manufacturers Operating Bonded Warehouses,⁴⁰
- Input Material Import Duty Exemptions for Manufacturers Located in Export Processing Zones,⁴¹
- Input Material Import Duty Exemptions/Discounts for Manufacturers in Certain Industries under SRO 565(I),⁴²
- Input Material Duty Drawback,⁴³
- Rebates of Withholding Taxes on Input Materials Used to Produce Exports,⁴⁴
- Plant Equipment and Machinery Import Duty Exemptions for Manufacturers Operating Bonded Warehouses,⁴⁵
- Plant Equipment and Machinery Import Duty Exemptions for Manufacturers Located in Export Processing Zones,⁴⁶
- Withholding Tax Credit for Steel Product Manufacturers,⁴⁷
- Short-term Export Financing under Foreign Exchange Circular Nos. 25 and 05,⁴⁸ and
- Long-term Export Financing for Exporters from the State Bank of Pakistan.⁴⁹

Based on program type and treatment of the benefit, we were not able to match the alleged grant programs with identical or similar/comparable programs examined in prior Pakistan CVD proceedings. Accordingly, for the following programs, we are applying the highest calculated rate for a non-company specific Pakistani program:

- Assistance for Opening Exporters' Offices Abroad,⁵⁰ and
- Inland Freight Subsidy for Exporters.⁵¹

amendments made to the relevant law in 1992 and, as such, more accurately represents the current iteration of the "Preferential Income Tax Rate of Foreign Proceeds" program. See PDM at 13, n. 73.

³⁹ *Id.*, 62 FR at 24083-24084 (calculating a rate for "Export Financing").

⁴⁰ See *Cotton Shop Towels Final Determination*, 49 FR at 1408 (calculating a rate for "Customs Duty Rebate").

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ See *Cotton Shop Towels 1999 Preliminary Results*, 66 FR at 18445-18446 (calculating a rate for "Sales Tax Rebate Program") (unchanged in *Cotton Shop Towels 1999 Final Results* and accompanying IDM at "2. Sales Tax Rebate Program").

⁴⁵ See *Cotton Shop Towels Final Determination*, 49 FR at 1408 (calculating a rate for "Customs Duty Rebate").

⁴⁶ *Id.*

⁴⁷ See *Cotton Shop Towels 1999 Preliminary Results*, 66 FR at 18445-18446 (calculating a rate for "Sales Tax Rebate Program") (unchanged in *Cotton Shop Towels 1999 Final Results* and accompanying IDM at "2. Sales Tax Rebate Program").

⁴⁸ See *Cotton Shop Towels 1992/1993 Final Results*, 62 FR at 24083-24084 (calculating a rate for "Export Financing").

⁴⁹ *Id.*

⁵⁰ See *Cotton Shop Towels 1984/1985 Preliminary Results*, 53 FR at 34340 (calculating a rate for "Compensatory Rebate Scheme") (unchanged in *Cotton Shop Towels 1984/1985 Final Results*).

D. Corroboration

As discussed above, section 776(c) of the Act provides that, in general, when the Department relies on secondary information, rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”⁵² The SAA provides that, in order to “corroborate” secondary information, the Department will satisfy itself that the relevant secondary information has probative value.⁵³

The Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA, however, emphasizes that the Department need not prove the selected facts available to be the best alternative information.⁵⁴ Furthermore, pursuant to section 776(d)(3) of the Act, as enacted by the *TPEA* amendments, the Department is not required to estimate what the countervailable subsidy rate would have been if the uncooperative interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects the alleged “commercial reality” of an interested party. IIL submitted comments regarding the corroboration of the secondary information relied on by the Department in the *Preliminary Determination*,⁵⁵ which are addressed at Issue 2 of this memorandum. As described below, however, the Department continues to find that the information relied upon in selecting the AFA rates in this proceeding is both reliable and relevant and, therefore, is adequately corroborated.

With regard to the reliability aspect of corroboration, unlike other types of information (*e.g.*, publicly-available data on a specific country’s national inflation rate or national average interest rates), there are typically no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. As stated in the *Preliminary Determination*,⁵⁶ we continue to find that the AFA rates applied are reliable based on their calculation and application in previous CVD proceedings involving Pakistan and, furthermore, because no information on the record calls their reliability into question.

With respect to the relevance aspect of corroboration, the Department will take information reasonably at its disposal into account when considering the relevance of information used to calculate a countervailable benefit. The Department will not use information that, as indicated by the particular circumstances, is not appropriate as AFA.⁵⁷ Because IIL failed to provide a usable questionnaire response within the established time limit, there is an absence of record evidence regarding IIL’s usage of the subsidy programs under investigation. For reasons discussed at Issue 2, we find that it would also be inappropriate to rely on the questionnaire

⁵¹ *Id.*

⁵² See SAA at 870.

⁵³ *Id.*

⁵⁴ See SAA at 869-870.

⁵⁵ See IIL Case Brief at 3-5.

⁵⁶ See PDM at 15.

⁵⁷ See, *e.g.*, *Fresh Cut Flowers from Mexico; Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996).

response submitted by International Steels Limited (ISL), which IIL identified as an affiliated company.⁵⁸ Accordingly, the Department has reviewed Pakistani subsidy program information in other CVD proceedings involving Pakistan. In instances where we were able to match program types, we find that, because the programs are the same or similar, they are relevant to the programs in this case, such that these rates are actual, calculated CVD rates for the same of similar Pakistani programs from which IIL could receive a benefit. For the two programs which we are not able to match program types, we find the programs selected as AFA relevant to the extent that they are calculated rates from a CVD proceeding involving merchandise from Pakistan. However, due to the lack of participation by the mandatory company respondent and the resulting lack of record information, the Department’s ability to corroborate this information is limited. For these reasons, the Department has corroborated the selected AFA rates to the extent practicable for this final determination.

Based on the methodology described above, we determine the AFA countervailable subsidy rate for IIL to be 64.81 percent *ad valorem*.

E. Subsidy Rate Chart

PROGRAM UNDER INVESTIGATION	AFA RATE
Input Material Import Duty Exemptions for Manufacturers Operating Bonded Warehouses	0.37
Input Material Import Duty Exemptions for Manufacturers Located in Export Processing Zones	0.37
Input Material Import Duty Exemptions/Discounts for Certain Industries under SRO 565(I)	0.37
Input Material Duty Drawback	0.37
Rebates of Sales Taxes on Input Materials Used to Produce Exports	7.26
Rebates of Excise Taxes on Input Materials Used to Produce Exports	3.80
Rebates of Withholding Taxes on Input Materials Used to Produce Exports	7.26
Plant Equipment and Machinery Import Duty Exemptions for Manufacturers Operating Bonded Warehouses	0.37
Plant Equipment and Machinery Import Duty Exemptions for Manufacturers Located in Export Processing Zones	0.37
Preferential Income Tax Rate on Foreign Proceeds	1.84
Withholding Tax Credit for Steel Product Manufacturers	7.26
Short-Term Export Financing under the State Bank of Pakistan Act (Export Financing Scheme)	6.31

⁵⁸ See Letter from IIL, “CWP from Pakistan – Section III of CVD Questionnaire – Submission on behalf of ISL,” February 22, 2016 (ISL Questionnaire Response).

Short-Term Import/Export Financing under Foreign Exchange Circular Nos. 25 and 05	6.31
Long-Term Export Financing for Exporters from the State Bank of Pakistan	6.31
Assistance for Opening Exporters' Offices Abroad	8.12
Inland Freight Subsidy for Exporters	8.12
Total Ad Valorem Countervailable Subsidy Rate	64.81

VI. DISCUSSION OF THE ISSUES

Issue 1: Non-cooperation of IIL

IIL's Comments

- The Department did not fully grant the extensions of time requested by IIL, so “IIL used whatever time it had to its disposal to review and modify the responses so that it reflected the most accurate position.”⁵⁹ “{T}he second and third submissions” of IIL’s initial questionnaire response were “slightly different from the first submissions” because “{i}t was important that the proper facts are laid down and understood so that principles of justice are adhered to.”⁶⁰
- In the companion AD investigation, the Department took more than a month to issue a supplemental questionnaire, which illustrates that “the {two-month} time frame given to submit replies are not adequate.”⁶¹
- The Department has not pointed to specific differences between IIL’s rejected questionnaire responses or explained how such differences were substantial and/or significant enough to change the substantive content of the response.⁶² The Department must prove how the content was substantially changed.⁶³
- “{T}he entire onus of non-co-operation boils down to a delay of couple of days,” which cannot be considered a significant impediment to this proceeding.⁶⁴ IIL’s actions indicate full cooperation and a desire for a fair decision based on facts.⁶⁵ “If IIL wanted to be un-cooperative then it would not have engaged with the Department to begin with” or “have got its affiliate to give all the information needed.”⁶⁶
- IIL explained the reasons for its delay in submitting a questionnaire response in a prior letter to the Department.⁶⁷ The Department has not yet provided a response.⁶⁸

⁵⁹ See IIL Case Brief at 2.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.* at 2-3.

⁶⁵ *Id.*

⁶⁶ *Id.* at 2.

⁶⁷ *Id.* at 3 (citing Letter from IIL, “IIL’s Response to CVD Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Failure to Submit Timely Questionnaire Response,” March 11, 2016).

⁶⁸ *Id.* at 3.

Department's Position

The Department continues to find that, during the course of this investigation, IIL did not cooperate to the best of its ability. Accordingly, the Department continues to apply an adverse inference in its selection of information from facts available on the record.

The Department preliminarily determined IIL to be uncooperative because the company respondent failed to submit an acceptable initial questionnaire response within the established time limits, despite four opportunities to do so.⁶⁹ Specifically, IIL's first filing was rejected due to improper treatment of business proprietary information (BPI).⁷⁰ IIL's second and third filings of its initial questionnaire response were subsequently rejected due to impermissible new factual information (*i.e.*, the company modified its questionnaire responses, rather than merely correcting the bracketing).⁷¹ The Department afforded IIL a fourth opportunity to file its initial questionnaire response, reiterating that “{t}he answers provided in IIL's resubmission must be identical to the answers provided in IIL's February 4 Questionnaire Response, except for changes to bracketing and exhibit numbers to reflect the protection of proprietary information.”⁷² The company, however, missed the applicable deadline. IIL ultimately made an untimely request for an extension of time,⁷³ which the Department denied because the company failed to

⁶⁹ See Letter from the Department, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Extension of Deadline to Submit Questionnaire Response,” January 13, 2016 (Extension of Time to Submit Questionnaire Response); see also Department Memorandum, “Tolling of Administrative Deadlines as a Result of the Government Closure During Snowstorm ‘Jonas’,” January 27, 2016 (Tolling Memorandum); Department Memorandum, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Ex Parte Telephone Call,” February 8, 2016 (First Request for Resubmission); Letter from the Department, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Questionnaire Responses from International Industries Limited,” February 12, 2016 (Second Request for Resubmission); Department Memorandum, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Extension of Respondent's Deadline to Resubmit Questionnaire Response,” February 16, 2016; Letter from the Department, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Questionnaire Responses from International Industries Limited,” February 19, 2016 (Third Request for Resubmission).

⁷⁰ See Department Memorandum, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Rejection and Removal of Quarantined Documents,” February 11, 2016 (Memorandum Rejecting February 4 Questionnaire Response); see also Department Memorandum, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Correction Regarding the Rejection of Quarantined Documents,” February 16, 2016 (Correction to Memorandum Rejecting February 4 Questionnaire Response).

⁷¹ See Department Memorandum, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Rejection and Retention of Documents Containing New Factual Information,” February 16, 2016 (Memorandum Rejecting February 9 Questionnaire Response); see also Department Memorandum, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Rejection and Retention of Duplicate Documents,” February 19, 2016 (Memorandum Rejecting Duplicate Documents); Department Memorandum, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Rejection and Retention of Documents Containing New Factual Information,” February 19, 2016 (Memorandum Rejecting February 17 Questionnaire Response); Department Memorandum, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Rejection and Retention of Documents,” February 24, 2016 (Memorandum Rejecting Questionnaire Response Exhibits).

⁷² See Third Request for Resubmission at 2.

⁷³ See Letter from IIL, “CWP from Pakistan – Reasons for accepting CVD Section III late,” February 25, 2016 (Untimely Extension Request).

demonstrate “extraordinary circumstances” within the meaning of 19 CFR 351.302(c).⁷⁴ As explained below, the arguments raised in IIL’s case brief do not dispute the relevant facts regarding their non-cooperation. Indeed, “the statutory trigger for {the Department’s} consideration of an adverse inference is simply a failure to cooperate to the best of respondent’s ability, regardless of motivation or intent.”⁷⁵

First, IIL argues that, because the Department did not grant a full one-month extension of time to submit its initial questionnaire response, the company was justified in using “whatever time it had at its disposal” to modify its answers.⁷⁶ IIL, however, only made *one* timely extension request in regard to its initial questionnaire response.⁷⁷ In light of IIL’s request, the Department extended the applicable deadline by ten days,⁷⁸ and inclement weather subsequently postponed it by an additional four days.⁷⁹ As such, IIL was ultimately given 51 days to complete its initial questionnaire response.⁸⁰ The fully extended statutory deadline for a preliminary determination in this proceeding was April 1, 2016. Upon receipt of an initial questionnaire response, the Department must have sufficient time to thoroughly review the content of the submission, draft and issue any necessary supplemental questions, allow the respondent a reasonable amount of time to prepare a response, consider any such resulting supplemental questionnaire responses, and, finally, conduct a complete preliminary analysis. As a result, the Department was unable to extend the deadline for the *initial* questionnaire response any further.

Following IIL’s improperly bracketed initial filing, the Department contacted IIL to resolve the issue and made three explicit requests for resubmission with modifications made only as absolutely necessary to protect BPI.⁸¹ Therefore, whether or not IIL’s revisions were made to “reflect the most accurate position” is irrelevant,⁸² as the Department clearly asked IIL to file a questionnaire response with content “identical” to their first submission.⁸³ It is not a respondent’s prerogative to modify the scope of an extension granted by the Department. Moreover, permitting a respondent to continuously change its initial response, despite explicit instructions to the contrary, creates a “moving target” that puts the Department at an analytical

⁷⁴ See Letter from the Department, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Failure to Submit Timely Questionnaire Response,” March 2, 2016 (Extraordinary Circumstances Letter).

⁷⁵ See *Nippon Steel*, 337 F.3d at 1383.

⁷⁶ See IIL Case Brief at 2.

⁷⁷ See Letter from IIL, “CWP from Pakistan – Extension Request – Section III of CVD Questionnaire,” January 13, 2016 (requesting a one month extension).

⁷⁸ See Extension of Time to Submit Questionnaire Response.

⁷⁹ See Tolling Memorandum.

⁸⁰ The initial questionnaire was released on December 16, 2015. See CVD Questionnaire. The deadline for submission was extended to February 5, 2016.

⁸¹ See First Request for Resubmission (stating that the Department “spoke with representatives from {IIL} regarding the procedures for submission of documents containing {BPI}” and noting that IIL must refile its “February 4, 2016, questionnaire responses, corrected to account for BPI, no later than 12:00 PM Eastern Time on February 9, 2016”); see also Second Request for Resubmission at 2 (emphasizing that “IIL’s resubmissions must be identical to the answers provided in IIL’s February 4 Questionnaire Response, except for bracketing modifications”); Third Request for Resubmission at 2 (stating that “answers provided in IIL’s resubmission must be identical to the answers provided in IIL’s February 4 Questionnaire Response, except for changes to bracketing and exhibit numbers to reflect the protection of proprietary information”).

⁸² See IIL Case Brief at 2.

⁸³ See Second Request for Resubmission at 2; see also Third Request for Resubmission at 2.

disadvantage, especially in light of the tight statutory timeline described above. The Department repeatedly notified IIL of its policies regarding failure to provide the requested information or properly request an extension, thereby warning the respondent of the risk of reliance on facts otherwise available.⁸⁴ IIL failed to follow directions and, in doing so, did not cooperate to the best of its ability.

Second, IIL claims that the Department's timeline in the companion AD investigation demonstrates that the questionnaire response deadlines in this CVD investigation were inadequate.⁸⁵ The Department notes that the statutory deadlines in CVD investigations are substantially tighter than the analogous deadlines in AD investigations.⁸⁶ As such, the "adequacy" of time to respond to a questionnaire must be balanced against the Department's obligation to issue a timely preliminary determination. In any event, as discussed above, IIL failed to adhere to the applicable deadlines and the Department's explicit instructions in this CVD investigation, despite a significant amount of time to prepare an initial questionnaire response.

Third, IIL claims that the Department has neither pointed out specific differences among IIL's multiple questionnaire response filings nor proven how such differences were significant enough to substantially change the questionnaire responses' content.⁸⁷ Although all three versions of IIL's questionnaire response were rejected from the record of this investigation, except as needed for purposes of potential judicial review,⁸⁸ and, therefore, cannot be cited to in our analysis of this issue,⁸⁹ the Department's Second Request for Resubmission listed 12 specific sections of IIL's original questionnaire response which were impermissibly modified.⁹⁰ The Department's Third Request for Resubmission similarly listed IIL's narrative revisions.⁹¹ Additionally, prior to the *Preliminary Determination*, IIL, itself, described the differences between the first and most recent submissions, including the deletion of several responses and requested appendices.⁹² In

⁸⁴ See Letter from the Department, "Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Countervailing Duty Questionnaire," December 16, 2015 (CVD Questionnaire); see also Third Request for Resubmission at 2-3 (outlining how IIL had impeded the proceeding and thereby noting that failure to file a proper questionnaire response may result in application of AFA).

⁸⁵ See IIL Case Brief at 2.

⁸⁶ For example, section 703(b)(1) of the Act dictates that the Department must issue its preliminary determination in a CVD investigation no later than 65 days after initiation. Under 703(c)(1)(A) of the Act, in certain circumstances, this deadline can be extended by no more than 65 days, for a total of 130 days after initiation. In contrast, section 733(b)(1) of the Act dictates that the Department must issue its preliminary determination in an AD investigation no later than 140 days after initiation. Under 733(c)(1)(A) of the Act, in certain circumstances, this deadline can be extended by no more than 50 days, for a total of 190 days after initiation.

⁸⁷ See IIL Case Brief at 2.

⁸⁸ See Memorandum Rejecting February 4 Questionnaire Response; see also Correction to Memorandum Rejecting February 4 Questionnaire Response; Memorandum Rejecting February 9 Questionnaire Response; Memorandum Rejecting Duplicate Documents; Memorandum Rejecting February 17 Questionnaire Response; Memorandum Rejecting Questionnaire Response Exhibits.

⁸⁹ See 19 CFR 351.104(a)(2)(i).

⁹⁰ See Second Request for Resubmission at 1-2.

⁹¹ See Third Request for Resubmission at 1-2.

⁹² See Department Memorandum, "Antidumping and Countervailing Duty Investigations of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Ex Parte Correspondence Regarding Email and Telephone Communication," February 25, 2016, at Attachment.

light of our explicit requests for no modifications beyond what is necessary to protect BPI,⁹³ these acknowledged changes cannot be considered minor. While IIL downplays its deletion of responses to the Standard Questions Appendix, such an act amounted to the deletion of responses to at least six program-specific questions that were crucial to the Department's basic understanding and analysis of the program under examination (e.g., “specify the eligibility criteria your company had to meet in order to receive benefits under this program,” “describe, in detail, the application and approval process that your company undertook in order to receive benefits through the program,” and “indicate where benefits under this program can be found in your accounting system and financial statements”).⁹⁴ Furthermore, the substance of IIL's revisions is ultimately immaterial, as the respondent was provided with multiple opportunities to undo them, without prejudice, and, as noted above, was repeatedly warned of the risk of reliance on AFA if the Department's clear instructions were not heeded.⁹⁵

Fourth, IIL asserts that delaying submission of its questionnaire response by a few additional days cannot be considered a “significant” impediment to the Department's investigation.⁹⁶ On the contrary, prior to the final deadline for resubmission, IIL's failure to file a proper initial questionnaire response delayed the proceeding by at least 17 days.⁹⁷ In conjunction with this substantial delay, IIL's non-cooperation resulted in many time-consuming phone calls, document quarantines, rejections, and, ultimately, no usable questionnaire response. Therefore, for the reasons already discussed in the *Preliminary Determination*,⁹⁸ the Department's conclusions regarding application of AFA *do not* “boil down to a delay of a couple of days,”⁹⁹ and IIL's failure to cooperate did, in fact, significantly impede this investigation.

Finally, IIL states that the Department has not responded to its explanation regarding the company's failure to meet the final, February 22, 2016, deadline for submission of an initial questionnaire response. The Department, however, responded to IIL's assertions at length in its rejection of IIL's untimely extension request, as well as in the *Preliminary Determination*.¹⁰⁰ As explained in both the rejection and the *Preliminary Determination*, IIL's reasons for missing the established deadline for resubmission do not constitute “extraordinary circumstances,” as required under 19 CFR 351.302(c).¹⁰¹

⁹³ See Second Request for Resubmission; see also Third Request for Resubmission.

⁹⁴ The Standard Questions Appendix requires, at minimum, responses to six program-specific questions. Depending on specific details of program applicability and usage, the Standard Questions Appendix may require up to fourteen responses for each program. See CVD Questionnaire, Section III at Standard Questions Appendix.

⁹⁵ See CVD Questionnaire at 2; see also Third Request for Resubmission of 2-3.

⁹⁶ See IIL Case Brief at 2-3.

⁹⁷ The original, already-extended deadline for submission of IIL's questionnaire response was February 5, 2016. The final deadline for resubmission was February 22, 2016. In total, the initial questionnaire response deadline was extended by 31 days (i.e., 10 day extension + 4 day tolling + 17 day total refiling extensions) and IIL had 68 days to file a proper response (i.e., from December 16, 2015, to February 22, 2016).

⁹⁸ See PDM at 8-11.

⁹⁹ See IIL Case Brief at 2-3.

¹⁰⁰ See Extraordinary Circumstances Letter at 2-3; see also PDM at 3-4, 8-11.

¹⁰¹ See Extraordinary Circumstances Letter.

Issue 2: Corroboration of Secondary Information

IIL's Comments

- Under section 776(c) of the Act, the Department must corroborate all relied-upon secondary information using the “independent sources that are reasonably at its disposal.”¹⁰² Accordingly, the Department should have relied on ISL’s questionnaire response to corroborate the secondary information used to calculate IIL’s AFA rate.¹⁰³
- Independent sources on the record corroborate the following “obvious and logical facts.”
 - (1) The duty drawback scheme is a duplication of the bonded warehouse scheme, and one company cannot benefit from both programs.¹⁰⁴
 - (2) It is “very evident” from IIL’s address that the company is not located in an export processing zone.¹⁰⁵
 - (3) SRO 565(I) is a public document, which clearly indicates that the circular welded pipe industry was not eligible for benefits under the relevant program.¹⁰⁶
 - (4) Sales and excise taxes only apply to domestic consumption.¹⁰⁷
 - (5) The term “withholding tax” does not mean a tax exemption, and no benefit is derived from this program.¹⁰⁸
 - (6) There are no withholding tax credits available for steel product manufacturers.¹⁰⁹ “The Department should at least *{sic}* look at the documents which gives such an exemption and its applicability.”¹¹⁰
 - (7) Audited financial statements show that IIL “hardly” has any long-term financing and, therefore, could not have received any benefit from a long-term financing program.¹¹¹
 - (8) IIL’s printed accounts “clearly show” that the company does not have any offices located abroad.¹¹²
 - (9) IIL is not eligible for any inland freight subsidies.¹¹³ “The *{D}*epartment should at least *{sic}* look at the documents which gives such an exemption and its applicability.”¹¹⁴

Department's Position

The Department continues to find that the selected AFA rates from prior CVD proceedings concerning cotton shop towels from Pakistan are corroborated, to the extent practicable, for the

¹⁰² See IIL Case Brief at 3.

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 3-4.

¹⁰⁵ *Id.* at 4.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.* at 5.

¹¹⁴ *Id.*

reasons described above and in the *Preliminary Determination*.¹¹⁵ Furthermore, the Department disagrees that these rates should be corroborated with reference to the questionnaire response submitted on behalf of ISL.¹¹⁶

IIL's arguments regarding ISL's questionnaire response lack clarity, but IIL seems to claim that, in accordance with section 776(c) of the Act, the Department should rely on the information provided in ISL's questionnaire response to corroborate the AFA rates selected from the cotton shop towels from Pakistan proceedings (*i.e.*, ISL's questionnaire response is "information from independent sources reasonably at {the Department's} disposal" that should be used to corroborate the "secondary information" from the cotton shop towel determinations).¹¹⁷ In particular, IIL seems to argue that we should use ISL's questionnaire response to corroborate the extent to which a single company can benefit from potentially overlapping programs (*e.g.*, various duty drawback programs) when determining a total AFA rate.¹¹⁸ As summarized above, IIL asserts that the information provided in ISL's questionnaire response does not "corroborate" a finding that several of the programs included in our AFA rate calculations were used by IIL.¹¹⁹

In general, an interested party's submission may be deemed relevant to the corroboration of AFA determinations in the context of a CVD proceeding, pursuant to section 776(c) of the Act, if such information clearly demonstrates that an uncooperative respondent is not eligible to participate in a program or did not use a program and, furthermore, if the interested party from which the proposed corroborating information is collected is not itself uncooperative. In this investigation, however, the Department finds that, in the absence of full responses from IIL and the GOP, it cannot rely on the limited information submitted by ISL, as the information does not by itself support IIL's assertions regarding program eligibility and non-use. In particular, without the specific information requested from the mandatory respondents, including both IIL and the GOP, and, thus, a more comprehensive understanding of IIL's circumstances and the alleged programs, it was impossible for the Department to ascertain how the information provided in ISL's questionnaire response, alone, relates to the reliability and relevance of the AFA rates selected for IIL.

IIL has not pointed to any particular information to contradict the validity of the AFA rates selected in the *Preliminary Determination*. Although IIL broadly mentions ISL's questionnaire response, it has not provided any citations to ISL's submission or any other documents on the record of this proceeding that would lead the Department to contradictory information. Furthermore, as discussed below, there is no information on the record, such as government laws and regulations, supporting the claims by IIL.¹²⁰

¹¹⁵ See PDM at 8-17.

¹¹⁶ In addition to the rejected questionnaire responses filed by IIL and described in regard to Issue 1, above, IIL filed an initial questionnaire response on behalf of its affiliate, ISL. See ISL Questionnaire Response.

¹¹⁷ See IIL Case Brief at 3.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ Although the GOP provided hyperlinks to the texts of various Pakistani laws and unofficial, "copy and paste" versions of several laws/regulations, it did not provide the official copies of such legal documents (*e.g.*, published bulletins), as requested.

ISL's questionnaire response is completely unsubstantiated and, thus, unreliable. The information provided therein is wholly-deficient of the supporting documentation that is required in our analysis of the programs (*e.g.*, copies of public government bulletins, laws and regulations that could establish specificity/eligibility, and/or audited/official documents that could definitively demonstrate usage).¹²¹ Although IIL failed to provide *any* citations to the record, the respondent's arguments also seem to rely on information that the Department requested from the GOP. As stated in the *Preliminary Determination* and reiterated above, however, we determined that the GOP's initial questionnaire response is similarly deficient and, as such, unusable.¹²² Therefore, as outlined below, the lack of evidentiary support, alone, undermines IIL's enumerated "obvious and logical facts."

- (1) IIL argues that a company cannot simultaneously benefit from the duty drawback scheme and the bonded warehouse scheme.¹²³ This claim is not supported by ISL's questionnaire response or any other information on the record of this proceeding. ISL's questionnaire response merely notes that, while ISL and IIL held manufacturing bond licenses,¹²⁴ ISL "did not use {the duty drawback} facility."¹²⁵
- (2) IIL argues that IIL's address demonstrates that the respondent is not located in an export processing zone.¹²⁶ Although ISL's questionnaire response provides IIL's address,¹²⁷ there is no information on the record that provides context for IIL's address (*e.g.*, an official publication listing or mapping out the locations of export processing zones in Pakistan).
- (3) IIL argues that SRO 565(I) is a public document and that the applicable law does not confer benefits to the circular welded pipe industry.¹²⁸ While the GOP submitted a copy of SRO 565(I) as part of its initial questionnaire response,¹²⁹ SRO 565(I) specifically lists "welded steel pipes" as an industry "allowed partial exemption in customs duty."¹³⁰ In its narrative response, the GOP elaborated that SRO 565(I) was subsequently amended to remove such benefits for the welded steel pipe industry,¹³¹ but, despite the Department's

¹²¹ We emphasize that ISL is not a mandatory respondent and that ISL was not formally found to be cross-owned with IIL. In fact, IIL repeatedly asserted that, for purposes of this proceeding, it was not cross-owned with ISL. *See* Department Memorandum, "Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Ex Parte Correspondence Regarding the Respondent's Cross-Owned Companies," January 7, 2016, at Attachment; *see also* Letter from IIL, "Circular Welded Carbon-Quality Steel Pipe from Pakistan: Comments on IIL and ISL," January 20, 2016. Accordingly, the Department was not required to permit ISL to remedy the deficiencies in its submission, pursuant to section 782(d) of the Act.

¹²² *See* PDM at 11.

¹²³ *See* IIL Case Brief at 3-4.

¹²⁴ *See* ISL Questionnaire Response at III-15.

¹²⁵ *See* ISL Questionnaire Response at III-20.

¹²⁶ *See* IIL Case Brief at 4.

¹²⁷ *See* ISL Questionnaire Response at III-1.

¹²⁸ *See* IIL Case Brief at 4.

¹²⁹ *See* Letter from the GOP, "Countervailing Duty Questionnaire Response," February 2, 2016 (GOP Questionnaire Response), at II-33.

¹³⁰ *See* GOP Questionnaire Response at II-36, II-37.

¹³¹ *See* GOP Questionnaire Response at II-38.

- explicit request,¹³² it failed to provide any supporting documentation of this change.
- (4) IIL argues that sales and excise taxes only apply to domestic consumption.¹³³ However, neither ISL nor the GOP provided reliable documentation regarding the nature and applicability of the sales and excise tax rebate programs.
 - (5) IIL argues that a “withholding tax” is not equivalent to a “tax exemption” and, furthermore, that no benefit is derived from the withholding tax program under investigation.¹³⁴ IIL’s assertion that no benefit was derived from any withholding tax program under investigation is not supported by ISL’s questionnaire response or any other information on the record of this proceeding. Furthermore, the programs at issue are withholding tax *rebates* and withholding tax *credits*.¹³⁵
 - (6) IIL further argues that there are no withholding tax credits available for steel product manufacturers and directs the Department to look at the documents implementing the withholding tax credit program.¹³⁶ Similarly, this claim is not supported by ISL’s questionnaire response or any other information on the record.¹³⁷ In fact, contrary to IIL’s implications, there are no implementation documents on the record of this proceeding for the Department to examine.
 - (7) IIL argues that the company’s financial statement, which the Department placed on the record of this proceeding for purposes of amending the POI,¹³⁸ demonstrates that it “hardly” received any long-term financing and, therefore, could not have benefited.¹³⁹ Such information does not refute the Department’s conclusion, based on AFA, that IIL used this program, nor does it clarify whether or not such financing was provided under the State Bank of Pakistan’s “Long-Term Financing Facility.”¹⁴⁰ In fact, IIL’s financial statement indicates that IIL *did* receive long-term financing during the POI.¹⁴¹
 - (8) IIL argues that its “printed accounts” demonstrate that IIL does not have any offices located abroad and, as such, could not have received any grants from the GOP for offices located abroad.¹⁴² Because there is no usable questionnaire response from IIL, however, there is no information on the record that definitively demonstrates that IIL did not operate any offices outside of Pakistan during the POI.

¹³² See Letter from the Department, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan; Supplemental Questionnaire,” February 11, 2016 (GOP Supplemental Questionnaire), at 5.

¹³³ See IIL Case Brief at 4.

¹³⁴ *Id.*

¹³⁵ See Initiation Checklist at 12 and 16.

¹³⁶ See IIL Case Brief at 4.

¹³⁷ The GOP skipped the section regarding this program in its questionnaire response and did not provide *any* information or documents regarding program implementation. See GOP Questionnaire Response at II-73.

¹³⁸ Department Memorandum, “Countervailing Duty Investigation of Circular Welded Carbon-Quality Steel Pipe from Pakistan: Period of Investigation,” December 16, 2015, at Attachment (IIL Financial Statement).

¹³⁹ See IIL Case Brief at 4.

¹⁴⁰ See Initiation Checklist at 18-19.

¹⁴¹ See IIL Financial Statement at 134. We further note that the relevant financial statement was not verified.

¹⁴² See IIL Case Brief at 4.

(9) IIL argues that it is not eligible for any inland freight subsidies and directed the Department to look at the documents implementing the inland freight subsidy program.¹⁴³ This claim, however, is not supported by ISL's questionnaire response or any other information on the record. The address of IIL's registered office, as listed in the financial statement,¹⁴⁴ does not conclusively contradict the Department's finding, based on AFA, that IIL is located in an export processing zone. Due to IIL's and the GOP's failures to furnish requested information, which would have provided necessary evidence pertaining to the locations of IIL's facilities and export processing zones,¹⁴⁵ the record evidence does not establish whether or not IIL or any of its cross-owned affiliates were located in an export processing zone. Furthermore, contrary to IIL's implications, there are no implementation documents on the record of this proceeding for the Department to examine.¹⁴⁶

VII. CONCLUSION

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these Department positions are accepted, we will publish the final determination in the *Federal Register* and notify the ITC.

✓

Agree

Disagree



Ronald K. Lorenzten
Acting Assistant Secretary
for Enforcement and Compliance

October 21, 2016

Date

¹⁴³ See IIL Case Brief at 4.

¹⁴⁴ See IIL Financial Statement at 117.

¹⁴⁵ See CVD Questionnaire at III-8 and III-10; see also GOP Supplemental Questionnaire at Attachment.

¹⁴⁶ The GOP provided a hyperlink to the Trade Development Authority of Pakistan's public notice regarding the Inland Freight Subsidy for Exporters grant program. See GOP Questionnaire Response at II-79. The Department, however, explicitly requested the complete copies of such implementing documents. See CVD Questionnaire, Section II at Standard Questions Appendix; see also GOP Supplemental Questionnaire at 1-2.