UES established that the related carrier charges UES arm's-length rates. Therefore, we used actual ocean freight rates reported.

We adjusted USP for value-added taxes (VAT) in accordance with our practice as outlined in *Silicomanganese from Venezuela, Preliminary Determination of Sales at Less Than Fair Value,* 59 FR 31204 (June 17, 1994). No other adjustments were claimed or allowed.

We used the date of shipment as the date of sale for both U.S. sales and home market sales because a substantial percentage of both U.S. orders and home market orders were significantly amended subsequent to the original purchase order, and the price and quantity were set on the date of shipment.

## Foreign Market Value

In calculating FMV for UES, the Department used home market sales or constructed value (CV), as defined in section 773 of the Act.

To determine whether there were sufficient sales of lead and bismuth steel in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales to the volume of third country sales, in accordance with section 773(a)(1) of the Act. We found that sales in the home market constituted a sufficient basis for FMV, in accordance with 19 CFR 353.48(a).

Many of UES's home market sales were made to related customers. In order to determine whether sales to related parties might be appropriate to use as the basis of FMV, the Department compares prices of those sales to prices to unrelated parties, on a model-bymodel basis. When possible, the Department uses unrelated party sales at the same level of trade as the related party sales for this comparison. UES did not have sales to unrelated customers in the home market at the same level of trade and in similar quantities as those to related customers. In the home market, UES sold to related cold finishers and unrelated resellers. Home market sales to related cold finishers were generally large quantity sales, while home market sales to unrelated resellers were generally small quantity sales. In the U.S. market, UES sold to unrelated cold finishers in large quantities.

UES claimed that its home market sales to related finishers were made at arm's-length prices, and that any price differences among customers reflect market factors and the fact that high-volume, long-term customers are able to negotiate lower prices than smaller

customers, related or not. In support of its argument, UES submitted a comparison of related prices with unrelated prices, allegedly showing that UES's related-party prices satisfy the Department's customary arm's-length test. UES also submitted an analysis of prices to a party that was acquired by UES during the period of review, in support of its contention that relationship does not determine price levels. Finally, UES submitted a number of sample invoices it issued to an unrelated third-country customer, which it claimed was comparable in size and purchase volume with UES's major related home market customers, to show that its related-party prices were market-based.

Petitioner, Inland Steel Bar Company, asserted that home market sales to related parties were not made on an arm's-length basis and that UES's analysis did not take into account all customer rebates and discounts. Petitioner further asserted that UES failed to perform its arm's-length test on a model-specific basis. Regarding the comparison of prices paid by a party before it was acquired by UES with the prices paid after it was acquired, petitioner claimed that the comparison was inapposite, as market pricing conditions changed significantly since the company was acquired, and home market prices increased for all customers. Regarding UES's comparison of prices in a third-country market with prices to related customers in the home market, petitioner claimed that prices charged by UES in third countries have no bearing on this review because market conditions in third countries vary from those in the home market.

We agree with petitioner that differences in market conditions across countries or time periods could invalidate certain of UES's analyses. We further agree with petitioner that UES's analysis of data from this review fails to provide an accurate assessment of whether its related-party sales were made at arm's length because it did not account for certain rebates and it did not perform its arm's-length test on a model group-by-model group basis.

For these reasons, we used the only information that was available in the record, we compared related-customer sales with unrelated-customer sales on a model group-by-model group basis regardless of level of trade. When sales to related customers were made at arm's-length prices, we included them in the calculation of FMV. UES made no claim for an adjustment due to differences in quantities. We invite comments on the issue of how to perform an arm's-length test in cases

such as this, where home market sales to related and unrelated customers are made at different levels of trade and in different quantities.

In accordance with 19 CFR 353.58 and 353.55, we compared U.S. sales to home market sales made at the same level of trade, and in similar commercial quantities, where possible. That is, we compared U.S. sales of 25 metric tons (MT) or more with home market sales of 25 MT or more, and U.S. sales of less than 25 MT with home market sales of less than 25 MT, because surcharges apply to home market sales of less than 25 MT, but not to home market sales of 25 MT or more. Quantity surcharges do not apply to any U.S. sales.

Because the Department found sales at less than their cost of production (COP) during the less-than-fair-value (LTFV) investigation, in accordance with our standard practice, we found reasonable grounds to believe or suspect that UES had made sales at prices below its COP in the home market during the period of review (POR). Thus, in accordance with section 773(b) of the Act, we investigated whether UES had home market sales that were made at less than their COP over an extended period of time, and in substantial quantities during this POR.

To determine whether home market prices were below the COP, we calculated the COP based on the sum of UES's cost of materials, fabrication, general expenses, and packing, in accordance with 19 CFR 353.51(c). We made the following adjustments to UES's reported costs: (1) we increased cost of manufacturing for labor-related expenses; and (2) we increased general and administrative expenses for costs attributed to discontinued operations. The latter were part of UES's general and administrative expenses that UES had failed to include in its reported costs. We compared home market selling prices, net of movement charges, rebates, and invoice corrections, to each product's COP. We found that certain sales were made at prices below the

COP. To determine whether the below-cost sales were made in substantial quantities over an extended period of time, we applied our following standard practice. If over 90 percent of a UES's sales of a given model were at prices above the COP, we did not disregard any below-cost sales because we determined that the below-cost sales were not made in substantial quantities over an extended period of time. If between 10 and 90 percent of UES's sales of a given model were at prices above the COP, we disregarded only the below-cost sales, if we found that these