

Likewise, Liepajas Metalurgs attempted to the best of its ability to identify the manufacturer of all of ASC's sales. The company developed a method to accomplish this task, but, as we found at verification, due to ASC's manner of conducting business, it had no means to document its segregation of rebar by producer. ASC opened in May 2002 and was only in business and had sales for approximately four months during the POR. During this time frame, ASC was still in the process of developing a record keeping system and establishing routine procedures for the sales process. At verification, we confirmed that ASC conducted business and tracked sales in a manner that did not provide for the proper reporting of all the information requested by the Department, in spite of ASC's best efforts to do so.

Therefore, we preliminarily determine that Liepajas Metalurgs (and its affiliate, ASC) acted to the best of their ability and no adverse inference is warranted. Moreover, we expect that in future reviews ASC will have had sufficient time to establish its record keeping procedures in full awareness of the Department's reporting requirements. Thus, the Department will expect the company to properly report the source and matching characteristics for all of its home market sales and failure to do so may result in an adverse inference in the application of facts available.

Instead of an adverse inference, we have applied neutral facts available in response to Liepajas Metalurgs' inability to provide all the requested information. For purposes of the margin calculation, we were able to find an identical match at the same level of trade for the vast majority of Liepajas Metalurgs' U.S. sales (ASC's sales are at a distinct (more advanced) level of trade than Liepajas Metalurgs' direct home market and EP sales). See the *Level of Trade Adjustment* section below. Since we do not have all the information pertaining to ASC's sales, we cannot determine whether we may have found "most similar" matches among ASC's sales, if the company had correctly reported all of the information. Therefore, rather than attempting to match to similar home market sales, we applied neutral facts available pursuant to section 776(a)(2)(D) of the Act and compared the U.S. sales with no identical match to constructed value (CV), as described in the *Calculation of Normal Value Based on Constructed Value* section of this notice.

We have also applied a neutral facts available adjustment to Liepajas Metalurgs' home market freight expense calculated on shipments from the plant to the warehouse. In its calculation,

Liepajas Metalurgs combined the cost for train and truck shipments into one expense allocated over all sales through the RSO or ASC warehouse. At verification, we found that the component of the expense based on truck shipments was unreliable. We found that in spite of Liepajas Metalurgs' best effort to properly calculate the expense, the documentation available to Liepajas Metalurgs did not provide the necessary information to do so. See the Verification Report at 17. Therefore, we have applied neutral facts available pursuant to section 776(a)(2)(D) of the Act and relied on the portion of the expense based on train freight for all shipments to the RSO or ASC warehouses.

While we found similar deficiencies with the calculation of freight expense for shipments from the RSO to the customer, we concluded that the expense calculated by the RSO was reasonable when compared to other verified and properly reported freight expenses incurred by Liepajas Metalurgs to the same or similar destinations. Therefore, we made no adjustment to the freight expense for shipments from the RSO to the customer.

Fair Value Comparisons

We compared the EP to the NV, as described in the *Export Price* and *Normal Value* sections of this notice. We first attempted to compare contemporaneous sales of products sold in the United States and comparison markets that are identical with respect to the matching characteristics. Pursuant to section 771(16) of the Act, all products produced by the respondent that fit the definition of the scope of the order and were sold in the comparison market during the POR fall within the definition of the foreign like product. We have relied on three criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: type of steel, yield strength, and size. Where there were no sales of identical merchandise in the comparison market, we compared U.S. sales to sales of the next most similar foreign like product on the basis of the characteristics listed above.

Export Price

We calculated an EP for all of Liepajas Metalurgs' sales because the merchandise was sold directly by Liepajas Metalurgs to the first unaffiliated purchaser for delivery to the United States, and constructed export price (CEP) was not otherwise warranted based on the facts of record. We made deductions from the starting

price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included inland freight and domestic brokerage and handling expenses.

Normal Value

A. Selection of Comparison Markets

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate), that the time of the sales reasonably corresponds

to the time of the sale used to determine EP, and that there is no particular market situation that prevents a proper comparison with the EP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

We found that Liepajas Metalurgs had a viable home market for rebar. As such, Liepajas Metalurgs submitted home market sales data for purposes of the calculation of NV.

In deriving NV, we made adjustments as detailed in the *Calculation of Normal Value Based on Home Market Prices* section below.

B. Cost of Production Analysis

Based on a timely allegation filed by the petitioners, we initiated a COP investigation of Liepajas Metalurgs to determine whether sales were made at prices below COP. See Memorandum From Daniel O'Brien, International Trade Compliance Analyst, to Gary Taverman, Director, Office 5, Re: Petitioners' Allegation of Sales Below the Cost of Production for Liepajas Metalurgs, dated January 29, 2003.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, based on the sum of materials, fabrication, and general and administrative (G&A) expenses. We relied on Liepajas Metalurgs' submitted COP except in the specific instances noted below, where the submitted costs were not appropriately quantified or valued. See Memorandum from Daniel O'Brien and Jim Kemp, International Trade Compliance Analysts, to Constance Handley, Program Manager, Re: Analysis Memorandum for Joint Stock Company Liepajas Metalurgs, dated August 4, 2003 (the Analysis Memorandum).