

issued. Based on this understanding of the respondents' U.S. sales process, for the respondents' CEP non-consignment sales, we have used as date of sale the purchase order date, which reasonably approximates the time at which the material terms of sale are set. For CEP consignment sales and for EP sales, the invoice date has been used as the date of sale.

We have considered the petitioners' argument that certain information submitted by HYSCO at the CEP sales verification constituted new information and should be rejected by the Department. We find that the revised sales data submitted by HYSCO at verification constitutes minor corrections to existing sales information already on the record in this proceeding and does not constitute new information. Accordingly, we have used the revised data bases in the calculation of our preliminary results.

To calculate the EP and CEP, we relied upon the data submitted by the respondents, except where noted below:

#### SeAH

We made certain minor adjustments to SeAH's submitted sales information based on information found at verification. See SeAH Verification Report and Memorandum from Team to the File, "Preliminary Results Calculation Memorandum for SeAH Steel Corporation Ltd.," dated November 26, 2003 ("SeAH Calculation Memorandum").

#### Section 201 Duties

The Department notes that merchandise subject to this review is subject to duties imposed under section 201 of the Act ("section 201 duties"). Because the Department has not previously addressed the appropriateness of deducting section 201 duties from export price and constructed export price, on September 9, 2003, the Department published a request for public comments on this issue. See *Antidumping Proceedings: Treatment of Section 201 Duties and Countervailing Duties*, 68 FR 53104 (September 9, 2003). The Department is currently considering these comments. Since the Department has not yet made a determination on this issue, for purposes of these preliminary results, no adjustment has been made.

#### Normal Value

##### A. Home Market Viability

In order 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 (C) of the Act, because each respondent's aggregate volume of home market sales of the foreign like product 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.

HYSCO and SeAH reported sales in the home market of "overrun" merchandise (*i.e.*, sales of a greater quantity of pipe than the customer ordered due to overproduction). HYSCO claimed that we should disregard "overrun" sales in the home market as outside the ordinary course of trade.

Section 773(a)(1)(B) of the Act provides that normal value shall be based on the price at which the foreign like product is sold in usual commercial quantities and in the ordinary course of trade. Ordinary course of trade is defined in section 771(15) of the Act. We analyzed the following criteria to determine whether "overrun" sales differ from other sales of commercial pipe: (1) ratio of overrun sales to total home market sales; (2) number of overrun customers compared to total number of home market customers; (3) average price of an overrun sale compared to average price of a commercial sale; (4) profitability of overrun sales compared to profitability of commercial sales; and (5) average quantity of an overrun sale compared to the average quantity of a commercial sale. See *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Preliminary Results and Rescission in Part of Antidumping Administrative Review*, 65 FR 76218, 76221 (December 6, 2000). Based on our analysis of these criteria and on an analysis of the terms of sale, we found overrun sales made by SeAH and HYSCO to be outside the ordinary course of trade. This analysis is consistent with our treatment of such sales in prior reviews of this proceeding. See Memoranda from Team to the File, "Preliminary Results Calculation Memorandum for Hyundai HYSCO," dated November 26, 2003 and *SeAH Calculation Memorandum*.

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

HYSCO and SeAH made sales in the home market to affiliated and unaffiliated customers. Home market sales made to affiliated customers were either for consumption or further processing into non-subject merchandise. To test whether the sales to affiliates were made at arm's length prices, we compared the starting prices

of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. Where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise to the unaffiliated parties, we determined that the sales made to the affiliated party were at arm's length. See *Modification Concerning Affiliated Party Sales in the Comparison Market*, 67 FR 69186 (November 15, 2002). In accordance with the Department's practice, we only included in our margin analysis those sales to affiliated parties that were made at arm's length.

##### C. Cost of Production Analysis

Because we disregarded sales below the cost of production ("COP") in the last completed review for Husteel, HYSCO, and SeAH (see *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Final Results of Antidumping Administrative Review*, 66 FR 18747 (April 11, 2001)), we had reasonable grounds to believe or suspect that sales of the foreign product under consideration for the determination of NV in this review for all respondents may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we requested that the respondents respond to section D, the cost of production/constructed value section of the questionnaire.

We conducted the COP analysis described below.

##### 1. Calculation of COP

Before making any comparisons to NV, we conducted a COP analysis, 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 the foreign like product, plus amounts for general and administrative expenses and packing, in accordance with section 773(b)(3) of the Act.

We allowed SeAH and Husteel to report their costs on a fiscal-year basis because their fiscal years were closely aligned with the POR (November-October POR vs. January-December fiscal year), the differences in costs were minimal, and there was no other indication that the use of fiscal-year data would be distortive. See February 12, 2003 letter from Judith Wey Rudman to Donald Cameron regarding the cost reporting period.

We relied on the respondents' information as submitted, except for one