

from port to the customer). In addition, when appropriate, we increased EP or CEP as applicable, by an amount equal to the countervailing duty rate attributed to export subsidies in the most recently completed administrative review, in accordance with section 772(c)(1)(C) of the Act.

For CEP, in accordance with section 772(d)(1) of the Act, when appropriate, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (advertising, cost of credit, warranties, and commissions paid to unaffiliated sales agents). In addition, we deducted indirect selling expenses that related to economic activity in the United States. These expenses include certain indirect selling expenses incurred by affiliated U.S. distributors. We also deducted from CEP an amount for profit in accordance with sections 772(d)(3) and (f) of the Act.

Pagani and Zaffiri reported the resale of subject merchandise purchased in Italy from unaffiliated producers. In its April 23, 2003 supplemental response at page 23, Zaffiri amended its response and reported that its purchased pasta should actually be considered pasta that it toll produced with its unaffiliated supplier. Zaffiri argues that this pasta should be considered toll produced because it provided its unaffiliated supplier with packing materials and then the supplier would invoice Zaffiri for the semolina cost, the conversion cost, and the packing cost. Because Zaffiri does not control the production of this pasta, nor does it own or hold title to a significant input for this pasta (*i.e.*, semolina), we preliminarily determine that this pasta is, in fact, pasta purchased from an unaffiliated supplier.

In those situations in which an unaffiliated producer of the subject pasta knew at the time of the sale that the merchandise was destined for the United States, the relevant basis for the EP would be the price between that producer and the respondent. *See Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review and Notice of Determination Not to Revoke Order*, 63 FR 50867, 50876 (September 23, 1998). In the instant review, we determined that it was reasonable to assume that the unaffiliated producers knew or had reason to know at the time of sale that the ultimate destination of the

merchandise was the United States because virtually all enriched pasta is sold to the United States. *See 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*, 65 FR 4867, 4869 (August 8, 2000).

Accordingly, consistent with our methodology in prior reviews (*see id.*), when a respondent purchased pasta from other producers and we were able to identify resales of this merchandise to the United States, we excluded these sales of the purchased pasta from the margin calculation for that respondent. Where the purchased pasta was commingled with the respondent's production and the respondent could not identify the resales, we examined both sales of produced pasta and resales of purchased pasta. Inasmuch as the percentage of pasta purchased by any single respondent was an insignificant part of its U.S. sales database, we included the sales of commingled purchased pasta in our margin calculations.

#### Normal Value

##### A. Selection of Comparison Markets

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and 773(a)(1)(C) of the Act, because each respondent, with the exception of IAPC, had an aggregate volume of home market sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for all producers except IAPC.

Because IAPC did not have an aggregate volume of home market sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, the Department determined, in accordance with section 773(a)(1)(c) of the Act and section 351.404(b)(2) of the Department's regulations to use a third-country market, the United Kingdom, as IAPC's comparison market. We compared IAPC's volume of third country sales in the United Kingdom of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B)(ii) and 773(a)(1)(C) of the Act, because IAPC had an

aggregate volume of third-country sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that, in accordance with section 351.404(c)(ii) of the Department's regulations, the third-country market of the United Kingdom was viable for IAPC.

##### B. Arm's-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer; *i.e.*, sales at arm's-length. *See* 19 CFR 351.403(c). Sales to affiliated customers for consumption in the home market which were determined not to be at arm's-length were excluded from our analysis. Garofalo reported sales of the foreign like product to an affiliated end-user customer and an affiliated reseller. To test whether these sales were made at arm's-length, we compared the prices of sales of comparison products to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices to the affiliated party were, on average, between 98 and 102 percent of the prices to unaffiliated parties, we determined that the sales made to the affiliated party were at arm's-length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 53339 (August 15, 2002); *see also Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of the Final Determination, and Negative Preliminary Determination of Critical Circumstances: Prestressed Concrete Steel Wire Strand from Thailand* 68 FR 42373, 42375–6 (July 17, 2003). We included in our NV calculations those sales to affiliated customers that passed the arm's-length test. *See* 19 CFR 351.403; *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR at 27295 (May 19, 1997).

##### C. Cost of Production Analysis

###### 1. Calculation of COP

Before making any comparisons to NV, we conducted a COP analysis of Ferrara, Garofalo, Indalco, Pagani, Pallante, Rummo, Tomasello, and Zaffiri, pursuant to section 773(b) of the Act, to determine whether the respondents' comparison market sales were made below the COP. We calculated the COP based on the sum of the cost of materials and fabrication for