

sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act.

Indo Evergreen's and Zeta's aggregate volumes of home market sales of the foreign like product were greater than five percent of their aggregate volumes of U.S. sales of the subject merchandise. Therefore, we determined that the home market provides a viable basis for calculating NV for both Indo Evergreen and Zeta, in accordance with section 773(a)(1)(B)(ii)(II) of the Act.

Arm's-Length Sales

Indo Evergreen and Zeta each reported sales of the foreign like product to affiliated customers. To test whether these sales to affiliated customers were made at arm's length, where possible, we compared the prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27355 (May 19, 1997) (preamble to the Department's regulations). Consistent with 19 CFR 351.403(c), we excluded from our analysis those sales where the price to the affiliated parties was less than 99.5 percent of the price to the unaffiliated parties.⁴

Verification

As provided in section 782(i) of the Act, we conducted verifications of the information provided by Indo Evergreen and Zeta. Because of the political instability in Indonesia, verification took place in Singapore. We used standard verification procedures including examination of relevant sales and financial records, and selection of relevant source documentation as exhibits. Our verification findings are detailed and on file in the CRU.

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the export price or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2).

Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Cut-to-Length Plate from South Africa*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"), including selling functions, class of customer ("customer category"), and the level of selling expenses incurred for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for export price and comparison market sales (*i.e.*, NV based on either home market or third country prices⁵), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing export price or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Cut-to-Length Plate from South Africa*, 62 FR 61731 (November 19, 1997).

We obtained information from Indo Evergreen and Zeta regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by Indo Evergreen and Zeta for each channel of distribution. Company-specific LOT findings are summarized below.

Indo Evergreen: All of Indo Evergreen's sales in the home market are through distributors who resell the merchandise to wholesalers for distribution, with the exception of a small amount of sales to its employees for consumption. We examined those two channels of distribution and the selling activities associated with home market sales through these channels of distribution, and determined that there was little difference in the relevant selling functions provided by Indo Evergreen. Specifically, Indo Evergreen does not provide inventory maintenance, after-sale services, technical advice, advertising, or sales support for any of its home market customers. Indo Evergreen does perform some sales activity related to pre-delivery inspection. Indo Evergreen stated that these services are provided to all home market customers regardless of the channels of distribution or customer categories. Because Indo Evergreen has the same selling functions for both channels of distribution (*i.e.*, pre-delivery inspections), we find that both channels of distribution constitute one LOT.

In the U.S. market, Indo Evergreen made only export price sales through two channels of distribution: (1) Through trading companies, and (2) through distributors who resold the merchandise to wholesalers for distribution either to supermarket chains or food service distributors. Similar to the home market LOT, Indo Evergreen does not provide inventory maintenance, after-sale services, technical advice, advertising, or sales support in selling to its U.S. customers. In addition, Indo Evergreen does perform some sales activity related to pre-delivery inspection. Indo Evergreen stated that these services are provided equally to all customers regardless of the channels of distribution or customer categories. Accordingly, there is only one LOT for U.S. sales.

We compared the export price LOT to the home market LOT and concluded that the selling functions performed for home market customers are the same as those performed for U.S. customers (*i.e.*, pre-delivery inspection). Accordingly, we consider the export price and home market LOTs to be the same. Consequently, we are comparing export price sales to sales at the same LOT in the home market.

Zeta: Zeta reported sales in the home market through two channels of distribution: (1) Unaffiliated distributors, and (2) unaffiliated end-users. We examined the chain of distribution and the selling activities associated with home market sales through these

⁴ We have not applied the new calculation methodology for the arm's-length test, as set out in *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, as this review was initiated prior to the November 23, 2002, date stipulated in that notice.

⁵ Where NV is based on constructed value, we determine the NV LOT based on the LOT of the sale from which we derive selling, general and administrative ("SG&A") expenses and profit for constructed value, where possible.