

studies conducted in the late 1960s and 1970s require updating and revision to provide the most current information. Additionally, the pilot study indicates that there is a need for a broader base of data.

The results of this research should help agency personnel manage the land more effectively and work more cooperatively with livestock grazing permittees. Such information may also serve to improve agency relations with area communities by promoting greater understanding of the local culture and the role of livestock ownership in that culture. As the public becomes more involved in the federal land management decision-making process, the need for public education on the relationship between land and the rural way of life increases.

To collect the required information, social science researchers from the Rocky Mountain Research Station, USDA Forest Service will personally administer a questionnaire to grazing permittees from the Santa Fe and Carson National Forests. Respondents who are unable to schedule an interview will have the option of returning their completed questionnaire by mail.

The data collected will describe the economic, social, and cultural contributions of livestock operations to grazing permittees including: (1) Background information on the permittee and his/her family; (2) background information on the livestock operation; (3) contribution of the livestock operation to the household economy; (4) contribution of the livestock operation to the cultural, and lifestyle; (5) land use values of the family and community. After completing the information collection, researchers will compile and analyze the data.

The compiled data from this study will be used to assist managers on the two forests to work more effectively with grazing permittees by encouraging increased intercultural understanding. Additionally, the collected information may be used in developing and updating grazing allotment plans and in developing forest plan revisions. This type of information is also valuable in public education programs concerning the rural culture of northern New Mexico. The results of this study will also serve as the foundation for multiple research publications.

Since this study is designed to provide information on small-scale livestock operations on Federal allotments, its implementation is of considerable importance. If this data is not collected, grazing allotment plans and forest plan revisions for the target

forests will not be based on the most current and appropriate socio-cultural and economic information. Furthermore, agency relations with the community may be hindered from a lack of knowledge that might otherwise help to promote intercultural understanding and cooperation.

*Estimate of Annual Burden:* One and a half hours.

*Type of Respondents:* Livestock ranchers/owners who have permits to graze cattle or sheep on the Santa Fe and Carson National Forests in northern New Mexico.

*Estimated Annual Number of Respondents:* 600 respondents.

*Estimated Annual Number of Responses per Respondent:* One time. This is a one-time collection of information.

*Estimated Total Annual Burden on Respondents:* 900 total hours. This is a one-time collection of information.

#### Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

#### Use of Comments

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: May 2, 2003.

**Robert Lewis, Jr.,**

*Deputy Chief, Research and Development.*

[FR Doc. 03-11409 Filed 5-7-03; 8:45 am]

**BILLING CODE 3410-11-P**

## BROADCASTING BOARD OF GOVERNORS

### Sunshine Act Meeting

**DATE AND TIME:** May 13, 2003; 3 p.m.-4:15 p.m.

**PLACE:** Radio Free Asia, 2025 M Street, NW., Suite 300, Washington, DC 20036.

**CLOSED MEETING:** The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6)).

**CONTACT PERSON FOR MORE INFORMATION:** Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401-3736.

Dated: May 5, 2003.

**Carol Booker,**

*Legal Counsel.*

[FR Doc. 03-11604 Filed 5-6-03; 2:11 pm]

**BILLING CODE 8230-01-U**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-845, A-122-847]

### Notice of Preliminary Determinations of Sales at Less Than Fair Value: Certain Durum Wheat and Hard Red Spring Wheat From Canada

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of preliminary determinations of sales at less than fair value.

**SUMMARY:** We preliminarily determine that durum wheat and hard red spring wheat from Canada are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on these preliminary determinations. If these investigations proceed normally, we will make our

final determinations within 75 days of these preliminary determinations.

**EFFECTIVE DATE:** May 8, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Jarrod Goldfeder, Julie Santoboni, or Cole Kyle, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0189, (202) 482-4194, or (202) 482-1503, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

Since the initiation of these investigations (*Notice of Initiation of Antidumping Duty Investigations: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 67 FR 65947 (October 29, 2002) ("Initiation Notice"), the following events have occurred:

On November 1, 2002, we solicited comments from interested parties regarding the criteria to be used for model-matching purposes. We received numerous comments on our proposed matching criteria in November and December 2002. Furthermore, we held discussions on the issue of model matching with officials from the North American Millers Association and the U.S. Department of Agriculture on November 15 and 20, 2002, respectively. On December 6, 2002, the Department adopted the model match criteria and hierarchy for these proceedings. See Memorandum to John Brinkmann, "Selection of Model Matching Criteria for Purposes of the Antidumping Duty Questionnaire," dated December 6, 2002, which is on file in the Central Records Unit ("CRU") in room B-099 of the main Department building.

On November 25, 2002, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of durum wheat and hard red spring ("HRS") wheat from Canada are materially injuring the United States durum wheat and HRS wheat industries (see ITC Investigation Nos. 731-TA-1019A and 1019B (Publication No. 3563)).

On December 4, 2002, we selected the Canadian Wheat Board ("CWB") as the mandatory respondent in these proceedings. For further discussion, see Memorandum to John Brinkmann, "Respondent Selection" dated December 4, 2002 ("Respondent Selection Memorandum"), which is on file in the CRU. We subsequently issued the antidumping questionnaires to the CWB on December 9, 2002.

On November 18, 2002, the Government of Canada ("GOC") submitted two scope exclusion requests. See "Scope Comments" section, below. On December 12, 2002, the petitioners<sup>1</sup> submitted their rebuttal comments. The GOC and the petitioners submitted additional comments on February 4 and 11, 2003, respectively.

On December 23, 2002, the petitioners submitted comments in support of their allegation that a particular market situation, within the meaning of section 773(a)(1)(C)(iii) of the Tariff Act of 1930, as amended ("the Act"), exists with regard to sales of durum wheat and HRS wheat in Canada. Further information and comments were received from the CWB, the petitioners, and the GOC throughout January 2003. On February 4, 2003, the Department informed interested parties that, based on evidence on the records of these investigations as of that date, we determined that it is appropriate for the Department to collect Canadian home market sales data for use as the basis for normal value. See "Selection of Comparison Market," below.

In January and February 2003, the Department received responses to sections A, B, and C of the Department's original questionnaire from the CWB. The Department issued supplemental questionnaires for sections A, B, and C in February and March 2003, and received responses from the CWB from February through April 2003.

On January 24, 2003, pursuant to section 733(c)(1)(B) of the Act, we determined that these proceedings are extraordinarily complicated and that additional time was necessary to make our preliminary determinations. Therefore, we postponed the preliminary determinations until no later than May 1, 2003. See *Notice of Postponement of Preliminary Antidumping Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 67 FR 24114 (January 31, 2003).

On January 29, 2003, the petitioners made an allegation of sales below the cost of production ("COP") against sales of HRS wheat from Canada. On February 19, 2003, the petitioners revised their sales-below-COP allegation on HRS wheat and also alleged that sales of durum wheat in Canada were made at prices below COP. The petitioners supplemented their cost allegation on February 24, 2003. The CWB submitted comments on these cost

allegations on February 7, 24, and 27, 2003. On February 25, 2003, the Department initiated a cost investigation on Canadian sales of HRS wheat. See Memorandum to Neal Halper, "Certain Hard Red Spring Wheat from Canada: Petitioner's Allegation of Sales Below the Cost of Production by the Canadian Wheat Board," dated February 25, 2003, which is on file in the CRU.

Also, on February 25, 2003, we solicited comments from interested parties regarding the selection of cost respondents in the sales-below-cost investigation of HRS wheat. We received comments from the petitioners and the CWB on February 28, March 3, and March 7, 2003. On March 10, 2003, we solicited additional comments from interested parties on our proposed cost respondent selection methodology. On March 12, 2003, we received comments on the proposed cost respondent selection methodology from the petitioners and the CWB. Thereafter, on March 14, 2003, the Department issued a section D questionnaire to selected cost respondents. The Department received responses to section D of the Department's questionnaire on April 21, 2003. Supplemental questionnaires for section D will be issued subsequent to the preliminary determination on HRS wheat.

On February 28, 2003, the Department determined not to initiate a cost investigation on Canadian sales of durum wheat. See Memorandum to Neal Halper, "Certain Durum Wheat from Canada: Petitioner's Allegation of Sales Below the Cost of Production by the Canadian Wheat Board," dated February 28, 2003, which is on file in the CRU. On March 10, 2003, the petitioners requested that the Department reconsider its decision to not initiate an investigation of sales below COP by the CWB. The petitioners submitted further information and comments on March 14, 21, 27, and 31, 2003. On March 12, 25, and 28, 2003, the CWB filed comments opposing the petitioners' request for reconsideration. On April 8, 2003, the Department reaffirmed its decision not to initiate a cost investigation on Canadian sales of durum wheat. See Memorandum to Susan Kuhbach, Acting Deputy Assistant Secretary, "Antidumping Duty Investigation of Certain Durum Wheat from Canada; Request for the Department to Reconsider its Decision to Not Initiate an Investigation of Sales Below the Cost of Production by the Canadian Wheat Board," dated April 8, 2003, which is on file in the CRU.

On April 23 and 25, 2003, the petitioners submitted comments with

<sup>1</sup> The petitioners are the North Dakota Wheat Commission ("NDWC") (hard red spring wheat), the Durum Growers Trade Action Committee (durum wheat), and the U.S. Durum Growers Association (durum wheat).

respect to the upcoming preliminary determinations.

### Scope of Investigations

For purposes of these investigations, the products covered are (1) durum wheat and (2) hard red spring wheat.

#### A. Durum Wheat

Imports covered by this investigation are all varieties of durum wheat from Canada. This includes, but is not limited to, a variety commonly referred to as Canada Western Amber Durum. The merchandise subject to this investigation is currently classifiable under the following Harmonized Tariff Schedule of the United States ("HTSUS") subheadings: 1001.10.00.10, 1001.10.00.91, 1001.10.00.92, 1001.10.00.95, 1001.10.00.96, and 1001.10.00.99. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

#### B. Hard Red Spring Wheat

Imports covered by this investigation are all varieties of hard red spring wheat from Canada. This includes, but is not limited to, varieties commonly referred to as Canada Western Red Spring, Canada Western Extra Strong, and Canada Prairie Spring Red. The merchandise subject to this investigation is currently classifiable under the following HTSUS subheadings: 1001.90.10.00, 1001.90.20.05, 1001.90.20.11, 1001.90.20.12, 1001.90.20.13, 1001.90.20.14, 1001.90.20.16, 1001.90.20.19, 1001.90.20.21, 1001.90.20.22, 1001.90.20.23, 1001.90.20.24, 1001.90.20.26, 1001.90.20.29, 1001.90.20.35, and 1001.90.20.96. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

### Scope Comments

In accordance with our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (see 67 FR 65948).

On November 18, 2002, we received a request from the GOC to amend the scope of these investigations and the companion countervailing duty ("CVD") investigations of hard red spring wheat and durum wheat. Specifically, the GOC requested that the scope be amended to exclude those areas of Canada where the CWB does not have jurisdiction, and to

remove Harmonized Tariff Schedule number 1001.90.20.96 from the scope of the antidumping and CVD investigations of certain hard red spring wheat.

On December 12, 2002, the petitioners submitted rebuttal comments. On February 4, 2003, the GOC responded to those comments, and on February 11, 2003, the petitioners commented on the GOC's February 4, 2003 comments.

In the concurrent CVD investigations of durum wheat and HRS wheat from Canada, the Department preliminarily determined that these scope exclusions were not warranted. For further discussion, see the March 3, 2003 memorandum to Acting Deputy Assistant Secretary Susan H. Kuhbach, "Scope Exclusion Requests: Non-Canadian Wheat Board Areas and HTSUS 1001.90.20.96," on file in the CRU for the instant proceedings; and *Preliminary Affirmative Countervailing Duty Determinations and Alignment of Final Countervailing Duty Determinations With Final Antidumping Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat from Canada*, 68 FR 11374, 11375 (March 10, 2003).

### Period of Investigation

The period of investigation ("POI") is July 1, 2001, through June 30, 2002. This period corresponds to the four most recent fiscal quarters prior to the filing of the petition (*i.e.*, September 13, 2002).

### Fair Value Comparisons

To determine whether sales of durum wheat and hard red spring wheat from Canada to the United States were made at less than fair value ("LTFV"), we compared the export price ("EP") to the normal value ("NV"), as described in the "Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs to NVs. Any specific changes to the EP and NV calculations are discussed in the May 1, 2003, calculation memoranda, which are on file in the CRU ("Calculation Memoranda").

### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the CWB in the home market during the POI that fit the description in the "Scope of Investigations" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales of identical

merchandise made in the home market, where possible. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

To identify identical and similar merchandise for purposes of comparing U.S. and home market sales, we developed several product characteristics. Specifically, for durum wheat, we asked the CWB to report information on the type, grade, protein content, vitreous kernel content, test weight, and moisture content, for each sale during the POI. For HRS wheat, we asked the CWB to report information on the type, grade, protein content, class, vitreous kernel content, test weight, and moisture content, for each sale during the POI.

In its submissions concerning model matching, as well as in its initial questionnaire responses, the CWB consistently asserted that it would be unable to provide complete data on vitreous kernel content, test weight, and moisture content, because such data are not normally maintained in the CWB's books and records—in either electronic or hard copy form—in the ordinary course of business. Because the Department found that these product characteristics are appropriate for model matching purposes in these proceedings, we reiterated our request that the CWB supply all available data to the Department. In its April 23, 2003, supplemental questionnaire response, the CWB stated that it had reported all of the product characteristic data available to it. For durum wheat, the CWB reported complete product characteristics for virtually all U.S. sales and reported complete data for approximately half of the home market sales. For HRS wheat, however, the CWB reported complete product characteristic data for only a small number of U.S. and home market sales. The CWB reiterated that, because data on these product characteristics are not maintained in the CWB's normal course of business for a majority of transactions, the sales databases were "necessarily incomplete." See CWB's April 23, 2003, submission, at 2.

For purposes of these preliminary determinations, we have accepted the CWB's statement that it has reported all the product characteristic information available to it. However, given the magnitude of the missing data, we intend to verify very carefully the CWB's claim that all data were reported and that it does not consistently collect or maintain data on vitreous kernel

content, test weight, and moisture content. Moreover, we continue to take the position that all the product characteristics selected by the Department are important for making proper comparisons in these proceedings. Therefore, for durum wheat, we have matched U.S. sales for which complete product characteristic data was reported to those home market sales also containing complete product characteristic data, given the fact that we have almost complete U.S. data and complete data on a sufficient number of home market sales. For HRS wheat, however, we would not be able to make meaningful comparisons if we were to rely on all seven product characteristics because of the incompleteness of the U.S. and home market sales databases. Accordingly, we have matched U.S. sales of HRS wheat to home market sales using only the first four product characteristics (*i.e.*, type, grade, protein content, and class). However, we note that, consistent with the methodology outlined in the Memorandum from Theresa L. Caherty and Michael P. Martin to Neal M. Halper, "Identification of Cost of Production Respondents," dated April 22, 2003 ("Cost Respondent Selection Memorandum"), which is on file in the CRU, we have excluded Canadian western extra strong wheat, Canadian prairie spring wheat, and feed wheat from the HRS wheat antidumping duty analysis due to the relatively small quantity of sales of these products to the United States during the POI.

#### Date of Sale

In its original questionnaire responses, the CWB reported home market and U.S. sales using invoice date as the date of sale. Based on the description of the sales process provided by the CWB, we note that, in the CWB's normal commercial practice, the sales invoice is normally issued after the date of shipment. Because the date of shipment almost always precedes the reported date of sale, we preliminarily determine that the date of shipment better reflects the date on which the CWB established the material terms of sale, in accordance with 19 CFR 351.401(i). Accordingly, we have relied on the date of shipment as the date of sale.

#### Export Price

For both durum wheat and HRS wheat, we calculated EP, in accordance with section 772(a) of the Act, because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United

States, or to an unaffiliated purchaser for exportation to the United States, and because constructed export price methodology was not otherwise warranted. We based EP on the in-store or C&F price to unaffiliated purchasers in the United States. We identified the starting price, where appropriate, by accounting for interest charges/allowances, cleaning allowances, cost of moving charges, late shipment storage charges, rail freight allowances, and billing adjustments, where applicable. The CWB reported agent's commissions as an adjustment to the starting price. We treated these expenses as commission expenses. See Calculation Memoranda. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included, where appropriate, foreign inland freight (country elevator to terminal, or Thunder Bay to St. Lawrence freight charges), rail carrier charges, hopper car charges, terminal expenses, fobbing costs (charges associated with loading the wheat onto the vessel), demurrage/despatch costs, country elevator storage expenses, freight revenue, and certain other freight charges, which, because of their proprietary nature, cannot be summarized in this notice. See Calculation Memoranda. As noted in the Calculation Memoranda, we reclassified certain expenses reported by the CWB as movement expenses as direct selling expenses.

#### Normal Value

##### A. Selection of Comparison Market

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) and that there is no particular market situation that prevents a proper comparison with the EP. 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 CWB's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the CWB'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 for the subject merchandise, we determined that the home market

was viable for both durum wheat and HRS wheat.

In the *Initiation Notice*, we determined that information reasonably available to the petitioners indicated the existence of a particular market situation—pursuant to section 773(a)(1)(C)(iii) of the Act—which rendered price comparisons between home market and U.S. prices inappropriate for purposes of determining whether to initiate these investigations. See *Initiation Notice*, 67 FR at 65949. We noted, however, that during the course of these investigations we would examine further the issue of particular market situation and, if necessary, the proper comparison markets to be used in each investigation. *Id.*

In a letter to interested parties dated February 4, 2003, we acknowledged that "[t]he existence of a government entity, the CWB, as a monopoly buyer and seller of wheat in the Canadian domestic market raised legitimate concerns that a particular market situation might exist with respect to the Canadian home market in these investigations." However, based on evidence on the records of these investigations as of that date, we did not find that the Canadian government controls prices to such an extent that they are non-competitive and inappropriate for use in our dumping analyses. Also, in past cases the Department has recognized a strong preference for using the home market in the Department's dumping calculations and, therefore, has established a high threshold for rejecting home market sales based upon a particular market situation.<sup>2</sup> In the case of durum wheat and HRS wheat, we determined that it is appropriate to collect Canadian home market sales data for use as the basis for normal value. However, we also acknowledged that a number of questions needed to be addressed before a final decision on this issue could be rendered and that any decision made on this issue was subject to change based on evidence collected in supplemental

<sup>2</sup> See *Fresh Kiwifruit from New Zealand: Final Results of Antidumping Administrative Review*, 61 FR 46438 (September 3, 1996); *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Review*, 62 FR 18404 (April 15, 1997); *Notice of Final Results of Antidumping Duty Administrative Review: Furfuryl Alcohol from South Africa*, 62 FR 61804 (November 14, 1997); *Notice of Final Determination of Sales at Less than Fair Value: Fresh Atlantic Salmon from Chile*, 63 FR 31411 (June 8, 1998); *Final Results of Antidumping Duty Administrative Review: Electrolytic Manganese Dioxide from Greece*, 65 FR 68978 (November 15, 2000).

questionnaires or our findings at verification.

Accordingly, in the February 4, 2003, supplemental section A questionnaire (which was modified slightly on February 20, 2003), we asked the CWB to provide further information regarding the alleged particular market situation. Specifically, we asked questions designed to establish whether the CWB's prices in the home market are based upon competitively set prices and whether the CWB consistently bases its prices on a published U.S. price (e.g., daily prices reported by the Minneapolis Grain Exchange or other sources). On February 21 and March 4, 2003, the CWB submitted responses to the supplemental section A questionnaire. On April 23, 2003, the petitioners submitted additional comments on this issue.

No new information provided by interested parties since our February 4, 2003, letter suggests that the Canadian government controls prices to such an extent that they are non-competitive and inappropriate for use in our dumping analyses. See Memorandum to Jeffrey A. May, Deputy Assistant Secretary, "Particular Market Situation," dated May 1, 2003, which is on file in the CRU. Accordingly, we continue to find that it is appropriate to use home market sales for purposes of determining normal value in these investigations. Because this finding is based, in part, on representations by the CWB about how it sets prices in the home market, our decision regarding the appropriateness of Canadian home market prices may be subject to change based upon the results of verification.

#### *B. Affiliated-Party Transactions and Arm's Length Test*

In its questionnaire responses, the CWB noted that it is treating grain producers that supply grain to the CWB as affiliated parties, given the various aspects of the relationship between the western Canadian grain producers and the CWB. Specifically, western Canadian grain producers supply the CWB, are members of the CWB, and elect two-thirds of the CWB Board; therefore, according to the CWB, the western Canadian farmers control the CWB Board. See the CWB's January 10, 2003, section A questionnaire response, at A-16 to A-17. However, the CWB further noted that, under its "Producer Direct Sales" ("PDS") program, the CWB makes sales to grain producers, and it has treated sales to these producers as unaffiliated party transactions. In other words, the CWB appears to have considered grain producers to be affiliated parties when

they supply grain to the CWB, but considered the same entities to be unaffiliated when they act as customers under the PDS program. For purposes of these preliminary determinations, we are treating sales to producers under the PDS program as affiliated party transactions because these entities are affiliated with the CWB pursuant to section 771(33)(G) of the Act.

The Department's standard practice with respect to the use of home market sales to affiliated parties for NV is to determine whether such sales are at arm's length prices. Therefore, in accordance with that practice, we performed an arm's length test on the CWB's sales to affiliates as follows.

Sales to affiliated customers in the home market not made at arm's length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102. To test whether these sales were made at arm's length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges and direct selling expenses. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c) and *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27355 (May 19, 1997). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. See, e.g., *Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

#### *C. Cost of Production Analysis*

As noted above, based on our analysis of an allegation made by the petitioners after initiation of these investigations, we found that there were reasonable grounds to believe or suspect that sales of HRS wheat in the home market were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a company-specific sales-below-cost investigation to determine whether sales of HRS

wheat were made at prices below their COP.

As noted above in the case history, the Department selected the CWB, the largest exporter of the subject merchandise to the United States during the POI, as the sole respondent in the HRS wheat investigation. The CWB's February 5, 2003, section A questionnaire response stated that it was an exporter of the subject merchandise, not the producer of subject merchandise, and included a list of wheat suppliers. Because there are more than 56,000 HRS wheat producers in Canada, the Department developed a methodology to calculate a representative COP and constructed value ("CV") for the merchandise under consideration. The Department's cost respondent methodology resulted in stratifying producers of HRS wheat by all relevant soil types within each major producing province in Canada and selecting a sample size that ensured a minimum of two producers within each stratum.<sup>3</sup> The resulting final sample size was twenty-seven producers. A simple average of the costs of production within a stratum was calculated and then the amounts per stratum were weight averaged based on each stratum's delivered tons.

Of the twenty-seven producers selected, one producer (i.e., cost respondent 2)<sup>4</sup> chose not to respond to the Department's questionnaire, two other producers (i.e., cost respondents 10 and 27) did not respond based on extenuating circumstances discussed below, and one other producer (i.e., cost respondent 19) had significant issues with respect to the reporting of its COP. Therefore, as described in detail below, because these producers have not provided the necessary information on the record to calculate the simple-average COP within their respective stratum, the use of facts otherwise available is warranted.

Section 776(a)(2) of the Act provides that, if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the

<sup>3</sup> See Cost Respondent Selection Memorandum.

<sup>4</sup> Due to the proprietary nature of the name of each producer, we have assigned a number to each farmer ("cost respondent") that will be used throughout this notice when referring to that specific farmer. A list or code key identifying the name associated with each cost respondent number can be found in attachment 1 of the Memorandum from Theresa L. Caherty and Michael P. Martin to Neal M. Halper, "Cost of Production and Constructed Value Adjustments for the Preliminary Determination," dated May 1, 2003 ("COP/CV Adjustments Memorandum"), which is on file in the CRU.

submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title.<sup>5</sup> Section 776(b) of the Act further provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

With respect to cost respondent 2, this producer chose not to respond to the Department's questionnaire. As a result, use of facts available is appropriate pursuant to section 776(a)(2)(A) of the Act. In accordance with section 776(b) of the Act, if the Department finds that "an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information," an adverse inference may be used in determining the facts otherwise available. In the instant case, cost respondent 2 did not cooperate to the best of its ability by failing to provide any of the information requested in the section D cost questionnaire with no rationale for why it could not provide such information when other producers could. Therefore, as adverse facts available for the preliminary determination on HRS wheat for this cost respondent, we used the higher of the COP from the petition for the same province and soil type or the highest reported cost for other cost respondents within the same stratum. Based on our comparison of the two amounts we found that the reported cost for the other cost respondents within the same

stratum was higher. As a result, we used the other respondent's COP within the same stratum as the surrogate cost for cost respondent 2.

Both cost respondents 10 and 27 did not respond to the Department's cost questionnaire based on extenuating circumstances. With respect to cost respondent 10, the CWB explained that this farmer had deliveries of HRS wheat to the CWB during the POI, but did not produce HRS wheat during the 2001 growing season. However, cost respondent 10 did have affiliated parties that produced HRS wheat during the cost reporting period. Therefore, as a surrogate, cost respondent 10 reported its affiliate's COP for the cost reporting period. We note that this affiliate was not considered a cost respondent in the sample selection and, as such, we determined it would not be appropriate to include the affiliate's COP in our overall calculation of COP.

Similar to cost respondent 10, cost respondent 27 did not provide cost data for the 2001 growing season because the information was not available. Specifically, cost respondent 27 sold its farming operations and ceased farming. Because neither cost respondent 10 nor 27 had information available that would enable them to respond to the Department's cost questionnaire and—in the case of cost respondent 10—they attempted to provide some cost information, we applied neutral facts available for the HRS wheat preliminary determination pursuant to sections 776(a)(2)(A) and (B) of the Act. As neutral facts available, we have relied on the cost data submitted by the other cost respondents within the same stratum. Therefore, we have not included an amount for these cost respondents in the simple average calculation within their respective strata.

With respect to cost respondent 19, we note that, unlike the farmers discussed above, it submitted COP information for the cost reporting period. However, due to extenuating circumstances during the 2001 cost reporting period, this cost respondent received insurance proceeds that exceeded its total cost incurred. In addition, due to the extenuating circumstances, the yield per acre of wheat was aberrant compared to the other cost respondents. As a result, we determined that neutral facts available was warranted pursuant to section 776(a)(2)(B) of the Act. As neutral facts available we have relied on the cost data submitted by the other cost respondents within the same stratum. Therefore, we have not included an amount for this

cost respondent in the simple average calculation within its stratum.

#### 1. Calculation of COP

As noted above, the sole respondent, the CWB, was an exporter of the subject merchandise, not the producer of subject merchandise. Therefore, consistent with our practice regarding the cost of resales of subject merchandise, we requested COP data from a sample of the CWB's wheat suppliers. *See* Cost Respondent Selection Memorandum. In accordance with section 773(b)(3) of the Act, we calculated a single weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses, interest expenses, and home market packing costs for all wheat producers selected. *See* the "Test of Comparison Market Sales Prices" section below for treatment of home market selling expenses. To calculate the weighted average COP, we first simple averaged the COPs within each stratum, then weight averaged the results based on each stratum's delivered tons.

#### 2. Common and Individual Cost Respondent Adjustments

We relied on the COP data submitted by each cost respondent in its cost questionnaire response, except in specific instances where the submitted costs were not appropriately quantified or valued, or where the costs otherwise required adjustment, as discussed below:

##### (A) Common Cost Respondent Adjustments

1. We adjusted the reported labor costs for cost respondents 1, 3–9, 11–16, 18, 20–22, and 24–26. Virtually all of the labor provided on these farms was performed by the owners. For reporting purposes, the cost respondents relied on labor hours and rates from a study performed by Professor Schoney of the University of Saskatchewan. However, because this data was self-selected by the cost respondents and only represented data collected from a single province (Saskatchewan), we relied instead on the per acre labor rates published in the provincial crop guides.

2. We disallowed a reported offset to the COP for insurance proceeds received during the year by cost respondents 7, 8, 11, 15, 17, 22, 23, 25, and 26. These cost respondents failed to provide any explanation describing the facts surrounding these insurance payments. For example, it is unclear to which year's harvest the payments relate, what crops are affected, or whether the

<sup>5</sup> Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority" if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information, if it can do so without undue difficulties.

proceeds are based on market value for the damaged crops or to recover lost costs.

3. We adjusted the direct cost pool used to allocate variable and fixed overhead costs for cost respondents 1, 3, 4, 6, 8, 9, 11, 12, 14–16, 20, 21, and 22–26. Specifically, we excluded the cost of purchased livestock (whether expensed or amortized) and imputed labor from the direct cost pool.

4. We deducted imputed labor costs from the denominator used in the calculation of the G&A and financial expenses ratios. We then recalculated the ratio and applied the result to the per-unit cost of manufacture (“COM”), exclusive of imputed labor. This adjustment was made for cost respondents 1, 3–9, 11–18, and 20–26.

For detailed calculations of these adjustments for each cost respondent, see the COP/CV Adjustments Memorandum.

#### (B) Individual Cost Respondent Adjustments

##### *Cost Respondent 1*

We reduced cost respondent 1’s reported production volume by the amount of seed consumed in 2002.

##### *Cost Respondent 3*

We revised cost respondent 3’s allocation of land use cost to apportion an amount to pasture land used for grazing livestock.

##### *Cost Respondent 5*

We revised cost respondent 5’s reported per-unit COM by calculating the per-unit amount using the actual quantity of HRS wheat produced, instead of the quantity of HRS wheat delivered.

##### *Cost Respondent 6*

We revised cost respondent 6’s per-unit COM by calculating the per-unit amount using the actual quantity of HRS wheat produced. It appears that the cost respondent inadvertently used the incorrect production quantity.

##### *Cost Respondent 7*

We revised cost respondent 7’s reported cost of production to include the total amount expensed for corporate and partnership start-up costs, in accordance with the cost respondent’s normal books and records.

We also increased cost respondent 7’s reported cost of production to include labor costs related to bookkeeping services performed by an affiliate.

##### *Cost Respondent 9*

We adjusted cost respondent 9’s reported insurance costs to reflect the

accrued expense. Specifically, we included the total commodity insurance premiums, not only the actual insurance payments.

##### *Cost Respondent 14*

For cost respondent 14, we revised the direct cost pool used to allocate variable and fixed overhead costs as noted in the common cost respondent adjustment 3 above. In addition, we included certain expenses (*i.e.*, repairs and maintenance, fuel, etc.) in the direct cost pool that were excluded by the cost respondent.

We increased the numerator used to calculate the G&A expense ratio to include an amount for GST taxes that were deducted twice.

We also increased the numerator for the financial expense ratio by disallowing an offset for short-term interest income. Specifically, we found no evidence on the record in the cost respondent’s normal books and records where this income was actually earned and recorded.

##### *Cost Respondent 16*

We adjusted cost respondent 16’s allocation of custom work expenses.

##### *Cost Respondent 17*

We adjusted cost respondent 17’s labor to reflect the actual labor expense reported in the cost respondent’s normal books and records.

##### *Cost Respondent 21*

We disallowed the change in accounting method related to repairs and maintenance expenses. Specifically, for reporting purposes cost respondent 21 capitalized and amortized certain repairs and maintenance expenses. However, these amounts were expensed in the cost respondent’s normal books and records. Therefore, for the HRS wheat preliminary determination, we included the total amount expensed in the COP.

##### *Cost Respondent 22*

We reduced cost respondent 22’s reported production volume by the amount of seed consumed in 2002.

##### *Cost Respondent 23*

We revised cost respondent 23’s labor to reflect actual labor costs reported in the cost respondent’s normal books and records.

We disallowed cost respondent 23’s treatment of a secondary wheat product as a by-product offset. For the preliminary determination, we calculated one average cost of HRS wheat for the 2001 growing season. Thus, while we disallowed the offset to

HRS wheat costs, we did include the quantity of feed HRS wheat in the denominator of the calculation of the growing season’s average HRS wheat cost per ton.

##### *Cost Respondent 25*

We adjusted the reported land use cost for cost respondent 25 to include the amount of rent paid to the shareholders for land and to exclude the property taxes personally paid by the shareholders.

#### 3. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of HRS wheat, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were adjusted for any applicable freight revenue, interest charges/allowances, cleaning allowances, cost of moving charges, late shipment storage charges, rail freight allowances, movement charges, billing adjustments, and direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which did not permit the recovery of all costs within a reasonable period of time.

#### 4. Results of the COP Test

Pursuant to section 773(b)(1), where less than 20 percent of the respondent’s sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in “substantial quantities.” Where 20 percent or more of a respondent’s sales of a given product are at prices less than the COP, we determine that the below-cost sales represent “substantial quantities” within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act. If so, we disregard the below-cost sales.

We found that, for certain specific HRS products, more than 20 percent of the CWB’s home market sales within an extended period of time were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the



basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### D. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent) according to 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id*; see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),<sup>6</sup> including selling functions,<sup>7</sup> class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(7)(A) of the Act and 19 CFR 351.412(c), in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices), we consider the starting prices before any adjustments.

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined, we make a level of trade adjustment under section 773(a)(7)(A) of the Act.

We obtained information from the CWB regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the CWB for each channel of distribution. Our level of trade findings are summarized below. Our LOT analyses for durum wheat and HRS wheat, which contain business proprietary information, are incorporated in the Calculation Memoranda.

#### 1. Durum Wheat

The CWB reported seven channels of distribution in the home market, with three customer categories. The first channel of distribution, coded in its submissions as channel 1, included Eastern Water In-store Thunder Bay sales made to unaffiliated resellers and end-users. The second channel of distribution, coded in its submissions as channel 2, were Eastern Water FOB In-store St. Lawrence sales made to unaffiliated resellers. The third channel of distribution, coded in its submissions as channel 3, were Rail to East (not through Thunder Bay) sales made to unaffiliated resellers and end users. The fourth channel of distribution, coded in its submissions as channel 4, were Western Elevator to Mills (acting as a process elevator) sales made to end users. The fifth channel of distribution, coded in its submissions as channel 5, were Western Elevator to Mill (not acting as a process elevator) and Producer Direct sales made to unaffiliated resellers, end users, and producers. Sales to these customer categories in each of these channels were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. Accordingly, we preliminarily determine that these channels of distribution constitute a distinct LOT ("LOTH1").

The sixth channel of distribution, coded in its submissions as channel 6, were Western Mill Producer Direct sales made to end users and producers. The seventh channel of distribution, coded in its submissions as channel 10, were Producer Direct Sales, Domestic Feed Sales, or Truck Sales to the United States made to unaffiliated resellers and producers. Sales to these customer categories in both of these channels were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service, but differed from sales to LOTH1 substantially with respect to freight services and warehouse/inventory maintenance. Accordingly, we preliminarily determine that these

channels of distribution constitute a distinct LOT ("LOTH2").

In the U.S. market, the CWB had only EP sales. The CWB reported EP sales to two channels of distribution and three customer categories. The first channel of distribution, coded in its submissions as channel 7, were Rail Minneapolis/Chicago sales made to unaffiliated resellers and end users. Sales to both customer categories in this channel were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. Accordingly, we preliminarily determine that this channel of distribution constitutes a distinct LOT ("LOTU1").

The second channel of distribution, coded in its submissions as channel 10, were Producer Direct Sales, Domestic Feed Sales, or Truck Sales to the United States made only to producers. We found that sales in this channel ("LOTU2") differed substantially from LOTU1 with respect to the sales process, freight service, and warehouse/inventory maintenance, and that sales in each LOT were made at different points in the chain of distribution. Based upon our overall analysis in the U.S. market, we found that LOTU1 and LOTU2 constitute two distinct levels of trade.

The EP level of trade LOTU1 was similar to the home market level of trade LOTH1 with respect to sales process, freight services, warehousing/inventory maintenance, and warranty service, but differed considerably from home market level of trade LOTH2 with respect to freight services and warehousing/inventory maintenance. Consequently, we matched U.S. sales at EP level of trade LOTU1 to sales at the same level of trade in the home market (*i.e.*, LOTH1). Where we did not match products at the same level of trade, and there was a pattern of consistent price differences between different levels of trade, we made a level of trade adjustment. See section 773(a)(7)(A) of the Act.

The EP level of trade LOTU2 was similar to the home market level of trade LOTH2 with respect to sales process, freight services, warehousing/inventory maintenance, and warranty service, but differed considerably from home market level of trade LOTH1 with respect to freight services and warehousing/inventory maintenance. Consequently, we matched U.S. sales at EP level of trade LOTU2 to sales at the same level of trade in the home market (*i.e.*, LOTH2). Where we did not match products at the same level of trade, and there was a pattern of consistent price differences between different levels of trade, we made a level of trade

<sup>6</sup> The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to determine properly where in the chain of distribution the sales occurred.

<sup>7</sup> Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of these preliminary determinations, we have organized the common durum wheat and hard red spring wheat selling functions into four major categories: Sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services. Other selling functions unique to the respondent were considered, as appropriate.



adjustment. *See* section 773(a)(7)(A) of the Act.

## 2. Hard Red Spring Wheat

The CWB reported seven channels of distribution in the home market, with three customer categories. The first channel of distribution, coded in its submissions as channel 1, included Eastern Water In-store Thunder Bay sales made to unaffiliated resellers and end-users. The second channel of distribution, coded in its submissions as channel 2, were Eastern Water FOB In-store St. Lawrence sales made to end users. The third channel of distribution, coded in its submissions as channel 3, were Rail to East (not through Thunder Bay) sales made to unaffiliated resellers and end users. The fourth channel of distribution, coded in its submissions as channel 4, were Western Elevator to Mills (acting as a process elevator) sales made to unaffiliated resellers and end users. The fifth channel of distribution, coded in its submissions as channel 5, were Western Elevator to Mill (not acting as a process elevator) and Producer Direct sales made to unaffiliated resellers, end users, and producers. Sales to these customer categories in each of these channels were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. Accordingly, we preliminarily determine that these channels of distribution constitute a distinct LOT ("LOTH1").

The sixth channel of distribution, coded in its submissions as channel 6, were Western Mill Producer Direct sales made to end users. The seventh channel of distribution, coded in its submissions as channel 10, were Producer Direct Sales, Domestic Feed Sales, or Truck Sales to the United States made to unaffiliated resellers, end users, and producers. Sales to these customer categories in these channels were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service, but differed from sales to LOTH1 substantially with respect to freight services. Accordingly, we preliminarily determine that these channels of distribution constitute a distinct LOT ("LOTH2").

In the U.S. market, the CWB had only EP sales. The CWB reported EP sales to four channels of distribution and three customer categories. The first channel of distribution, coded in its submissions as channel 7, were Rail Minneapolis/Chicago sales made to unaffiliated resellers and end users. The second channel of distribution, coded in its submissions as channel 8, were Vessel

Thunder Bay to Buffalo/Puerto Rico sales made to unaffiliated resellers. The third channel of distribution, coded in its submissions as channel 9, were Vancouver to United States sales made to unaffiliated resellers and end users. Sales to both customer categories in these channels were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. Accordingly, we preliminarily determine that these channels of distribution constitute a distinct LOT ("LOTU1").

The fourth channel of distribution, coded in its submissions as channel 10, were Producer Direct Sales, Domestic Feed Sales, or Truck Sales to the United States made to unaffiliated resellers and producers. Sales to both customer categories in this channel were similar with respect to sales process, freight services, warehouse/inventory maintenance, and warranty service. We further found that sales in this channel ("LOTU2") differed substantially from LOTU1 with respect to freight services and warehouse/inventory maintenance, and that sales in each LOT were made at different points in the chain of distribution. Based upon our overall analysis in the U.S. market, we found that LOTU1 and LOTU2 constitute two distinct levels of trade.

The EP level of trade LOTU1 was similar to the home market level of trade LOTH1 with respect to sales process, freight services, warehousing/inventory maintenance, and warranty service, but differed considerably from home market level of trade LOTH2 with respect to freight services. Consequently, we matched U.S. sales at EP level of trade LOTU1 to sales at the same level of trade in the home market (*i.e.*, LOTH1). Where we did not match products at the same level of trade, and there was a pattern of consistent price differences between different levels of trade, we made a level of trade adjustment. *See* section 773(a)(7)(A) of the Act.

The EP level of trade LOTU2 was similar to the home market level of trade LOTH2 with respect to sales process, freight services, warehousing/inventory maintenance, and warranty service, but differed considerably from home market level of trade LOTH1 with respect to freight services and warehousing/inventory maintenance. Consequently, we matched U.S. sales at EP level of trade LOTU2 to sales at the same level of trade in the home market (*i.e.*, LOTH2). Where we did not match products at the same level of trade, and there was a pattern of consistent price differences between different levels of trade, we made a level of trade

adjustment. *See* section 773(a)(7)(A) of the Act.

## E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on in-store or C&F prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's length. We identified the correct starting price, where appropriate, by accounting for interest charges/allowances, cleaning allowances, cost of moving charges, late shipment storage charges, rail freight allowances, and billing adjustments. We also made adjustments for the following movement expenses, where appropriate, in accordance with section 773(a)(6)(B)(iii) of the Act: Foreign inland freight (from country elevator to terminal or Eastern Canadian Mills, or from Thunder Bay to St. Lawrence), hopper car charges, terminal expenses, fobbing costs, handling and elevation expenses, and country elevator storage expenses. As noted in the Calculation Memoranda, we reclassified certain expenses reported by the CWB as movement expenses as direct selling expenses. Because there are no cost differences attributable to differences in the physical characteristics of the merchandise in these cases, we were not able to make a difference in merchandise adjustment—pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411—based on costs. In addition, where appropriate, we made adjustments under section 773(a)(6)(C)(iii) of the Act for differences in circumstances of sale for imputed credit expenses, tender premiums, car awards performance measures, cleaning costs, weighing/inspection costs, protein premiums, producer revenues, and certain other proprietary adjustments. We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the comparison market or on U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset). Finally, where appropriate, we made an adjustment for differences in LOT under section 773(a)(7)(A) of the Act and 19 CFR 351.412(b)–(e).

## Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve.

## Verification

As provided in section 782(i) of the Act, we will verify all information to be

used in making our final determinations.

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the U.S. Bureau of Customs and Border Protection ("BCBP") to suspend liquidation of all imports of subject merchandise from Canada that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the BCBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

#### DURUM WHEAT

Exporter/manufacture	Weighted-average margin percentage
Canadian Wheat Board ..	8.15
All Others .....	8.15

#### HARD RED SPRING WHEAT

Exporter/manufacture	Weighted-average margin percentage
Canadian Wheat Board ..	6.12
All Others .....	6.12

### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determinations. If our final determinations are affirmative, the ITC will determine before the later of 120 days after the date of these preliminary determinations or 45 days after our final determinations whether these imports are materially injuring, or threaten material injury to, the U.S. industries.

### Disclosure

We will disclose the calculations used in our analyses to parties in these proceedings in accordance with 19 CFR 351.224(b).

### Public Comment

Case briefs for these investigations must be submitted to the Department no later than 50 days after the date of publication of these preliminary determinations or one week after the issuance of the last verification report, whichever is later. Rebuttal briefs must be filed five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should

accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in these investigations, the hearing will tentatively be held two days after submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

If these investigations proceed normally, we will make our final determinations within 75 days of these preliminary determinations.

These determinations are published pursuant to sections 733(f) and 777(i) of the Act.

Dated: May 1, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 03-11486 Filed 5-7-03; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-580-837]

### Notice of Rescission of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon Quality Steel Plate From the Republic of Korea

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of rescission of countervailing duty administrative review.

**SUMMARY:** On March 25, 2003, the Department of Commerce (the Department) initiated an administrative

review of the countervailing duty order on certain cut-to-length carbon quality steel plate (CTL Plate) from the Republic of Korea, covering the period January 1, 2002 through December 31, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 14394 at 14400 (March 25, 2003). In accordance with 19 CFR 351.213(d)(1) (2002), the Department is now rescinding this review because the requester has withdrawn its request for an administrative review.

**EFFECTIVE DATE:** May 8, 2003.

### FOR FURTHER INFORMATION CONTACT:

Stephanie Moore or Joy Zhang, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3692 or (202) 482-1168, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On February 27, 2003, the Department received a letter from Nucor requesting an administrative review of the countervailing order on CTL Plate from Korea. On March 25, 2003, the Department initiated an administrative review of this order for the period January 1, 2002 through December 31, 2002. Nucor submitted a letter dated March 24, 2003, withdrawing its request for the above referenced administrative review.

#### Scope of the Review

For purposes of this administrative review, the products covered are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in the scope of this order are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been beveled or