

subject merchandise at less than NV. See 19 CFR 351.222(b)(2); see also *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Intent to Revoke Antidumping Duty Order in Part: Certain Pasta From Italy*, 66 FR 34414, 34420 (June 28, 2001).

On July 15, 2002, CBCC submitted a request, in accordance with 19 CFR 351.222, that the Department partially revoke the order covering silicon metal from Brazil with respect to its sales of subject merchandise. In accordance with 19 CFR 351.222(e)(1), the request was accompanied by certifications from CBCC that, for a consecutive three-year period, including this review period, it sold the subject merchandise in commercial quantities at not less than NV, and would continue to do so in the future. CBCC also agreed to its immediate reinstatement in this antidumping order, as long as any firm is subject to the order, if the Department concludes that, subsequent to revocation, CBCC sold the subject merchandise at less than NV. We received no comments from petitioners regarding CBCC's request for revocation.

Based on the preliminary results in this review and the final results of the two preceding reviews, CBCC has preliminarily demonstrated three consecutive years of sales at not less than NV. See *2000–2001 Silicon Metal*, 67 FR 77225, 77226 (December 17, 2002); *Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review*, 67 FR 6488, 6489 (February 12, 2002). Further, in determining whether three years of no dumping establish a sufficient basis to make a revocation determination, the Department must be able to determine that the company continued to participate meaningfully in the U.S. market during each of the three years at issue. See *Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada; Final Results of Antidumping Duty Administrative Reviews and Determination To Revoke in Part*, 64 FR 2173, 2175 (January 13, 1999); see also *Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke Order in Part*, 64 FR 12977, 12979 (March 16, 1999); and *Notice of Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Order: Brass Sheet and Strip from the Netherlands*, 65 FR 742 (January 6, 2000). This practice has been codified in 19 CFR 351.222(d)(1), which states that, “before revoking an order or terminating a

suspended investigation, the Secretary must be satisfied that, during each of the three (or five) years, there were exports to the United States in commercial quantities of the subject merchandise to which a revocation or termination will apply.” See 19 CFR 351.222(d)(1); see also 19 CFR 351.222(e)(1)(ii). For purposes of revocation, the Department must be able to determine that past margins are reflective of a company's normal commercial activity. Sales during the POR which, in the aggregate, are of an abnormally small quantity do not provide a reasonable basis for determining that the discipline of the order is no longer necessary to offset dumping.

With respect to the threshold matter of whether CBCC made sales of subject merchandise to the United States in commercial quantities, we find that CBCC's sales to the United States were made in commercial quantities during each of the past three consecutive years. The quantity of CBCC's shipments of subject merchandise to the United States has remained at a sufficiently high level to be considered as having been made in commercial quantities. Therefore, we can reasonably conclude that the zero and *de minimis* margins calculated for CBCC in each of the last three administrative reviews are reflective of the company's normal commercial experience. See Memorandum from Maisha Cryor, Analyst, to File, “Shipments of Silicon Metal to the United States by CBCC,” dated July 22, 2003.

CBCC also agreed in writing that it will not sell subject merchandise at less than NV in the future and to the immediate reinstatement of the antidumping order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to the partial revocation, CBCC has sold the subject merchandise at less than NV. Thus, in light of the above and pursuant to 19 CFR 351.222, we preliminarily find, for CBCC, that the subject merchandise was sold at not less than NV for a period of at least three consecutive years and that dumping is not likely to resume in the future. Consequently, the continuing imposition of an antidumping duty order is not necessary to offset dumping.

Therefore, if these preliminary results are affirmed in our final results, we intend to revoke the order in part with respect to merchandise produced and exported by CBCC. In accordance with 19 CFR 351.222(f)(3), we will terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after July 1, 2001,

and will instruct the BCBP to refund any cash deposits.

### 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 EP or CEP transaction, as appropriate. 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 selling, general and administrative (SG&A) expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to the importer. For CEP sales, the U.S. LOT is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated or affiliated 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 the comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. 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 the 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 (November 19, 1997).

In determining whether separate LOTs actually existed in the home and U.S. markets for CBCC, we examined whether CBCC's sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories, and selling functions (or services offered) to each customer or customer category, in both markets.

CBCC reported home market sales through one channel of distribution to three unaffiliated customer categories (direct sales to distributors, original equipment manufacturers and silicon metal producers). CBCC reported both EP and CEP sales in the U.S. market. For EP sales, CBCC reported one customer category and one channel of distribution (direct sales to unaffiliated trading companies). For CEP sales, CBCC