

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 and have used the home market as the comparison market.

## 2. Affiliated-Party Transactions and 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 that were determined not to be at arm's-length were excluded from our analysis. Essar reported sales of the foreign like product to affiliated end-users and resellers. To test whether these sales were made at arm's-length prices, the Department compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c), and in accordance with the Department's practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We included in our NV calculations those sales to affiliated parties that were made at arm's length prices.

## 3. Cost of Production (COP) Analysis

In the investigation of HRS from India, the most recently completed segment of this proceeding, the Department disregarded Essar's home market sales that failed the cost test. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Hot-Rolled Carbon Steel Flat Products From India*, 66 FR 22157 (May 3, 2001) (a portion of Essar's home market sales continued to be disregarded in the final determination). Accordingly, pursuant to section 773(b)(2)(A)(ii) of the Act, the Department, initiated a COP investigation of Essar for purposes of this administrative review. We conducted the COP analysis as described below.

## A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, for the POR based on the sum of materials and fabrication costs, G&A expenses, and packing costs. We relied on Essar's cost data, as submitted, except as noted below:

1. Essar purchased iron-ore pellets, an input used to manufacture the merchandise under review, from an affiliated party, Hy-Grade Pellets Limited (Hy-Grade), at a price below Hy-Grade's COP. Pursuant to section 773(f)(3) of the Act, we adjusted the reported per-unit cost of iron-ore pellets to reflect Hy-Grade's COP.
2. We disallowed Essar's reported scrap offset because the offset was based, in part, on sales of scrap to affiliated parties.
3. As indicated in the "Use of Partial Adverse Facts Available" above, we based Essar's G&A expenses on adverse facts available and made an adverse adjustment to Essar's manufacturing overhead expenses and financial expenses. See Facts Available Memorandum.

For further information regarding each of the above adjustments, see the calculation memorandum from Timothy P. Finn, Senior Import Compliance Specialist, to the File, dated December 15, 2003, on file in the CRU.

## B. Test of Comparison Market Sales Prices

As required under section 773(b) of the Act, we compared the adjusted weighted-average COPs to home market sales of the foreign like product, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the adjusted COPs to home market prices, less any applicable movement charges and direct and indirect selling expenses.

## C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, if less than 20 percent of Essar's sales of a given product were made at prices below the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in "substantial quantities." If 20 percent or more of Essar's sales of a given product during the POR were made at prices below the COP, we determined that such sales were made in substantial quantities

within an extended period of time (*i.e.*, a period of one year). Further, because we compared prices to POR-average costs, we determined that the below-cost prices would not permit recovery of all costs within a reasonable time period, and thus, we disregarded the below-cost sales in accordance with sections 773(b)(1) and (2) of the Act.

We found that for certain products, Essar made home market sales at prices below the COP within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit the recovery of costs within a reasonable period of time. Therefore, we excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

## D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV by adding together Essar's materials, fabrication, selling and G&A expenses and interest expenses and profit. In accordance with section 773(e)(2)(A) of the Act, we based selling and G&A expenses and profit on the amounts incurred by Essar in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the home market.

## 4. Calculation of NV

We calculated NV from ex-factory prices to unaffiliated customers in the home market. These prices include charges for packing. We made deductions from the starting price, when appropriate, for discounts and rebates, and movement expenses and domestic brokerage and handling. See section 773(a)(6)(B)(ii) of the Act. In accordance with section 773(a)(6)(A) and (B) of the Act, we added U.S. packing costs to, and deducted home market packing costs from, the starting price. In addition, in accordance with section 773(a)(6)(C)(iii) of the Act, we made circumstance of sale (COS) adjustments to the starting price by deducting direct selling expenses incurred on home market sales from the starting price and adding U.S. direct selling expenses to the starting price.

## Currency Conversion

Pursuant to section 773A(a) of the Act, we converted foreign currencies into U.S. dollars using the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

## Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted-average percentage