

below-cost sales were not made in substantial quantities as defined by section 773(b)(2)(C) of the Act. When 20 percent or more of Ta Chen's sales of a given product during the POR were at prices less than the COP, we determined that such sales have been made in "substantial quantities" within an extended period of time, in accordance with section 773(b)(2)(B) and 773(b)(2)(C) of the Act. In such cases, because we use POR average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we appropriately disregarded below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### D. Calculation of Constructed Value

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of Ta Chen's cost of materials, fabrication, G&A (including interest expenses), U.S. packing costs, direct and indirect selling expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses and G&A ("SG&A") and profits on the actual amounts incurred and realized by Ta Chen in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the actual weight-averaged home market direct and indirect selling expenses.

#### 3. Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the COP, we based NV on prices to home market customers. Where appropriate, we deducted early payment discounts, credit expenses, and inland freight. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in CEP comparisons. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Additionally, in accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs. In accordance with section 773(b)(1) of the Act, where there were no usable contemporaneous matches to a U.S. sale observation, we based NV on CV.

#### Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the CEP transaction. The NV LOT is that of the starting-price sales in the comparison market, or when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. 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 the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732–61733 (November 19, 1997).

In reviewing a respondent's request for a LOT adjustment, we examine all types of selling functions and activities reported in respondent's questionnaire response on LOT. In analyzing differences in selling functions, we determine whether the levels of trade identified by the respondent are meaningful. *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27371 (May 19, 1997). In the present review, Ta Chen did not request a LOT adjustment, but did request a CEP offset.

Ta Chen reported one LOT in the home market based on two channels of distribution: Trading companies and end-users. We examined the reported selling functions and found that Ta Chen's selling functions to its home market customers, regardless of channel of distribution, include inventory maintenance, technical services, packing, after-sales services, freight and delivery arrangements, general selling functions, some research and development, and customer service. *See Ta Chen's September 12, 2002 Section*

A questionnaire response at page 7; *see also Ta Chen's January 28, 2003 Section A supplemental questionnaire response at pages 15–16.* Therefore, we preliminarily conclude that the selling functions for the reported channels of distribution are sufficiently similar to consider them as one LOT in the comparison market.

Because Ta Chen reported that all of its CEP sales are made through TCI, Ta Chen is claiming that there is only one LOT in the U.S. market for its constructed export price sales and we preliminarily agree with Ta Chen's assertion that its U.S. sales constitute a single LOT. We examined the reported selling functions and found that Ta Chen's selling functions for sales to TCI include order processing, payment of marine insurance and packing for shipment to the United States. TCI handles the remaining selling functions for U.S. sales, such as: Communicating with U.S. customers; handling customer orders; dealing with U.S. customs duties, brokerage, inland freight and U.S. warehousing; taking seller's risk; and, incurring inventory carrying costs on the water and ocean freight.

The Department compared Ta Chen's selling functions offered to its home market customers, trading companies and end users with Ta Chen's selling functions for U.S. sales offered to its wholly-owned subsidiary, TCI. Ta Chen's selling functions for sales to the U.S., namely, order processing, payment of marine insurance and packing for shipment, are less numerous and less advanced than Ta Chen's selling functions to its home market customers, which include inventory maintenance, technical services, packing, after-sales services, freight and delivery arrangements, general selling functions, some research and development, and customer service. Therefore, we preliminarily find that Ta Chen performed fewer selling functions for its U.S. sales than it did in the home market. Ta Chen requested a CEP offset due to differences in level of trade between its home market and U.S. sales (*see Ta Chen's September 12, 2002 Section A questionnaire response*). When, as here, the NV is established at a LOT that is at a more advanced stage of distribution than the LOT of the CEP transactions, the Department's practice is to adjust NV to account for this difference. However, we were unable to quantify the LOT adjustment pursuant to section 773(a)(7)(A) of the Act. Therefore, we applied a CEP offset to the NV–CEP comparisons, in accordance with section 773(a)(7)(B) of the Act.