

basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### D. 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 EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent) according to 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). 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"),<sup>6</sup> including selling functions,<sup>7</sup> class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(7)(A) of the Act and 19 CFR 351.412(c), in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices), we consider the starting prices before any adjustments.

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined, we make a level of trade adjustment under section 773(a)(7)(A) of the Act.

We obtained information from the CWB regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the CWB for each channel of distribution. Our level of trade findings are summarized below. Our LOT analyses for durum wheat and HRS wheat, which contain business proprietary information, are incorporated in the Calculation Memoranda.

#### 1. Durum Wheat

The CWB reported seven channels of distribution in the home market, with three customer categories. The first channel of distribution, coded in its submissions as channel 1, included Eastern Water In-store Thunder Bay sales made to unaffiliated resellers and end-users. The second channel of distribution, coded in its submissions as channel 2, were Eastern Water FOB In-store St. Lawrence sales made to unaffiliated resellers. The third channel of distribution, coded in its submissions as channel 3, were Rail to East (not through Thunder Bay) sales made to unaffiliated resellers and end users. The fourth channel of distribution, coded in its submissions as channel 4, were Western Elevator to Mills (acting as a process elevator) sales made to end users. The fifth channel of distribution, coded in its submissions as channel 5, were Western Elevator to Mill (not acting as a process elevator) and Producer Direct sales made to unaffiliated resellers, end users, and producers. Sales to these customer categories in each of these channels were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. Accordingly, we preliminarily determine that these channels of distribution constitute a distinct LOT ("LOTH1").

The sixth channel of distribution, coded in its submissions as channel 6, were Western Mill Producer Direct sales made to end users and producers. The seventh channel of distribution, coded in its submissions as channel 10, were Producer Direct Sales, Domestic Feed Sales, or Truck Sales to the United States made to unaffiliated resellers and producers. Sales to these customer categories in both of these channels were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service, but differed from sales to LOTH1 substantially with respect to freight services and warehouse/inventory maintenance. Accordingly, we preliminarily determine that these

channels of distribution constitute a distinct LOT ("LOTH2").

In the U.S. market, the CWB had only EP sales. The CWB reported EP sales to two channels of distribution and three customer categories. The first channel of distribution, coded in its submissions as channel 7, were Rail Minneapolis/Chicago sales made to unaffiliated resellers and end users. Sales to both customer categories in this channel were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. Accordingly, we preliminarily determine that this channel of distribution constitutes a distinct LOT ("LOTU1").

The second channel of distribution, coded in its submissions as channel 10, were Producer Direct Sales, Domestic Feed Sales, or Truck Sales to the United States made only to producers. We found that sales in this channel ("LOTU2") differed substantially from LOTU1 with respect to the sales process, freight service, and warehouse/inventory maintenance, and that sales in each LOT were made at different points in the chain of distribution. Based upon our overall analysis in the U.S. market, we found that LOTU1 and LOTU2 constitute two distinct levels of trade.

The EP level of trade LOTU1 was similar to the home market level of trade LOTH1 with respect to sales process, freight services, warehousing/inventory maintenance, and warranty service, but differed considerably from home market level of trade LOTH2 with respect to freight services and warehousing/inventory maintenance. Consequently, we matched U.S. sales at EP level of trade LOTU1 to sales at the same level of trade in the home market (*i.e.*, LOTH1). Where we did not match products at the same level of trade, and there was a pattern of consistent price differences between different levels of trade, we made a level of trade adjustment. See section 773(a)(7)(A) of the Act.

The EP level of trade LOTU2 was similar to the home market level of trade LOTH2 with respect to sales process, freight services, warehousing/inventory maintenance, and warranty service, but differed considerably from home market level of trade LOTH1 with respect to freight services and warehousing/inventory maintenance. Consequently, we matched U.S. sales at EP level of trade LOTU2 to sales at the same level of trade in the home market (*i.e.*, LOTH2). Where we did not match products at the same level of trade, and there was a pattern of consistent price differences between different levels of trade, we made a level of trade

<sup>6</sup> 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 determine properly where in the chain of distribution the sales occurred.

<sup>7</sup> Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of these preliminary determinations, we have organized the common durum wheat and hard red spring wheat selling functions into four major categories: Sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services. Other selling functions unique to the respondent were considered, as appropriate.