

financial loss from delayed payment during the period between the payment date listed on the invoice and the actual payment date. Therefore, according to Mannesmann, denying an adjustment for credit expenses for the time following payment due date and actual payment is totally illogical.

DOC Position

As discussed above in Comment 3, we have determined that invoice date is the appropriate date of sale in this case. Therefore, we consider moot petitioner's arguments with respect to the restatement of home market prices to reflect the value of the cruzeiro on the order date.

In our preliminary determination, we adjusted FMV for inflation occurring between order and invoice date, which factors in expected payment terms, as well as credit expenses, which include an inflation factor based on actual payment terms. Based on verification findings and our acceptance of respondent's date of sales methodology, we have determined that this adjustment was incorrect because it double-counted the value of inflation. Therefore, for purposes of the final determination, we only made an adjustment to FMV for credit expenses as reported and verified.

Comment 5

Mannesmann argues that the Department should compare U.S. sales by MPS with home market sales made by MSA, including sales to its related party MCSA, and that it provided evidence that MSA's sales to MCSA are arm's-length transactions. However, if the Department does not treat MSA's sales to MCSA as arm's-length transactions, the Department should make a level of trade adjustment to reflect the additional selling expenses (*i.e.*, indirect selling expenses and inventory carrying costs) incurred by MCSA.

Mannesmann asserts that 19 CFR 353.58 requires that a level of trade adjustment be made when FMV and U.S. price are not based on sales at the same commercial level of trade. According to respondent, MSA and MCSA operate at different levels of trade in Brazil. MCSA is a distributor that purchases from MSA and sells to customers from inventory, requiring MCSA to incur considerable inventory and selling expenses. In contrast, both MSA in Brazil and MPS in the United States are not made from inventory, but are manufactured to order. To support its argument, respondent cites *Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from*

Spain (59 FR 66931, December 28, 1994) (*Stainless Steel Bar*) where the Department granted such an adjustment under allegedly similar factual circumstances.

Petitioner contends that Mannesmann did not provide the evidence it purports to have provided substantiating its claim regarding the arm's-length nature of the transactions between MSA and MCSA. At the preliminary determination, the Department determined that sales to MCSA were not made at arm's length, and based FMV on MSA's and MCSA's sales to unrelated customers. According to petitioner, nothing in the verification report obligates the Department to change that finding. Furthermore, petitioner argues that Mannesmann has not proven its entitlement to a level of trade adjustment. Petitioner asserts that it has not been clearly established that two levels of trade exist. In addition, petitioner states that while Mannesmann argues that differences in selling expenses exist due to inventory costs, it has not proven that a correlation exists between both prices and selling expenses at each level of trade.

According to petitioner, absent additional information concerning differences in the customer bases (*e.g.*, relative size and purchasing power of customers), evidence that price differences correlate to level of trade differences, a level of trade adjustment is not appropriate. However, if the Department nonetheless decides to grant respondent the requested adjustment, it should be based on differences in actual expenses incurred on MCSA's sales; *i.e.*, the adjustment should be made on the reported indirect selling expenses only, exclusive of the reported inventory carrying costs. Petitioner also adds that these selling expenses must be offset by the indirect selling expenses incurred by MSA on U.S. sales because the basic purpose of a level of trade adjustment is to account for differences in the level of trade between U.S. and home market sales.

DOC Position

With regard to the arm's-length nature of related party sales, we agree with petitioner. Based on the results of our related party test (as described in the FMV section of this notice), we found that MSA's sales to MCSA are not at arm's length and, thus, we excluded them from our dumping analysis for purposes of the final determination. This result is consistent with that in our preliminary determination, and since that time, respondent has not provided

any new evidence to justify a departure from our normal related party test.

With regard to matching by level of trade, we have accepted respondent's level of trade classification because the record indicates that the alleged difference in level of trade involves different selling activities and expenses. However, with regard to the respondent's claim for a level of trade adjustment, we have determined that an adjustment is not warranted because we are uncertain whether the difference in level of trade affects price comparability.

In analyzing the prices at the two levels of trade, we compared average prices, adjusted for all direct selling expenses, by product and month of sale for the POI. The results of this analysis indicate that prices overlap for a significant number of sales. However, because for each month only a small number of prices by product were available and the monthly inflation rate was high, we have concluded that the data does not provide a reliable indication of the pattern of prices at the two levels of trade. Therefore, we do not have a basis to conclude whether there is or is not a pattern of price differences attributable to level of trade. Accordingly, we have not made a level of trade adjustment.

Comment 6

Petitioner maintains that Mannesmann's packing expenses are unverified and may not be relied upon for purposes of the final determination. Petitioner also maintains that these costs appear to have been based solely on labor and materials without any allocation of overhead costs, and MCSA failed to report any repacking costs associated with its sales. Therefore, petitioner advocates using BIA. As BIA, petitioner requests that the Department either not make any upward adjustment to U.S. price for packing or use the lower of the amounts reported in the U.S. sales listing and the lowest export packing amount reported on the chart on page 41 of the Department's May 11, 1995, Verification Report. Additionally, petitioner proposes that the Department should (1) subtract the lowest of the packing amount reported for the home market sales listing and the lowest domestic packing amount from the verification report chart, and (2) add as an offset to FMV the higher of the amount of the highest U.S. packing amount reported in the sales listing and the highest amount of export packing reported on page 41 of the verification report.

Respondent argues that the Department should apply an average per