

similar merchandise based on the above characteristics, which are listed in order of importance for matching purposes.

Constructed Export Price

In calculating U.S. price, the Department used CEP, as defined in section 772(b) of the Act, because the merchandise was sold, after importation, by DSM's U.S. affiliate, DKA, to unaffiliated purchasers in the United States. We calculated CEP based on delivered prices to unaffiliated customers in the United States. We made deductions from the starting price, where appropriate, for foreign and U.S. brokerage and handling, foreign and U.S. inland freight, international freight, marine insurance, U.S. duties, and direct and indirect selling expenses to the extent that they are associated with economic activity in the United States in accordance with sections 772(c)(2)(A) and 772(d)(1)(B) and (D) of the Act. The direct selling expenses included credit expenses. We added duty drawback received on imported materials pursuant to section 772(c)(1)(B) of the Act. In accordance with section 772(d)(3) of the Act, we made a deduction for CEP profit. Finally, pursuant to section 772(c)(1)(C) of the Act, we increased U.S. price by the amount of the export subsidy found in the countervailing duty investigation on steel plate from Korea. *See Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea*, 64 FR 73176 (December 29, 1999).

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales in the comparison-market at the same level of trade (LOT) as the CEP sales. The NV LOT is that of the starting-price sales in the comparison-market. For CEP sales, the U.S. LOT is the level of the constructed sale from the exporter to the importer. The Department adjusts the CEP, pursuant to section 772(d) of the Act, prior to performing its LOT analysis, as articulated by the Department's regulations at section 351.412(c)(1)(ii). *See Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1315 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than the CEP sales, we examined stages in the marketing process and selling activities along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT than that of the U.S. sale,

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 an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV LOT is more remote from the factory than the CEP LOT 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 exist, we obtained information from DSM about the marketing stages for the reported U.S. and comparison-market sales, including a description of the selling activities performed by DSM for each channel of distribution. In identifying LOTs for CEP sales, we considered the selling functions reflected in the starting price, as adjusted under section 772(d) of the Act. *See* section 351.412(c)(1)(ii) of the Department's regulations. We expect that, if claimed LOTs are the same, the selling functions and activities of the seller at each level should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group of sales should be dissimilar.

In its questionnaire responses, DSM reported that it sold the foreign like product through one channel of distribution in the comparison-market and subject merchandise through several channels of distribution in the United States. We found that DSM engaged in similar selling activities for almost all sales in the comparison-market, and thus, we have preliminarily determined that there is one LOT in the comparison-market. Moreover, we found that the sales activities performed in the U.S. channels of distribution are substantially similar and, thus there is one LOT in the U.S. market. Further, we compared the single LOT in the comparison-market to the single LOT in the U.S. market, and have preliminarily determined that they are substantially similar. Thus, we have determined that the LOTs in the comparison and U.S. markets are the same LOT. Because the LOT is the same in both markets, we have denied DSM's request for a CEP offset, and not considered an LOT adjustment. *See* memorandum to the File from the Team concerning Level of

Trade Analysis: Dongkuk Steel Mill Co., Ltd., dated concurrently with this notice.

Normal Value

After testing home market viability and whether home market sales failed the cost test, we calculated NV as noted in subsection 5, "Calculation of NV," below.

1. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, whether the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1) of the Act. Because the respondent's aggregate volume of home market sales of the foreign like product is greater than five percent of its aggregate volume of U.S. sales of subject merchandise, we determined that the home market is viable for the respondent, and have used the home market as the comparison-market.

2. Ordinary Course of Trade—Overrun Sales

DSM reported home market sales of "overrun" merchandise (*i.e.*, sales of a greater quantity of steel plate than the customer ordered due to overproduction). Section 773(a)(1)(B) of the Act provides that NV shall be based on the price at which the foreign like product is first sold, *inter alia*, in the ordinary course of trade. Section 771(15) of the Act defines ordinary course of trade as the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind. In past cases, the Department has examined a number of factors to determine whether "overrun" sales are in the ordinary course of trade. These factors include: (1) Whether the merchandise is "off-quality" or produced according to unusual specifications; (2) the comparative volume of sales and number of buyers in the home market; (3) the average quantity of an overrun sale compared to the average quantity of a commercial sale; and (4) price and profit differentials in the home market. Based on our analysis of these factors and the terms of sale, we found all overrun sales to be outside the ordinary course of