

between 60% and 85% of the volume of exports to the United States from the subject country. As a result, small producers or exporters may not receive questionnaires.

If the response to an information request is inadequate, the respondent must be promptly informed of the nature of the deficiency, and be provided an opportunity to remedy or explain it. Commerce may not disregard information submitted within the set time limits if the respondent "acted to the best of its ability" to provide the requested information.¹²

The ITC, like Commerce, uses questionnaires as the principal means of obtaining information. Questionnaires are sent to domestic producers, importers, purchasers and exporters. The questionnaires generally cover a three-year period and request information concerning a wide variety of economic indicators, including production, capacity utilization, shipments, exports, sales, employment, capital expenditures and prices.

In a provision added by the URAA in 1994, Commerce and the ITC are required to provide consumer organizations and industrial organizations with an opportunity to submit relevant information for consideration. Both Commerce and the ITC are also required to take account of difficulties experienced by parties, particularly small firms and firms in developing countries, in providing requested information. The two agencies will provide such assistance as they consider practicable to avoid imposing an unreasonable burden on the respondent.

4.2 Facts Available (Best Information Available)

If a respondent is unable or unwilling to provide the information requested by Commerce or the ITC within the set time limits and in the form requested, the agencies may rely on the "facts available" (formerly known as "best information available," or BIA), including allegations contained in the petition and in previous reviews.¹³ When a respondent refuses to cooperate, Commerce will generally claim adverse inference and impose the most adverse rate possible. Commerce and the ITC may take into account the circumstances of the party, including (but not limited to) the party's size, its accounting systems and computer capabilities, as well as the prior success of the same firm, or other similar firms, in providing requested information. In accordance with the Anti-Dumping Agreement, if "facts available" are relied upon, they must be corroborated where practicable using independent sources.¹⁴

12 19 U.S.C. § 1677m (e) (4) (1994).

13 19 U.S.C. § 1677e (1994).

14 19 U.S.C. § 1677c (c) (1994).