

channels: sales by Ugine directly to unaffiliated service centers or end users (Channel 1); sales made by Ugine with the assistance of Ugine France Service in its capacity as sales agent (Channel 2); and sales made by IUP to unaffiliated end users and service centers (Channel 3). From our analysis of the marketing process for these sales, we have determined that there are not significant distinctions in selling activities between Ugine's sales to its unaffiliated customers in Channels 1 and 2 and IUP's direct sales to its unaffiliated customers through Channel 3. See *Memorandum from Eugene Degnan, Case Analyst to the File through James C. Doyle, Program Manager, Third Antidumping Duty Administrative Review of Stainless Steel Sheet and Strip in Coils from France: Level of Trade Analysis*, dated July 31, 2003 ("LOT Memorandum"), on file in Import Administration's Central Records Unit, Room B-099, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, DC. Therefore, we preliminarily concluded that one LOT existed in the home market during the POR.

In order to determine the LOTs of the U.S. market, we received the selling activities associated with each reported channel of distribution. Ugine only reported CEP sales in the U.S. market. Because all of Ugine's CEP sales in the U.S. market were made through Usinor Stainless USA and Hague, we found that there was one LOT in the U.S. market. For these CEP sales, we determined that fewer and different selling functions were performed for CEP sales to Usinor Stainless USA than for sales at the home market LOT. In addition, we found that sales at the home market LOT were at a more advanced stage of distribution compared to the CEP sales. See *LOT Memorandum* at 11.

We examined whether a LOT adjustment was appropriate. The Department makes this adjustment when it is demonstrated that a difference in LOTs affects price comparability. However, where the available data do not provide an appropriate basis upon which to determine a LOT adjustment, and where the NV is established at a LOT that is at a more advanced stage of distribution than the LOT of the CEP transactions, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). We were unable to quantify the LOT adjustment in accordance with section 773(a)(7)(A) of the Act, as we found that the LOT in the home market did not match the LOT of the CEP transactions. Because of this, we did not calculate a LOT adjustment. Instead, a CEP offset

was applied to the NV-CEP comparisons. See *LOT Memo* at 11. In the two most recent administrative reviews of this order, where similar fact patterns existed, we also granted a CEP offset. See *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 67 FR 6493 (February 12, 2002) and accompanying *Issues and Decision Memorandum*, at Comment 8; and see *Preliminary Results of Antidumping Administrative Review: Stainless Steel Sheet and Strip in Coils From France*, 67 FR 51210 (August 7, 2002).

Facts Available

We preliminarily determine that the use of facts available is appropriate for one element of Ugine's dumping margin calculation. Section 776(a)(2) of the Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

In this case, consistent with sections 776(a)(2)(A), and (B) and (C) of the Act, we preliminarily find that use of facts available is warranted for home market sales made to an affiliated reseller who failed the arm's length test. On December 20, 2002, the Department sent Ugine a supplemental questionnaire requesting the downstream sales for all known affiliated customers and resellers who purchased the subject merchandise in the home market during the POR. On January 28, 2003, Ugine submitted a letter arguing that if the Department applies one of the criteria outlined in the letter, resales by affiliated customers need not be reported. One of these criteria specifically stated that if the customers passed the arm's length test, then there was no need to report those customers' downstream sales. On January 29, 2003, Ugine submitted its Sections A-C supplemental questionnaire response, but did not include downstream sales for any affiliated customers. On April 23, 2003, the Department requested downstream sales for a smaller number of affiliated resellers, which included the affiliated customer who failed the arm's length test. To date, Ugine has not provided the downstream sales for any customer,

including that affiliated customer. Therefore, consistent with section 776(a)(2)(A) and (C) of the Act, Ugine withheld information that had been requested by the Department, failed to provide such information in a timely manner, and significantly impeded the determination under the antidumping statute, justifying the use facts otherwise available in reaching the applicable determination. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as facts otherwise available. Ugine has failed to provide the downstream sales made by affiliated resellers as requested in the Department's December 20, 2002, and April 23, 2003, letters to Ugine. However, in this case, the volume of sales from Ugine to its affiliated customer which failed the arm's length test is minimal. Therefore, we find adverse facts available is not warranted for these sales and will use facts available.

In selecting from facts otherwise available, for these preliminary results, for those sales to the affiliated reseller that failed the arm's length test, for which Ugine did not provide downstream sales, the Department used the gross unit price of the most similar model purchased by an unaffiliated customer. The Department applied similar facts available in a recent investigation as well as the second administrative review of this case. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from France*, 67 FR 31204 (May 9, 2002); and see *Preliminary Results of Antidumping Administrative Review: Stainless Steel Sheet and Strip in Coils From France*, 67 FR 51210 (August 7, 2002).

Currency Conversion

For purposes of the preliminary results, we made currency conversions in accordance with section 773A of the Act, based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use the daily exchange rate in effect on the date of sale in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs