

the COP data submitted by DC CHEM, except as noted below:

- We revised the calculation of the G&A expense ratio to: (1) Include losses from the impairment of goodwill, losses on the valuation of inventories, donations, losses on the disposal of non-current assets, losses on construction, and losses on the cancellation of contracts; (2) exclude the cost offsets taken for equity gains on investments, duty drawback, rental income of a training institute, and other non-operating income; and (3) exclude gains and losses from foreign currency transactions and translation; and
- We revised the financial expense ratio to only include the amounts for gains and losses on foreign currency exchange transactions and translation from the 2001 consolidated financial statements.

For further discussion, see the memorandum from James Balog to Neal Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination," dated March 14, 2003.

For this preliminary determination, we have implemented a change in practice regarding the treatment of foreign exchange gains and losses. The Department's previous practice was to have respondents identify the source of all foreign exchange gains and losses (e.g., debt, accounts receivable, accounts payable, cash deposits) at both a consolidated and unconsolidated corporate level. At the consolidated level, the current portion of foreign exchange gains and losses generated by debt or cash deposits were included in the interest expense rate computation. At the unconsolidated producer level, foreign exchange gains and losses on accounts payable were either included in the G&A rate computation, or under certain circumstances, in the cost of manufacturing. Gains and losses on accounts receivable at both the consolidated and unconsolidated producer levels were excluded from the COP and CV calculations.

Instead of splitting apart the foreign exchange gains and losses as reported in an entity's financial statements, we will normally include in the interest expense computation all foreign exchange gains and losses. In doing so, we will no longer include a portion of foreign exchange gains and losses from two different financial statements (i.e., consolidated and unconsolidated producer). Instead, we will only include the foreign exchange gains and losses reported in the financial statement of the same entity used to compute each respondent's net interest expense rate.

This approach recognizes that the key measure is not necessarily what generated the exchange gain or loss, but rather how well the entity as a whole was able to manage its foreign currency exposure in any one currency. As such, for these preliminary results, we included all foreign exchange gains or losses in the interest expense rate computation. We note that there may be unusual circumstances in certain cases which may cause the Department to deviate from this general practice. We will address exceptions on a case-by-case basis.

As this is a change in practice, we invite the parties to the proceeding to comment on this issue.

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, rebates, and direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made: (1) Within an extended period of time in substantial quantities; and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we determine that in such instances the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of DC CHEM's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable

period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Level of Trade

In accordance with section 773(a)(1)(B)(i), to the extent practicable, the Department will determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP 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 (Nov. 19, 1997) (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"),⁶ including selling functions, class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (i.e., NV based on either home market or third country prices⁷), 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*, Court Nos. 00-1058, -1060 (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 EP or CEP sales at a different LOT in the comparison market, where available data make it

⁶ The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale appears to occur.

⁷ Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general, and administrative expenses, and profit for CV, where possible.