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January 10, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the
2016-2018 Administrative Review of the Antidumping Duty Order
on Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy

I. SUMMARY

We analyzed the comments of interested parties in the 2016-2018 administrative review of the antidumping duty order on certain carbon and alloy steel cut-to-length plate (CTL plate) from Italy. As a result of our analysis, we made changes to the margin calculations for one of the two mandatory respondents in this review, NLMK Verona SpA (NVR), as well as the non-selected companies.¹ We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is a complete list of issues in this administrative review for which we received comments from interested parties.

Comment 1: Product Characteristics and Control Numbers for NVR
Comment 2: NVR’s Constructed Export Price (CEP) Offset Claim
Comment 3: Whether to Apply Smoothing for NVR’s Material Costs
Comment 4: Universe of Sales for NVR
Comment 5: Other NVR Adjustments

¹ These companies are: (1) Euroflex SpA, (2) Evraz Palini e Bertoli SpA, (3) Ilva SpA, (4) Metalcam SpA, (5) Modelleria di Modini Renato, (6) Ondulit Italiana SpA, (7) Padana Tubi e Profilati Acciaio SpA, and (8) Riva Fire SpA.

II. BACKGROUND

On July 17, 2019, the Department of Commerce (Commerce) published the *Preliminary Results* of this administrative review.² This review covers ten producers and exporters. The period of review (POR) is November 14, 2016 through April 30, 2018.

On September 23, 2019, we released the final verification report and invited parties to comment on the *Preliminary Results*.³ On October 2, 2019, we received case briefs from Nucor Corporation (the petitioner) and NVR.⁴ On October 7, 2019, we received rebuttal briefs from the petitioner and NVR.⁵ After analyzing the comments received, we changed the weighted-average margins for NVR and the companies involved in the review but not selected as mandatory respondents (the “non-reviewed” companies) from those presented in the *Preliminary Results*.

On October 23, 2019, Commerce extended the deadline for the final results of this administrative review, until January 10, 2020.⁶

III. SCOPE OF THE ORDER

The products covered by this order are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other nonmetallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (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 thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a 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 not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or nonrectangular cross-section where such non-rectangular cross-section is achieved subsequent to

² See *Certain Carbon and Alloy Steel Cut-To Length Plate from Italy: Preliminary Results of Antidumping Duty Administrative Review; 2016-2018*, 84 FR 34121 (July 17, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

³ See *Preliminary Results*, 84 FR at 34122; see also Memorandum, “Briefing Schedule in the 2016-2018 Administrative Review of the Antidumping Duty Order on Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy,” dated September 23, 2019; and Memorandum, “Modification to the Briefing Schedule in the 2016-2018 Administrative Review of the Antidumping Duty Order on Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy,” dated September 25, 2019.

⁴ See NVR’s Case Brief, “Certain Carbon and Alloy Steel Cut-to-Length Plate from Italy: NLMK Verona SpA’s Case Brief,” dated October 2, 2019 (NVR Case Brief); and Petitioner’s Case Brief, “Certain Carbon and Alloy Steel Cut-to-Length Plate from Italy: Petitioner’s Case Brief,” dated October 2, 2019 (Petitioner Case Brief).

⁵ See NVR’s Rebuttal Brief, “Certain Carbon and Alloy Steel Cut-to-Length Plate from Italy: NLMK Verona S.p.A.’s Rebuttal Brief,” dated October 7, 2019 (NVR Rebuttal Brief); and Petitioner’s Rebuttal Brief, “Certain Carbon and Alloy Steel Cut-to-Length Plate from Italy: Petitioner’s Rebuttal Brief,” dated October 7, 2019 (Petitioner Rebuttal Brief).

⁶ See Memorandum, “Carbon and Alloy Steel Cut-To-Length Plate from Italy: Extension of Deadline for Final Results of 2016-2018 Antidumping Duty Administrative Review,” dated October 23, 2019.

the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this order are products in which: (1) iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the cut-to-length plate. All products that meet the written physical description, are within the scope of this order unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this order:

(1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL-A-12560,
- MIL-DTL-12560H,
- MIL-DTL-12560J,
- MIL-DTL-12560K,
- MIL-DTL-32332,
- MIL-A-46100D,
- MIL-DTL-46100-E,
- MIL-46177C,
- MIL-S-16216K Grade HY80,
- MIL-S-16216K Grade HY100,
- MIL-S-24645A HSLA-80;
- MIL-S-24645A HSLA-100,
- T9074-BD-GIB-010/0300 Grade HY80,

- T9074-BD-GIB-010/0300 Grade HY100,
- T9074-BD-GIB-010/0300 Grade HSLA80,
- T9074-BD-GIB-010/0300 Grade HSLA100, and
- T9074-BD-GIB-010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this order;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A-829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23-0.28,
- Silicon 0.05-0.20,
- Manganese 1.20-1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0-2.5,
- Molybdenum 0.35-0.80,
- Boron 0.002-0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:

- (i) 270-300 HBW,
- (ii) 290-320 HBW, or
- (iii) 320-350HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23-0.28,
- Silicon 0.05-0.15,
- Manganese 1.20-1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20-1.50,
- Molybdenum 0.35-0.55,
- Boron 0.002-0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties: (i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at -75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01-75; or (ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at -40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25-0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0-3.5,

- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0-1.5,
- Molybdenum 0.6-0.9,
- Vanadium 0.08 to 0.12
- Boron 0.002-0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at -40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578-S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

The products subject to the order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the order may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

IV. MARGIN CALCULATIONS

For NVR, we calculated export price, constructed export price, and normal value (NV) using the same methodology stated in the *Preliminary Results*, except as follows:

- We revised NVR’s U.S. sales listing to increase the domestic freight reported (*i.e.*, in the field DINLFTPU) in order to correct certain errors identified as a result of verification preparation;⁷
- We revised NVR’s U.S. sales listing to include an additional container charge (*i.e.*, in the field CONTAINERU) for all shipments with destination to the port of Chicago;⁸
- We revised NVR’s home market sales listing to adjust the gross unit price (*i.e.*, in the field GRSUPRH) of all reported sales in order to account for unreported freight credits;⁹
- We revised NVR’s U.S. sales listing to remove pre-POR sales from our margin calculation;¹⁰ and
- We revised NVR’s home market sales listing to correct the packing expense (*i.e.*, in the field PACKH) methodology observed at verification.¹¹

V. DISCUSSION OF THE ISSUES

Comment 1: Product Characteristics and Control Numbers for NVR

In its home market, U.S., and cost of production databases, NVR reported certain of its control numbers based on three proposed quality codes (*i.e.*, codes 471, 472, and 801). For the *Preliminary Results*, Commerce revised the control numbers (CONNUMs) containing these codes in order to assign them to the pre-set quality codes contained in the Product Characteristics Letter.¹² Specifically, Commerce revised all CONNUMs with reported quality codes 471 and 472 to pre-set code 480, which is a “catch all” code for this code group, and code 801 to pre-set code 800.

NVR’s Case Brief:

- Commerce, without explanation, incorrectly reclassified NVR’s proposed quality codes, despite substantial evidence on the record, introducing a less accurate basis for comparing foreign like product in establishing NV.¹³

⁷ See Memorandum, “Calculations for NLMK Verona SpA for the Final Results,” dated January 10, 2020 (NVR Final Calculation Memo).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² See Commerce’s Letter, “Product Characteristics for the Antidumping Duty Administrative Reviews of Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, France, Germany, Italy, the Republic of Korea, and Taiwan,” dated August 10, 2018 (Product Characteristics Letter).

¹³ See NVR Case Brief at 2.

- In determining whether a product in the United States was sold at less-than-fair-value (LTFV), the statute directs that a “fair comparison shall be made” in identifying the identical or similar foreign like product used in comparison.¹⁴ While the Federal Circuit allows Commerce to select products with “minor differences in physical characteristics,” it can do so “if those differences are not commercially significant.”¹⁵
- Because Commerce’s pre-set quality codes individually cover a wide range of different products, it fails to account for commercially significant differences. For this reason, the Court of International Trade (CIT) remanded Commerce to revise its model-match methodology in the LTFV investigation with regards to the quality field. Specifically, the CIT instructed Commerce to design a model-match methodology that accounts for these differences, allowing for fair comparisons.¹⁶
- The Product Characteristics Letter provides respondents the opportunity to “use additional number codes for each additional quality you propose.”¹⁷ Here, because the product specification of certain of NVR’s products does not match the description of a pre-set quality, NVR reported (and proposed) the “closest and most technically accurate quality codes in order for the tool steel quality classification to accurately reflect the products’ chemical components.”¹⁸
 - Because the carbon and chromium ranges for reporting tool steels under quality code 470 are highly specific, NVR reported similar tool steel products under codes 471 and 472. With regards to 471 products, its carbon content corresponds to the description contained for code 470;¹⁹ however, the chromium amounts differ slightly.²⁰
 - Similarly, NVR applied the same approach with regards to 472 products; the carbon and chromium contents have slightly different levels than 471 products.²¹
 - Both 471 and 472 products are specialty tool steels and are sold as tool steels. While the alloy levels of each are slightly different from those described in code 470, the proposed codes are hierarchically as close as possible to code 470, avoiding distortion in the matching methodology.²²
 - With regards to 801 products, these possess a different chemical composition than the “other commercial steels” classified as code 800 and, thus, should not be classified as such.²³
- NVR submitted ample justification in its questionnaire responses, supporting product specifications, and a concordance map outlining the methodology used to construct

¹⁴ *Id.* (citing 19 U.S.C. 1677(16)(A)-(B) and (C); and 19 U.S.C. 1677b(a)).

¹⁵ *Id.* at 2-3 (citing *Pesquera Mares Australes Ltd. v. United States*, 266 F. 3d 1372, 1384 (Fed. Cir. 2001)).

¹⁶ *Id.* at 3 (citing *Bohler Bleche GmbH & Co. KG v. United States*, 324 F. Supp. 3d 1344, 1350 (CIT 2018) (*Bohler*)).

¹⁷ *Id.* at 4 (citing Product Characteristics Letter at 8).

¹⁸ *Id.* at 4.

¹⁹ According to the Product Characteristics Letter, there are six chemical variations that satisfy the 470 quality code. NVR maintains that its 471 products would fit into code 470(ii)’s chemical composition defined by “not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium.” See Product Characteristics Letter at 6.

²⁰ See NVR Case Brief at 4.

²¹ *Id.* at 5.

²² *Id.*

²³ *Id.*

CONNUMs. Further, Commerce verified that all product characteristics were correctly assigned.²⁴

Petitioner's Rebuttal Brief:

- Commerce correctly reclassified NVR's proposed codes into the pre-set codes contained in the Product Characteristics Letter.²⁵ According to the Product Characteristics Letter, the quality code field allows for the reporting of new codes provided that certain conditions are met in order to justify the new information. Specifically, when proposing new codes, respondents are required to:
 "Provide a detailed narrative description of each additional Quality you propose, and explain what differentiates each of those additional Qualities from each of the ones listed above with respect to actual physical properties. Specifically, explain why you have assigned the particular numeric code within the Quality code hierarchy for marching purposes."²⁶
Contrary to NVR's claims that it provided sufficient justification for its proposed codes, it did not provide the requested information required by Commerce, above. Rather, it showed why the 471 and 472 products do not fit code 470 with respect to chemical composition, failing to address why these products do not fit within "catch all" code 480.²⁷
- Commerce's construction of the quality codes allows for a "catch all" (*i.e.*, code 480) for all tool steel products not fitting into the description of code 470. According to the Product Characteristics Letter, code 480 "covers mold steels not classifiable in the 'Tool steels' category above."²⁸ In light of this, Commerce correctly reclassified NVR's 471 and 472 products into code 480.²⁹
- NVR failed to distinguish the chemical composition of 472 products from that contained in 471 products and, at minimum, Commerce should combine these products into one common code.³⁰

Commerce's Position:

We disagree with NVR that it substantiated its claim that it is appropriate to depart from the existing pre-set codes in our model match and report its CONNUMs based on the use of three proposed new quality codes. For these final results, we continue to rely on Commerce's adjustment to base these codes on the pre-set codes established in the Product Characteristics Letter.

²⁴ *Id.* at 5-6, noting that Commerce did not raise any questions or concerns about the correctness of the proposed quality codes.

²⁵ *See* Petitioner Rebuttal Brief at 1-2.

²⁶ *Id.* at 2 (citing Product Characteristics Letter at 8).

²⁷ *Id.* at 1-3. The petitioner notes that NVR's position in its case brief avoids the issue at stake here, (*i.e.*, Commerce's reclassification of 471 and 472 products into code 480) because it never addresses why these products do not belong in code 480.

²⁸ *Id.* at 2 (citing Product Characteristics Letter at 6).

²⁹ *Id.* at 2.

³⁰ *Id.*

The specific physical characteristics identified at the beginning of each proceeding, comprising the CONNUM, are those physical characteristics determined to be the most significant in differentiating products subject to the proceeding. In making product comparisons, we match foreign like products based on the physical characteristics reported by the respondents in the order of importance (*i.e.*, the first code is the most important, the second is the second most important, *etc.*). The CONNUM in this proceeding is comprised of sixteen product characteristics (*i.e.*, quality, minimum specified carbon content, minimum specified chromium content, minimum specified nickel content, minimum specified tungsten content, minimum specified cobalt content, minimum specified molybdenum content, minimum specified vanadium content, minimum specified yield strength, nominal thickness, heat treatment, nominal width, form, painting, the existence of patterns in relief, and descaling). Quality, which is at issue here, is the most important product code. Further, the level of detail established within each physical characteristic (*e.g.*, the pre-set quality codes) reflects the importance Commerce places on comparing the most similar products in a price-to-price comparison.

In its analysis, Commerce matches identical or most similar CONNUMs. Indeed, in determining most similar matches, we look at the costs of similar CONNUMs. However, in order to account for most similar comparisons, the SAS computer program examines each matching criterion in descending order and looks at the sequential coding within each matching criterion. The codes should reflect the most similar physical aspects of each product under comparison, and should be sequential, with the distance between each code being roughly equal to the similarity of the physical aspect being reported.

In the Product Characteristics Letter, Commerce instructed the respondents to report their sales data based on the above physical characteristics, hierarchically arranged in order of importance.³¹ The CONNUM was initially developed in the original investigation with input from interested parties and was subsequently subject to an additional round of parties' comments and rebuttal comments in the instant review³² and represents inputs from numerous parties to ensure that we are effectively matching foreign like products to the subject merchandise based on the physical characteristics reported by the respondents. As a result, the product characteristics and the codes corresponding to each was designed and established based on the collective input of multiple parties.

An analysis of the CONNUM construction reveals that fifteen of the sixteen product characteristics rely on fixed codes, noting that the accompanying narrative for certain of these specifically do not permit any additional proposed codes. This allows for use of objective criteria in model match and ensures predictability. However, Commerce also recognizes the possibility of technological innovation and development of new products. With respect to the quality characteristic, Commerce allows for additional number codes outside the pre-set codes if a party making a request for a new quality code properly substantiates it by evidence regarding differences in physical properties. Specifically, in the accompanying narrative, Commerce states:

³¹ See Product Characteristics Letter.

³² *Id.* We note that, beyond the LTFV, Commerce modified the CONNUM in order to address certain parties' concerns raised in the underlying investigation. See Memorandum, "Product Characteristics for Certain Carbon and Alloy Steel Cut-to-Length Plate," dated July 19, 2018.

Use additional number codes for each additional Quality you propose. Provide a detailed narrative description of each additional Quality you propose, and explain what differentiates each of those additional Qualities from each of the ones listed above with respect to actual physical properties. Specifically, explain why you have assigned the particular numeric code within the Quality code hierarchy for matching purposes.³³

To properly substantiate the use of a proposed code, the respondents must address the requirements contained in the plain language above, which directs that the respondent explain in detail the differences between any proposed new quality code from the pre-set code with respect to physical properties. Here, a departure from previously established codes requires an additional, detailed and substantive, layer of information to persuade Commerce that there is a meaningful difference in physical properties between products classified under the existing quality codes and the proposed new codes. Commerce requires such information so that ultimately a more accurate comparison between products can occur. As detailed above, this information should be inclusive of the varying levels of physical properties associated with the proposed code to those corresponding to the pre-set code.³⁴ In addition, Commerce requires an explanation detailing the appropriateness of the numeric code itself. The number proposed by the respondent should be reasonably assigned so that it is appropriately positioned between the applicable pre-set codes. If the respondent meets these conditions, Commerce would consider the new quality codes and may find it appropriate to use them if the explanation is sufficient to differentiate the proposed newly created quality codes from the existing quality codes.

In its response to sections B, C, and D of Commerce's initial questionnaire, NVR reported its CONNUMs based on three new quality codes (*i.e.*, codes 471, 472, and 801).³⁵ In addition, it provided a brief narrative in an effort to demonstrate why these codes are more appropriate.³⁶ Specifically, with respect to proposed code 471, NVR stated that it reported "alloy steel for quenching and tempering" because "the chemical composition is close to, but not the same as code group 470," and made reference to the difference in chemical composition of the products, (*i.e.*, in the levels between the alloys and carbon content). Here, while NVR attempted to address the appropriateness of the number, it did not provide information to differentiate the physical properties associated with 471 products, as required by Commerce's instructions. Instead, it informed Commerce of the type of steel that it categorized under code 471 and provided a broad statement comparing the chemical composition between codes 471 and 470.³⁷

³³ See Product Characteristics Letter at Attachment 1, pdf page 8.

³⁴ See, *e.g.*, Bohler Edelstahl GmbH & Co KG and Bohler Bleche GmbH & Co KG's Letter, "Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria: Product Characteristic Comments," dated August 1, 2018, at Attachment 4 for a list of physical properties related to certain grades of steel.

³⁵ See NVR's September 28, 2018, Section B and C Questionnaire Response (NVR's September 28, 2018 BCQR) at B-14 and C-13; and NVR's October 2, 2018, Section D Questionnaire Response (NVR's October 2, 2018, DQR) at Exhibit D-1.

³⁶ See NVR's September 28, 2018 BCQR at B-14 and C-13.

³⁷ *Id.*

With respect to proposed code 472, NVR stated that it “reports case hardening under this code because the chemical composition is close to, but not the same as code group 470.”³⁸ In addition, NVR references the singular difference in levels of alloys and carbon inherent in its 472 products compared to those reported under codes 470 and 471.³⁹ Here, NVR also references case hardening of 472 products but does not explain how or why the level of case hardening can be distinguished from that seen in 470 products.⁴⁰ Further, while NVR did not specifically state why this numeric code is appropriate, NVR infers that, due to “close chemical composition” this code is appropriate. We recognize that products with different chemical composition might *potentially* have different physical characteristics, but it cannot be assumed that a different chemical composition will always lead to meaningful differences in physical properties.

We note that NVR provided an accompanying database containing all information relied upon in creating the reported CONNUMs.⁴¹ In our analysis of this database, we were not able to draw distinctions with respect to the elemental ranges of carbon or chromium (for example) between 471 and 472 products. Specifically, in a search of product specifications and grades contained in this database (and reported in NVR’s home market and U.S. sales listings in the fields SPECH/GRADEH and SPECU/GRADEU, respectively) we found that the ranges for carbon and chromium for certain of these products overlapped. In support, the petitioner argues that the differences between 471 and 472 products are not uniquely distinct, similarly explaining that the ranges of certain product characteristics overlap between the two products,⁴² which removes any justification to distinguish between the two categories. We have analyzed NVR’s accompanying database and we find that the overlap indeed exists.⁴³ Therefore, we found this database not clear in order of establishing a unique difference between NVR’s reported 471 and 472 products.

Additionally, in its case brief, NVR stated that the quality classification of 471 and 472 were the most technically correct assignments based on the chemical properties contained in the product specification.⁴⁴ According to NVR, both products are tool steel that would fit within the constraints of 470 if not for differences in the level of alloys, carbon, and chromium.⁴⁵ In both its questionnaire responses and its case brief, NVR relies on chemical composition to justify its proposed codes.⁴⁶ We acknowledge that chemical composition may play an important role in assigning the appropriate quality code, if the differences in chemical composition affect the physical properties of cut-to-length plate; however, NVR fails to address the physical properties of each new code compared to the establish codes – in particular, NVR has not established why codes 471 and 472 are not appropriately covered under code 480 for mold steels not classifiable in the “tool steels” category (*i.e.*, category 470). Although NVR has established, based upon the chemical composition of the steel, why it does not meet 470, it has failed to establish why the products cannot or should not be included in the 480 category for mold steels.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* at Exhibit B-7.

⁴² See Petitioner Rebuttal Brief at 2-3.

⁴³ See NVR’s September 28, 2018 BCQR at Exhibit B-7.

⁴⁴ See NVR Case Brief at 4.

⁴⁵ *Id.*

⁴⁶ See NVR Case Brief at 4-5; and NVR’s September 28, 2018 BCQR at B-14 and C-13.

Importantly, in addition to being the code under which to report mold steels, the 480 category was intentionally designed as a “catch all” for those tool steel products not directly fitting into the parameters of code 470. Although we allow new codes based on properly substantiated submissions, NVR did not submit information regarding the distinction in physical properties as required by Commerce’s instructions to accept and rely on NVR’s proposed 471 and 472 quality codes. Because 471 and 472 products are tool steels that do, in fact, not conform to the specifications of the 470 category, these reported products properly fall under the “catch all” code under our model match methodology.

In evaluating NVR’s proposed 801 products, similarly, NVR relies on chemical composition to make its case. In its response to Commerce’s initial questionnaire, NVR stated that it reported “non-alloy steel for quenching and tempering under this code because the chemical composition is close to, but not the same as that in code 800.”⁴⁷ In its case brief, NVR contends that its 801 products contain a different level of carbon content when compared to 800 products (*i.e.*, other commercial steels).⁴⁸ Furthermore, NVR states that, due to the difference in chemical composition, the 801 code is a more appropriate designation.⁴⁹

Again, while we acknowledge that the evaluation of a product’s chemical composition is important in assigning correct codes within the product characteristic, NVR fails to substantiate its 801 proposed code because it did not provide information regarding the differences that relate to actual physical properties, as required by Commerce’s instructions. For the same reasons found above with respect to quality codes 471 and 472, we find that NVR’s evidentiary support does not meet the threshold established above to accept and rely on proposed quality codes.

In its case brief, NVR contends that the codes, when adjusted by Commerce, leads to a less accurate basis for comparing foreign like product in establishing NV.⁵⁰ However, given that NVR did not substantiate its proposed quality code claims with respect to physical characteristics of products, we find our code adjustments in the *Preliminary Results*, appropriate. Moreover, NVR misses the purpose of assigning product codes; it is not to create the most detailed coding system that matches to individual products, but rather to create groups of products sold in the home market which can be used to accurately match to similar groups of products sold in the United States. With regards to 471 and 472 products, we find it appropriate to continue to adjust them to code 480 because it was designed as a “catch-all” category for tool steels not conforming to the code 470 definition. With regards to 801 products, we find it appropriate to continue to adjust them to code 800, the closest hierarchical code available. We find that these adjustments are in the spirit of establishing the most similar matches and reflect the commercial and physical differences.

According to the CIT, “Congress has delegated to Commerce the ability to choose product-matching criteria to identify the ‘foreign like product’ to which domestic sales are compared in

⁴⁷ See NVR’s September 28, 2018 at B-14 and C-13.

⁴⁸ See NVR Case Brief at 5.

⁴⁹ *Id.*

⁵⁰ *Id.* at 2.

order to calculate the dumping margin.”⁵¹ Furthermore, the CIT acknowledges that, in defining “foreign like product,” Commerce is constrained both by statute and by its own past practice, whereby, pursuant to 771(16)(A) of the Act, Commerce must base product-matching criteria on “physical characteristics.”⁵² Here, the question is not whether NVR’s proposed codes lead to the most detailed and elaborate product matching; but, whether NVR provided sufficient substantiation to move away from Commerce’s established codes in the existing model-match hierarchy. NVR’s reference to the CIT’s remand of Commerce to revise our model match methodology in *Bohler* case is misplaced,⁵³ as there is no evidence on this record of any meaningful differences in physical characteristics that are significant between the products, unlike in that case. To ensure accuracy, Commerce provides respondents the option to propose codes in order to ensure a fair comparison, but such requests must be properly substantiated. Because we find that NVR did not provide sufficient evidence regarding differences in physical characteristics of products, we do not have sufficient information to establish and accept the new proposed codes on this record. Accordingly, Commerce continues to rely on the existing pre-set codes, as described above.

To be clear, Commerce seeks to employ accurate model-matches within the parameters of the existing model match methodology, which allows deviations from existing codes, if a request to do so is properly substantiated with information specified in Commerce instructions. Although NVR did not meet its burden of proof in this instant review for Commerce to rely on its proposed quality codes, in future segments, if NVR still believes such codes are not properly accounted for within the existing quality groupings, it may provide additional evidence and information with respect to such proposed codes for Commerce to consider.

Comment 2: NVR’s CEP Offset Claim

NVR reported that it sold CTL plate through one home market and one U.S. channel. For the *Preliminary Results*, Commerce found that NVR made sales of CTL plate to the home market and the United States at one level of trade (LOT) each. In addition, we preliminarily determined that a comparison of selling functions performed by NVR in both markets did not differ significantly, resulting in no CEP offset.

NVR’s Case Brief:

- If a CEP offset is granted, section 773(a)(7)(B) of the Act provides that NV shall be reduced by the amount of indirect selling expenses incurred in the country in which NV is determined on sales of the foreign like product but not more than the amount of such expenses for which a deduction is made under section 772(d)(1)(D). Here, because NVR

⁵¹ See *New World Pasta Company v. United States*, 28 CIT 290, 316 F. Supp. 2d 1338 (CIT 2004) at 305-306, (citing *Pesquera Mares Australes, Ltda. v. United States*, 266 F. 3d 1372, 1384 (Fed. Cir. 2001); and *Koyo Seiko Co. v. United States*, 66 F. 3d 1204, 1209 (Fed. Cir. 1995)).

⁵² *Id.*

⁵³ See *Bohler* at 1350, 1355, where the CIT found Commerce’s model match methodology to be distortive for its failure to account for commercially significant differences.

provided sufficient evidence demonstrating that it satisfied the conditions established under 19 CFR 351.412(f)(i)-(iii),⁵⁴ NVR is entitled to a CEP offset.⁵⁵

- NVR conducts its selling activities between the home market and United States at substantially different intensities, noting that all (1) home market sales are made at the same LOT; and (2) U.S. sales are made through NVR's CEP affiliate, NAP, at the same LOT. As a result, in comparison, NVR expends considerable resources in selling CTL plate to its home market customers.⁵⁶
- With regards to home market sales, NVR coordinates functions across its sales, accounting, production, and logistics departments to ensure that the products are produced and sold to specification and delivered to customers accordingly.⁵⁷ In contrast, for U.S. sales, NVR performs minimal marketing activities and primarily processes purchase orders through production and arranges delivery to the U.S. port. Further, because NAP is responsible for all aspects of sales made to U.S. customers, NVR does not market to NAP or compete for its business.⁵⁸
- Commerce's analysis conducted in the *Preliminary Results* failed to consider the levels of intensity at which NVR performed certain of its home market and U.S. selling functions. While Commerce correctly determined that NVR did not perform market research activities or offer discounts, rebates, or commissions for sales made in the United States, Commerce did not consider the low level of intensity that NVR performed order processing, engineering services, and inventory maintenance for its CEP sales to NAP. In contrast, NVR performed these same activities at either a high or medium level of intensity in the home market.⁵⁹ In fact, the CIT recognizes that there "may be circumstances where the significance of one or two indirect selling function outweighs the significance of the rest."⁶⁰
- In Italy, an entire department of sales personnel is dedicated to sales of CTL plate in the home market, while no such team exists purely for sales made to the United States.⁶¹

Petitioner's Rebuttal Brief:

- During the LTFV investigation, Commerce preliminarily determined that NVR did not warrant a CEP offset. In fact, in that particular segment, NVR did not request a CEP offset, noting that, by its own admission, "NVR performed similar selling functions in the home

⁵⁴ See NVR Case Brief at 9-10 (citing 19 CFR 351.412(f)(i)-(iii), which states that the Secretary will grant a CEP offset only where: (i) NV is compared to CEP; (ii) NV is determined at a more advanced LOT than the LOT of the CEP; and (iii) despite the fact that a person has cooperated to the best of its ability, the data available do not provide an appropriate basis to determine under paragraph (d) of this section whether the difference in LOT affects price comparability. NVR notes that, "because there are no CEP sales in the home market {sic}, there is no data on whether a difference in level of trade affects price comparability.").

⁵⁵ *Id.* at 7.

⁵⁶ *Id.* at 7-8.

⁵⁷ *Id.* at 8.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.* (citing *Corus Eng'g Steels Ltd. v. United States*, 27 CIT 1286, 1292 (August 27, 2003) (*Corus*)).

⁶¹ *Id.* at 9.

market and for its export sales to the U.S., where its only customer is NAP.”^{62, 63} Because nothing in the immediate administrative review changed from the fact pattern presented in the LTFV, Commerce should continue to deny NVR a CEP offset.⁶⁴

- NVR’s claim that it performed order processing, engineering services, and inventory maintenance at a low level of intensity in the United States and at a medium or high level in the home market is not supported by information contained on the record. Rather, the differences between these selling activities are indistinguishable because NVR’s home market staff also processes U.S. orders, makes consignment sales from the customer’s inventory, and sells highly engineered products in both markets.⁶⁵
- NVR’s claim that it maintains an entire department in Italy dedicated to HM sales is in direct opposition of the information contained in its revised selling functions chart, which states that NVR performed sales/marketing support at a “medium” level of intensity in both markets.⁶⁶

Commerce’s Position:

We continue to find that a CEP offset is not warranted for NVR for the final results. Section 773(a)(7)(B) of the Act requires an adjustment to NV in the form of a CEP offset if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability. Commerce’s regulations at 19 CFR 351.412(c)(2) outline Commerce’s policy regarding differences in the LOTs as follows:

The Secretary will determine that sales are made at different levels of trade if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing.

In the *Preliminary Results*, we analyzed NVR’s home market and U.S. selling functions, and we organized them into the following four categories for analysis: (1) sales and marketing; (2) freight and delivery; (3) inventory maintenance and warehousing; and (4) warranty and technical support. For NVR’s home market sales we found that:

In the home market, NVR reported that it made sales through two channels of distribution: (1) direct sales of CTL plate to unaffiliated customers (*i.e.*, HM

⁶² See Petitioner Rebuttal Brief at 3 (citing *Certain Carbon and Alloy Steel Cut-To-Length Plate From Italy: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Determination of Critical Circumstances, and Postponement of Final Determination*, 81 FR 79426 (November 14, 2016), and accompanying Issues and Decision Memorandum (IDM) at 15).

⁶³ We note that NVR’s final rate in the LTFV final determination was based on adverse facts available, pursuant to section 776(a) and (b) of the Act.

⁶⁴ See Petitioner Rebuttal Brief at 3-4.

⁶⁵ *Id.* at 4.

⁶⁶ *Id.*

channel 1); and (2) consignment sales to unaffiliated customers (*i.e.*, HM channel 2).⁶⁷ NVR reported that sales made in these channels were made at the same LOT.

According to NVR, it performed the following selling functions at similar intensities for sales to all home market customers: sales forecasting, strategic/economic planning, personnel training, engineering services, advertising, sales promotion, price negotiation, packing, inventory maintenance, employment of direct sales personnel, sales/marketing support, market research, technical assistance, provision of discounts and rebates, payment of commissions, provision of after-sales service, and provision of freight and delivery.⁶⁸

Selling activities can be grouped generally into four selling functions for analysis: (1) sales and marketing; (2) freight and delivery; (3) inventory maintenance and warehousing and (4) warranty and technical support. Based on these selling function categories, we find that NVR performs sales and marketing, inventory maintenance and warehousing, and warranty and technical support for its home market sales made through all sales channels. Because we find that there were only minimal differences in selling activities performed by NVR to sell to its home market customers, we determine that there is one LOT in the home market for NVR.⁶⁹

In addition, with respect to the U.S. market, we found that:

With respect to the U.S. market, NVR reported that it made sales to its affiliated U.S. reseller, North America Plate, in one channel of distribution.⁷⁰ NVR reported that it performed the same selling functions in Italy for U.S. sales as it did for home market sales, except that it also performed some U.S. distributor training and it did not perform any market research activities or offer the U.S. affiliate discounts, rebates, or commissions.⁷¹ Accordingly, based on the selling function categories noted above, we find that NVR performed sales and marketing, freight and delivery services, and warranty and technical support for all of its reported U.S. sales. Further, we determine that all U.S. sales are at the same LOT.⁷²

In the instant review, NVR claims that it qualifies for a CEP offset because its sales made in the home market are to unaffiliated customers and are at a more advanced level than the CEP sales made by NVR to NAP to the United States.

⁶⁷ See NVR's August 29, 2018, Section A Questionnaire Response (NVR's August 29, 2018 AQR) at 19-23.

⁶⁸ See NVR's February 26, 2019, Supplemental Sections A and B Questionnaire Response (NVR's February 26, 2019 SABQR at Exhibit SA-3.

⁶⁹ See *Preliminary Results* PDM at 14.

⁷⁰ See NVR's August 29, 2018 AQR at 25-34; and NVR's February 26, 2019 SABQR at Exhibit SA-3.

⁷¹ See NVR's February 26, 2019 SABQR at Exhibit SA-3.

⁷² See *Preliminary Results* PDM at 15.

We addressed NVR's claim in our *Preliminary Results* as follows:

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions NVR performed for its U.S. and home market customers do not differ significantly. Therefore, we preliminarily determine that sales to the United States and home market during the POR were made at the same LOT and, as a result, a CEP offset is not warranted.⁷³

NVR asks that Commerce revise its analysis to reconsider the intensity levels reported for certain selling activities (*i.e.*, engineering services, inventory maintenance, and order/input processing), stating that not all selling functions carry the same weight and that Commerce's practice, as noted by the CIT, is to examine not only the number of selling functions "undertaken outside the U.S. for the U.S. and comparison markets but also their weight and intensity."⁷⁴ NVR also noted that the CIT previously recognized that there "may be circumstances where the significance of one or two indirect selling functions outweighs the significance of the rest."⁷⁵ We agree that there might be circumstances when certain functions are so significant that they may outweigh the rest of the functions, but this is not one of such cases.

In its case brief, NVR argues that Commerce failed to consider NVR's intensity levels by which it performed certain selling functions and failed to accord the corresponding adequate weight.⁷⁶ Specifically, NVR highlighted engineering services, inventory maintenance, and order/input processing, contending that it performed these activities at a low level in the United States and at either medium or high levels in the home market.⁷⁷ We disagree that the activities performed to make home market sales were so significant that they constituted a different marketing stage, within the meaning of 19 CFR 351.412(c)(2). With respect to the specific activities highlighted by NVR, the record demonstrates no significant differences between markets.⁷⁸ Regarding inventory maintenance, we find that NVR provided sufficient support to substantiate its claim with respect to inventory maintenance.⁷⁹ NVR's detailed narrative demonstrates that it performed physical inventory checks and generated certain documentation in the home market; according to NVR such activities do not take place with respect to U.S. sales.⁸⁰ Importantly, NVR provided source documentation such as the consignment agreement between it and its biggest customer as well as sales documentation and communication between it and the customer to resolve any differences.⁸¹ In addition, NVR properly reported the appropriate intensity levels

⁷³ *Id.*

⁷⁴ See NVR Case Brief at 8 (citing *Corus*).

⁷⁵ *Id.* at 8-9 (citing *Corus*).

⁷⁶ *Id.* at 8-9.

⁷⁷ *Id.* at 9.

⁷⁸ See NVR's August 29, 2018 AQR at 21-25 and Exhibit A-18; and NVR's February 26, 2019 SABQR at 4-5, 8 and Exhibit SA-3.

⁷⁹ See NVR's August 29, 2018 AQR at 22, 25, and Exhibits A-15 and A-18; and NVR's February 26, 2019 SABQR at 4-5, 8, and Exhibits SA-3 and SA-4.

⁸⁰ See NVR's August 29, 2018 AQR at 25; and NVR's February 26, 2019 SABQR at 5.

⁸¹ See NVR's August 29, 2018 AQR at Exhibit A-18; and NVR's February 26, 2019 SABQR at 4-5 and Exhibit SA-4.

for this activity in its revised selling functions chart.⁸² However, although we recognize that there is a difference in inventory maintenance when balanced against numerous similarities in the selling functions between the two markets, we do not consider that the difference in inventory maintenance is so significant as to outweigh the rest of the evidence and constitute a different LOT.

Regarding engineering services and order/input processing, we find that NVR did not adequately support its claim of “substantial different intensities.” First, with respect to engineering services, in its initial questionnaire response, NVR provided a brief narrative description of engineering services, but no supporting documentation.⁸³ Further, in its narrative description, NVR provided no specific examples of its activities.⁸⁴ Moreover, in its supplemental section A response, NVR revised the intensity levels reported in its revised selling functions chart; yet, provided no narrative or supporting documentation substantiating these revised claims.⁸⁵ NVR originally reported that it performed this activity at high levels of intensity for home market channels 1 and 2, and at a medium level for its sales to the United States.⁸⁶ In its revised selling functions chart, NVR changed the U.S. intensity level to “low,”⁸⁷ and relied on this revised level of intensity in its case brief. However, NVR did not submit any documents substantiating the original narrative and the subsequent revision to the chart.

With respect to order input/processing, NVR reported that, in the home market, its front and back office sales personnel handle order input and processing for home market sales.⁸⁸ For sales to the United States, NAP’s order is handled by the sales person in the front office for plates, while the back offices handle processing.⁸⁹ NVR provided no specific examples or source documentation to substantiate this narrative. Further, in its initial questionnaire response, NVR reported that it performed this activity at a “high” level for both its home market sales channels and at a “low” level for sales to the United States.⁹⁰ However, in its revised selling functions chart, NVR changed the U.S. intensity level from “low” to “medium.”⁹¹ While NVR provided an additional narrative in its supplemental section A questionnaire response, it did not draw any distinction between activities performed between home market and U.S. sales.⁹² It is worth pointing out that where NVR relied on its revised U.S. intensity level of “low” to make its argument for engineering services, above, here, NVR relies on its original characterization of its

⁸² According to its revised selling functions chart, NVR reported that it performed inventory maintenance at high levels of intensity for home market channels 1 and 2, and at a low level for sales to the United States. We note that these levels of intensity did not change from NVR’s original selling functions chart. *See* NVR’s August 29, 2018 AQR at Exhibit A-15; and NVR’s February 26, 2019 SABQR at Exhibit SA-3, respectively.

⁸³ *See* NVR’s August 29, 2018 AQR at 21 and 24.

⁸⁴ *Id.*

⁸⁵ *See* NVR’s February 26, 2019 SABQR at Exhibit SA-3.

⁸⁶ *See* NVR’s August 29, 2018 AQR at Exhibit A-15.

⁸⁷ *See* NVR’s February 26, 2019 SABQR at Exhibit SA-3.

⁸⁸ *See* NVR’s August 29, 2018 AQR at 22.

⁸⁹ *Id.* at 24.

⁹⁰ *Id.* at Exhibit A-15.

⁹¹ *See* NVR’s February 26, 2019 SABQR at Exhibit SA-3. We note that NVR also changed the intensity level by which it performed order/input processing from “high” to “medium” for its home market channel 1 sales.

⁹² *Id.* at 8.

“low” U.S. intensity level for order input/processing.⁹³ It is unclear why NVR selectively switches between the originally reported level of intensity and revised level of intensity.

Therefore, in our reexamination of these selling activities, we have relied on NVR’s original reporting of their corresponding intensity levels as follows:

	<u>HM1</u>	<u>HM2</u>	<u>US</u>	<u>Selling Category</u>
Engineering services	High	High	Med	Warranty and technical support
Order Input/processing	High	High	Low	Sales/marketing

Taking into account the above information as well as NVR’s assertion that weight and intensity of certain functions can outweigh those of others, we do not find that these differences are so significant that they outweigh the rest of the evidence, which demonstrates the similarity of the selling functions in both markets. As stated above, in conducting our analysis for this proceeding, we examined four broad categories of selling functions where we preliminarily found that NVR performed sales and marketing, inventory maintenance and warehousing, and warranty and technical support for its home market sales made through all sales channels and that NVR performed sales and marketing, freight and delivery services, and warranty and technical support for all of its reported U.S. sales. For these final results, we continue to find that NVR’s performance of inventory maintenance activities is “high” in the home market and “low” in the United States, further noting that we continue to find that NVR performed inventory maintenance in the home market with respect to our categorical analysis. While NVR demonstrated that it performed inventory maintenance at a “low” level of intensity in the U.S.,⁹⁴ we do not consider that as sufficient to warrant the same categorical designation of “inventory maintenance and warehousing” with respect to NVR’s U.S. sales.

In addition, NVR’s performance of engineering services in both markets was not substantially different enough to warrant a distinction in the activities performed in both markets.⁹⁵ As a result, we continue to find that NVR performs “warranty and technical support” in both markets.

Lastly, with respect to order input/processing, we acknowledge that NVR performs this activity at a high level in the home market and at a “lower” level in the U.S. However, as described above, NVR did not provide enough support to substantiate significant differences in the ways in which it performed this activity between its home market and U.S. sales. Further, order processing is largely a clerical function and minor differences in this activity alone are not significant enough to warrant an offset. Because NVR reported certain additional selling activities in both markets that fall under the “sales and marketing” category,⁹⁶ we find that, when

⁹³ Further, we note that NVR revised the intensity levels of certain additional selling activities without corresponding documentation or narrative supporting the change. These include distributor/dealer training, packing, market research, and the provision of after-sales service.

⁹⁴ See NVR’s August 29, 2018 AQR at Exhibit A-15.

⁹⁵ *Id.* at 21, 24, and Exhibit A-15.

⁹⁶ See NVR’s August 29, 2018 AQR at 21-25 and Exhibit A-15; and NVR’s February 26, 2019 SABQR at 6-8 and Exhibit SA-3. These include sales forecasting, strategic/economic planning, personnel training/exchange, advertising, sales promotion, price negotiation/customer communication, distributor/dealer training, sales/marketing

taken *in toto*, the differences of the activities performed and their corresponding intensity levels between both markets do not rise to the level of a “substantial difference in selling activities.”

As for the remaining selling functions, we discussed NVR’s sales process with company officials at verification and, although these officials provided a description of NVR’s selling functions, which was largely consistent with that set forth in its questionnaire responses, the scant evidence from the questionnaire responses regarding NVR’s CEP offset claim remains unchanged.⁹⁷ The narrative explanations for these functions that are cited in NVR’s brief is the same information that was on the record prior to our preliminary results. Therefore, we find that NVR has provided no citation to other information on the record of this review that would cause us to reconsider our preliminary decision.

In addition, we note that NVR’s revised selling functions chart includes additional unsubstantiated modifications of intensity levels. A comparison of the revised selling functions chart with the original shows that NVR changed the intensity levels for both home market and U.S. sales with respect to distributor/dealer training, packing, market research, and the provision of after-sales service.⁹⁸ However, NVR provided no corresponding details or source documentation supporting its revisions.

The respondent bears the burden of demonstrating its entitlement to a CEP offset, and we find that a further examination of the record shows that NVR failed to demonstrate so here. Consequently, when these activities are viewed as a whole, we find that the differences between those activities performed for home and U.S. market sales do not rise to the level of a “substantial difference in selling activities,” or that NVR’s U.S. and home market sales were at different stages of marketing (or their equivalent). As noted above, in conducting our analysis for this proceeding, we examined four broad categories of selling functions that Commerce has sometimes used in such analysis (sales and marketing activities, inventory maintenance and warehousing, freight and delivery, and warranty and technical support) as well as all information and other arguments provided regarding the question of whether NVR’s home market sales are at a more advanced LOT than the CEP sales. Pursuant to such an analysis, we have concluded that NVR did not sufficiently support its claims that certain activities were performed at a high level for home market sales or show that a higher level of activity would constitute a markedly different function from that which NVR performs for its U.S. sales. The record therefore confirms that the home market and CEP sales are at similar levels of trade. Accordingly, NVR,

support, and market research. Of these, NVR reported that it performed sales forecasting and price negotiation/customer correspondence at high levels in the home market and at a low level in the U.S. The remaining activities were performed at various degrees of intensity levels, but none indicated the activities were performed at levels substantially different between the two markets.

⁹⁷ See Commerce’s Letter, “Verification of the Sale Responses of NLMK Verona SpA in the Antidumping Duty Administrative Reviews of Certain Carbon and Alloy Steel Cut-to-Length Plate from Italy,” dated September 20, 2019 (NVR Verification Report), at 8.

⁹⁸ We note that NVR provided additional information supporting its changes made to the intensity levels of certain activities contained in its revised selling functions chart. These activities include sales promotion, personnel training/exchange, and sales marketing support. See NVR’s February 26, 2019 SABQR at 6-8.

in support of its claim for a CEP offset, did not provide sufficient, contemporaneous evidence for certain of its selling activities to establish the argued differences.

Accordingly, based on the foregoing, we continue to deny NVR's claim for a CEP offset for purposes of the final results. We note, however, that the decision to grant a CEP offset is a fact-specific inquiry that must be made based on the instant record.⁹⁹ While NVR contends that it expends considerable resources into its home market sales when compared to making sales to the United States, we note that each record stands on its own, and should NVR advocate for a CEP offset in a subsequent review, we will consider its request and analyze its required support and substantiation, accordingly. Commerce is not necessarily bound by its determinations in a segment of a separate proceeding, or a prior segment of this proceeding, because each segment of a proceeding has its own unique factual record.¹⁰⁰

Comment 3: Whether to Apply Smoothing for NVR's Material Costs

Petitioner's Case Brief

- Commerce should collapse NVR's reported direct material costs based on the quality and chemical element product characteristics because the company's reported steel input costs differ among products with the same physical characteristics. There is a considerable difference between the minimum and maximum reported direct material costs within some product groups.¹⁰¹
- Commerce has reallocated material costs for other steel products in several cases when it found that cost variances were unrelated to a product's physical characteristics.¹⁰²
- This methodology has been upheld by the CIT and CAFC.¹⁰³
- NVR explained in a supplemental questionnaire response that cost differences between products can arise from the starting point in the production process.¹⁰⁴
- The facts of this case appear similar to others in which Commerce found that the normal books and records did not reasonably reflect the actual production costs because of differences in the steel input costs that were unrelated to the product physical characteristics.¹⁰⁵

⁹⁹ See *Emulsion Styrene-Butadiene Rubber from Mexico: Final Affirmative Determination of Sales at Less Than Fair Value*, 82 FR 33062 (July 19, 2017), and accompanying IDM at Comment 4.

¹⁰⁰ See, e.g., *Pakfood Public Co. Ltd. v. United States*, 724 S. Supp. 2d 1327, 1345 (CIT 2010); and *Alloy Piping Products, Inc. v. United States*, No. 08-00027, 2009 WL 98307831, at *5-*6 (CIT 2009).

¹⁰¹ See Petitioner Case Brief at 2.

¹⁰² *Id.* at 3 (citing *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 24471 (May 28, 2019), and accompanying IDM at Comment 6 (where Commerce adjusted the reported CONNUMs that are identical in all physical characteristics except for painting to reflect the same hot-rolled coil cost); and *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Final Results of Antidumping Duty Administrative Review*, 79 FR 37,284 (July 1, 2014), and accompanying IDM at Comment 1.

¹⁰³ *Id.* at 3 (citing *Dong-A Steel Co. v. United States*, 337 F. Supp 3d 1356, 1371 (CIT 2018); and *Thai Plastic Bag Indus. Co. v. United States*, 746 F. 3d 1358, 1366 (Fed. Cir. 2014)).

¹⁰⁴ *Id.* at 4.

¹⁰⁵ *Id.*

NVR's Rebuttal Brief

- The statute directs that costs shall normally be calculated based on the normal books and records of a producer if those records are kept in accordance with the generally accepted accounting principles (GAAP) of the exporting country and reasonably reflect the costs associated with the production and sale of the merchandise.¹⁰⁶
- The Statement of Administrative Action provides that if Commerce determines that costs reported by a respondent are shifted away from the production of the subject merchandise, Commerce may adjust those costs to ensure they are not artificially reduced.¹⁰⁷
- In arguing that production costs should be averaged, the petitioner overlooks the condition that adjustments are only permitted where a company's reported costs are not true to its actual costs.¹⁰⁸
- Commerce may only depart from its statutory obligation to use reported costs where substantial evidence on the record supports a finding that the reported costs do not reasonably reflect the production and sales costs of the subject merchandise.¹⁰⁹
- There is no basis for Commerce to depart from its finding in the *Preliminary Results* that NVR had reasonably reported its costs of production.¹¹⁰
- According to the petitioner, product characteristics should be the sole cause of any variance in direct material costs, and any differences due to other factors should be averaged. This argument runs counter to the statutory directive that NV be determined based on "a fair comparison" with the export price, which is not promoted by applying average costs.¹¹¹
- Replacing reasonably reported costs with an average is not conducive to determining the correct NV. In this case, the variance in NVR's costs is due to actual differences in the production process and volumes, resulting from the use of different raw materials – differences that were correctly captured in NVR's reported costs.¹¹²
- Because NVR begins its production of CTL plate from different stages of production, material costs can vary depending on the specific material used to start production and on the materials that are integrated at different stages of production.¹¹³
- NVR has accurately reported its costs in accordance with Italian GAAP and Commerce verified that each cost component reasonably reflects the cost of production of subject merchandise.¹¹⁴
- Commerce has already considered the petitioner's argument for purposes of the *Preliminary Results* and concluded that the overall cost differences between similar CONNUMs are minor and relate to low production volumes.¹¹⁵

¹⁰⁶ See NVR Rebuttal Brief at 2.

¹⁰⁷ *Id.* at 3.

¹⁰⁸ *Id.* at 3 (citing *Thai Plastic Bags Industries Co. v. United States*, 746 F. 3d. 1358, 1366 (Fed. Cir. 2014)).

¹⁰⁹ *Id.* at 3-4.

¹¹⁰ *Id.* at 4.

¹¹¹ *Id.* at 4.

¹¹² *Id.* at 5.

¹¹³ *Id.* at 5.

¹¹⁴ *Id.* at 5 (citing NVR's October 2, 2018, DQR at 4 and Exhibit D-4).

¹¹⁵ *Id.* at 6 (citing Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – NLMK Verona SpA," dated July 10, 2019).

Commerce's Position:

We disagree with the petitioner. We continue to find that NVR has reported its CONNUM-specific costs consistent with the manner in which its costs are maintained within NVR's cost accounting system and that such costs are reasonable.

When Commerce evaluates a respondent's submitted costs, section 773(f)(1)(A) of the Act advises that "costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise."

Accordingly, Commerce will normally rely on a company's normal books and records if two conditions are met: (1) the books are kept in accordance with the home country's GAAP; and (2) the books and records reasonably reflect the cost to produce and sell the merchandise.¹¹⁶

Here, the reported costs are derived from NVR's normal books and records, and that those books and records are kept in accordance with Italian GAAP.¹¹⁷ Hence, the question facing Commerce is whether the per-unit costs from NVR's normal books and records reasonably reflect the cost to produce and sell the merchandise under consideration.

At the outset of this review Commerce identified the CONNUM physical characteristics that are most significant in identifying price differences between products.¹¹⁸ These are the physical characteristics that define unique products (*i.e.*, the CONNUMs) for sales comparison purposes and establish the level of detail needed to capture the important differences when comparing the products in price-to-price comparisons. Thus, under sections 773(f)(1)(A) and 773(a)(6)(C)(ii) and (iii) of the Act, a respondent's costs should reflect meaningful cost differences attributable to these different physical characteristics. This ensures that the product-specific costs Commerce uses for the sales-below-cost test, constructed value, and the difference in merchandise adjustment (*i.e.*, DIFMER) accurately reflect the physical characteristics deemed important in establishing the prices of the products. Therefore, Commerce normally does not rely on a respondent's reported costs where significant cost differences between CONNUMs are driven by factors other than the CONNUM physical characteristics, such as production timing differences, routing variations, or cost system conventions.¹¹⁹ For example, in *Large Diameter Pipe from Korea* we found that "Because the large cost differences between similar products were unrelated to the products' physical characteristics (*e.g.*, fluctuation of raw material prices, inefficient production runs, limited production of specific CONNUMs, *etc.*), we do not consider

¹¹⁶ See, *e.g.*, *Certain Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination*, 82 FR 16369 (April 4, 2017), and accompanying IDM at Comment 2.

¹¹⁷ See NVR's October 2, 2018, DQR at D-8.

¹¹⁸ See Product Characteristics Letter.

¹¹⁹ See *Welded Line Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 80 FR 61366 (October 13, 2015) (*Welded Line Pipe from Korea*), and accompanying IDM at Comment 5.

such costs to reasonably reflect the actual production costs of the merchandise.”¹²⁰ Accordingly, in that case we weight-averaged respondent’s costs to mitigate the cost differences not related to physical characteristics.¹²¹

NVR admits that there are various factors contributing to the cost differences for similar CONNUMs, such as different processes performed and different material inputs used, depending on the starting point of production, which are not related to the differences in physical characteristics.¹²² Therefore, we analyzed cost differences for products with similar physical characteristics to determine whether NVR’s reporting of product-specific costs was reasonable. In deciding whether to adjust for unusual cost differences between similar products, Commerce normally considers “the magnitude of the cost differences and the number of CONNUMs affected.”¹²³ In this case, we analyzed the differences in material costs between CONNUMs sharing the same quality and chemical element characteristics.¹²⁴ Based on this analysis, we found that while there are some differences in material costs, overall the cost differences between similar CONNUMs are minor, relate to low production volumes, and the number of CONNUMs affected was small.¹²⁵ Thus, we find that the per-unit costs reported by NVR based on its normal books and records reasonably reflect the cost to produce and sell the merchandise under consideration. Accordingly, we have continued to rely upon NVR’s reported CONNUM-specific costs in these final results.

Comment 4: Universe of Sales for NVR

NVR’s Case Brief:

- In its final calculations, Commerce should remove all home market and U.S. sales made prior to the beginning of the POR (*i.e.*, November 14, 2016).¹²⁶

Commerce’s Position:

We agree with NVR that in the *Preliminary Results* we inadvertently failed to exclude certain of NVR’s U.S. sales from our preliminary calculations. Specifically, in our preliminary calculations, we included U.S. sales with a date of sale before the first day of the POR (*i.e.*, November 14, 2016). Therefore, we have revised NVR’s final calculations to exclude these sales dated prior to the beginning of the POR.¹²⁷

¹²⁰ See *Large Diameter Welded Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 84 FR 6374, dated February 27, 2019 (*Large Diameter Pipe from Korea*), and accompanying IDM at Comment 6.

¹²¹ *Id.*

¹²² See NVR’s October 2, 2018, DQR at D-4.

¹²³ See *Welded Line Pipe from Korea* IDM at Comment 5.

¹²⁴ See NVR’s Final Cost Calculation Memo at Attachment 1.

¹²⁵ *Id.*

¹²⁶ See NVR Case Brief at 10.

¹²⁷ See NVR Final Calculation Memo.

Comment 5: Other NVR Adjustments

NVR reported its domestic inland freight charges (DINLFTPU) on a transaction-specific basis with respect to its U.S. direct sales. From these same sales, NVR also calculated a variance factor between the pro-forma freight amounts contained on the invoice and the actual freight amounts incurred. NVR calculated DINLFTPU for all U.S. non-direct sales using this variance factor. At verification, NVR presented as minor corrections a revision to its DINLFTPU calculation, stating that it omitted certain freight components.¹²⁸

Unreported Components of Domestic Inland Freight

Petitioner's Case Brief:

- At verification, Commerce found that NVR failed to report two components (*i.e.*, minimum weight requirements and bills of lading) related to its DINLFTPU calculation. Because NVR (1) failed to substantiate the accuracy of its reported freight amounts; and (2) did not provide a linkage between the revised costs and the U.S. sales listing, Commerce should revise all of NVR's reported DINLFTPU amounts to be the highest individually reported DINLFTPU amount in NVR's U.S. sales listing.¹²⁹
- Because NVR based DINLFTPU for U.S. non-direct sales on the DINLFTPU reported for U.S. direct sales, it understated DINLFTPU for all U.S. sales. These errors cannot be fixed as NVR failed in its obligation to report accurate information.¹³⁰

NVR's Rebuttal Brief:

- Commerce should revise NVR's DINLFTPU calculation to be based on the average percentage by which it inadvertently underreported its U.S. inland freight expenses.¹³¹
- NVR's internal freight logistics program does not track all freight components required by Commerce in the normal course of business and, as a result, human error led to an omission of two freight components. In order to ensure it reported freight correctly and to cooperate fully, NVR manually compiled invoices spanning 18 months in preparation for verification.¹³²
- NVR presented, as "minor corrections," an average ratio representing the variance between the reported and corrected DINLFTPU amounts.¹³³ By design, this variance represents the adjustment necessary to ensure that NVR "does not benefit from its unintentional data entry

¹²⁸ See NVR Verification Report.

¹²⁹ See Petitioner Case Brief at 6 (citing NVR Verification Report at 2, "company officials provided a worksheet with the affected freight invoices and the resulting DINLFTPU per-unit expense increase...NVR did not provide a linkage between the revised costs and the U.S. sales listing.").

¹³⁰ See Petitioner Case Brief at 6.

¹³¹ See NVR Rebuttal Brief at 7.

¹³² *Id.*

¹³³ *Id.* at 8 (citing NVR's Letter, "NLMK Verona SpA's Minor Corrections Presented at the Sales Verification," dated April 17, 2019, at Exhibit MC-1.)

mistakes.”¹³⁴ The petitioner’s claim that the revised calculation did not link to specific reported sales misses the point because NVR’s intention was to provide an appropriate adjustment.¹³⁵

- Relying on the petitioner’s proposal of using the highest DINLFTPU amount reported (1) amounts to an application of an adverse inference; (2) is unwarranted given the nature of the error; and (3) is contrary to the statute.^{136, 137} The highest reported amount is an outlier shipment charge that is over 300 percent higher than the average DINLTPU amount, once corrected.¹³⁸
- According to the CIT, “adverse inferences are not warranted ‘merely from a failure to respond,’ but rather in instances where {Commerce} reasonably expected that ‘more forthcoming responses should have been made.’”¹³⁹ Here, not only did NVR cooperate in the verification, but Commerce verified NVR’s DINLTPU methodology, including the minor correction.¹⁴⁰ The outlier rate serves no purpose but only to discourage respondents from reporting final corrections.

Unreported U.S. Container Rental Charges

Petitioner’s Case Brief:

- At verification, Commerce discovered that NVR failed to report container rental charges, applicable to all sales shipped to Chicago. Commerce should revise NVR’s U.S. sales listing to report the highest of these amounts found at verification.¹⁴¹

NVR’s Rebuttal Brief:

- Contrary to the petitioner’s request to rely on the highest rental charge reported for all U.S. sales shipped to Chicago, Commerce should make any adjustment based on the verified, average rental charge.¹⁴²
- In preparation for verification, NVR discovered that shipments to Chicago incur a rental container charge and fully reported its findings to Commerce, noting that it did not intentionally withhold this information.¹⁴³

¹³⁴ *Id.* at 8.

¹³⁵ *Id.* at 7-8.

¹³⁶ *Id.* at 9.

¹³⁷ NVR points to section 776(b)(1)(A) of the Act, and argues that “the statute is clear that adverse inferences in selecting from facts otherwise available are not warranted where a respondent has cooperated to the best of its ability.”

¹³⁸ See NVR Rebuttal Brief at 8-9.

¹³⁹ *Id.* at 9 (citing *Nexteel Co., Ltd. v. United States*, 392 F. Supp.3d 1276, 1285 (CIT 2019) (citing *Nippon Steel v. United States*, 337 F. 3d 1373, 1383 (Fed. Cir. 2003))).

¹⁴⁰ *Id.* at 9.

¹⁴¹ See Petitioner Case Brief at 6.

¹⁴² See NVR Rebuttal Brief at 9.

¹⁴³ *Id.* at 10.

- NVR based its ocean freight and related charges on the basis of U.S. direct sales, noting that no party previously commented on this methodology.¹⁴⁴

Home Market Packing Expenses

Petitioner's Case Brief:

- Commerce should revise NVR's reporting of home market packing expenses to be based on Commerce's corrected amount calculated at verification (*i.e.*, removing wooden wedge costs and including expenses incurred during the window period).¹⁴⁵

NVR's Rebuttal Brief:

- NVR agrees with the petitioner's requested adjustment.¹⁴⁶

Unreported Home Market Freight Credits

Petitioner's Case Brief:

- Because NVR failed to report several freight credits related to home market sales of CTL plate, Commerce should revise NVR's home market sales listing to report these credits as an adjustment to the home market gross unit price for all sales.¹⁴⁷

NVR's Rebuttal Brief:

- Should Commerce decide to revise NVR's home market sales listing to include unreported home market freight credits, NVR agrees with the methodology proposed by the petitioner.¹⁴⁸

Commerce's Position:

Regarding NVR's unreported components of domestic inland freight, we disagree with the petitioner that Commerce should rely on the highest reported DINLTPU value for all U.S. sales. As an initial matter, the highest value expense amount reported by NVR is an outlier, applicable to one unique invoice shipped to a certain destination¹⁴⁹ and represents a value over 300 percent higher than the average of the DINFLTPU per-unit amounts reported. Further, we accepted the information that NVR presented at verification as "Corrections Presented at the Start of

¹⁴⁴ *Id.* at 9.

¹⁴⁵ See Petitioner Case Brief at 7.

¹⁴⁶ See NVR Rebuttal Brief at 10.

¹⁴⁷ See Petitioner Case Brief at 7.

¹⁴⁸ See NVR Rebuttal Brief at 10.

¹⁴⁹ Indeed, NVR reported only one invoice to this physical destination.

Verification.” At verification we reviewed the source documentation supporting NVR’s adjusted calculation and found no discrepancies.¹⁵⁰

Given the above facts, it would be inappropriate to base all reported U.S. inland freight on an outlier charge that, in and of itself, is not inclusive of all components of NVR’s incurred freight charges. We find that NVR cooperated fully and disclosed its reporting error appropriately, before the start of verification. As NVR explained, NVR’s internal freight logistics program does not track all freight components required by Commerce in the normal course of business and, as a result, human error led to an omission of two freight components,¹⁵¹ which NVR promptly corrected. In addition, it identified the actual amounts by which it underreported freight and provided the source documentation, accordingly. Therefore, for the final results, we find it reasonable to increase NVR’s reported DINLFTPU amounts by the variance provided by NVR at verification for all U.S. sales.

With regards to NVR’s unreported U.S. rental container charges, we disagree with the petitioner that we should rely on NVR’s highest unreported per-unit rental container charge calculated during verification. Instead, because (1) NVR presented and Commerce accepted these charges as “Corrections Presented at the Start of Verification”; and (2) Commerce verified the accuracy of the information, we find it reasonable to rely on the average of NVR’s unreported per-unit rental container charges.¹⁵² Once again, NVR fully cooperated with our requests for information. Although it made an error in reporting certain per-unit rental container charges, it brought the error to our attention and corrected it. Moreover, the difference between the highest and the average per-unit charge (*i.e.*, 3.63 percent), is minimal. As a result, we have revised NVR’s U.S. international freight expenses to include the average per-unit rental container charge, as applicable to all U.S. sales shipped to the port of Chicago.¹⁵³

With regards to the treatment of NVR’s incorrectly reported home market packing expenses, because both the petitioner and NVR are in agreement, for the final results we have revised these expenses to be the per-unit amount calculated at verification (*i.e.*, the per-unit amount calculated by NVR at verification).¹⁵⁴

With regards to the treatment of NVR’s unreported home market freight credits, because the petitioner agrees and NVR concedes, for the final results we have revised all of NVR’s reported home market gross unit prices to be adjusted by the amount of applicable billing adjustments not assigned at a “plate level” as a percentage of the reported total home market sales value (*i.e.*, the percentage amount calculated by NVR at verification).¹⁵⁵

¹⁵⁰ See NVR Verification Report at 3.

¹⁵¹ See NVR Rebuttal Brief at 7 (citing NVR’s February 26, 2019 SABQR at 27-28).

¹⁵² See NVR Verification Report at 3.

¹⁵³ See NVR Final Calculation Memo.

¹⁵⁴ See NVR Final Calculation Memo; and NVR Verification Report at 4 and 23.

¹⁵⁵ See NVR Final Calculation Memo; and NVR Verification Report at 4.

VI. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting all of the above positions. If this recommendation is accepted, we will publish the final results of this review in the *Federal Register*.

☒

Agree

☐

Disagree

1/10/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler

Assistant Secretary

for Enforcement and Compliance