

questionnaires or our findings at verification.

Accordingly, in the February 4, 2003, supplemental section A questionnaire (which was modified slightly on February 20, 2003), we asked the CWB to provide further information regarding the alleged particular market situation. Specifically, we asked questions designed to establish whether the CWB's prices in the home market are based upon competitively set prices and whether the CWB consistently bases its prices on a published U.S. price (e.g., daily prices reported by the Minneapolis Grain Exchange or other sources). On February 21 and March 4, 2003, the CWB submitted responses to the supplemental section A questionnaire. On April 23, 2003, the petitioners submitted additional comments on this issue.

No new information provided by interested parties since our February 4, 2003, letter suggests that the Canadian government controls prices to such an extent that they are non-competitive and inappropriate for use in our dumping analyses. See Memorandum to Jeffrey A. May, Deputy Assistant Secretary, "Particular Market Situation," dated May 1, 2003, which is on file in the CRU. Accordingly, we continue to find that it is appropriate to use home market sales for purposes of determining normal value in these investigations. Because this finding is based, in part, on representations by the CWB about how it sets prices in the home market, our decision regarding the appropriateness of Canadian home market prices may be subject to change based upon the results of verification.

B. Affiliated-Party Transactions and Arm's Length Test

In its questionnaire responses, the CWB noted that it is treating grain producers that supply grain to the CWB as affiliated parties, given the various aspects of the relationship between the western Canadian grain producers and the CWB. Specifically, western Canadian grain producers supply the CWB, are members of the CWB, and elect two-thirds of the CWB Board; therefore, according to the CWB, the western Canadian farmers control the CWB Board. See the CWB's January 10, 2003, section A questionnaire response, at A-16 to A-17. However, the CWB further noted that, under its "Producer Direct Sales" ("PDS") program, the CWB makes sales to grain producers, and it has treated sales to these producers as unaffiliated party transactions. In other words, the CWB appears to have considered grain producers to be affiliated parties when

they supply grain to the CWB, but considered the same entities to be unaffiliated when they act as customers under the PDS program. For purposes of these preliminary determinations, we are treating sales to producers under the PDS program as affiliated party transactions because these entities are affiliated with the CWB pursuant to section 771(33)(G) of the Act.

The Department's standard practice with respect to the use of home market sales to affiliated parties for NV is to determine whether such sales are at arm's length prices. Therefore, in accordance with that practice, we performed an arm's length test on the CWB's sales to affiliates as follows.

Sales to affiliated customers in the home market not made at arm's length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102. To test whether these sales were made at arm's length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges and direct selling expenses. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c) and *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27355 (May 19, 1997). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. See, e.g., *Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

C. Cost of Production Analysis

As noted above, based on our analysis of an allegation made by the petitioners after initiation of these investigations, we found that there were reasonable grounds to believe or suspect that sales of HRS wheat in the home market were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a company-specific sales-below-cost investigation to determine whether sales of HRS

wheat were made at prices below their COP.

As noted above in the case history, the Department selected the CWB, the largest exporter of the subject merchandise to the United States during the POI, as the sole respondent in the HRS wheat investigation. The CWB's February 5, 2003, section A questionnaire response stated that it was an exporter of the subject merchandise, not the producer of subject merchandise, and included a list of wheat suppliers. Because there are more than 56,000 HRS wheat producers in Canada, the Department developed a methodology to calculate a representative COP and constructed value ("CV") for the merchandise under consideration. The Department's cost respondent methodology resulted in stratifying producers of HRS wheat by all relevant soil types within each major producing province in Canada and selecting a sample size that ensured a minimum of two producers within each stratum.³ The resulting final sample size was twenty-seven producers. A simple average of the costs of production within a stratum was calculated and then the amounts per stratum were weight averaged based on each stratum's delivered tons.

Of the twenty-seven producers selected, one producer (i.e., cost respondent 2)⁴ chose not to respond to the Department's questionnaire, two other producers (i.e., cost respondents 10 and 27) did not respond based on extenuating circumstances discussed below, and one other producer (i.e., cost respondent 19) had significant issues with respect to the reporting of its COP. Therefore, as described in detail below, because these producers have not provided the necessary information on the record to calculate the simple-average COP within their respective stratum, the use of facts otherwise available is warranted.

Section 776(a)(2) of the Act provides that, if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the

³ See Cost Respondent Selection Memorandum.

⁴ Due to the proprietary nature of the name of each producer, we have assigned a number to each farmer ("cost respondent") that will be used throughout this notice when referring to that specific farmer. A list or code key identifying the name associated with each cost respondent number can be found in attachment 1 of the Memorandum from Theresa L. Caherty and Michael P. Martin to Neal M. Halper, "Cost of Production and Constructed Value Adjustments for the Preliminary Determination," dated May 1, 2003 ("COP/CV Adjustments Memorandum"), which is on file in the CRU.