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January 14, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Gary Taverman 
Senior Advisor
for Antidumping and Countervailing Duty Operations

SUBJECT: Preliminary Decision Memorandum for the Administrative Review
of the Antidumping Duty Order on Certain Cut-to-Length Carbon-
Quality Steel Plate Products from the Republic of Korea

SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea). The review covers seven producers/exporters of the subject merchandise. The period of review (POR) is February 1, 2011, through January 31, 2012. We preliminarily determine that companies subject to this review either made no sales of the subject merchandise at prices below normal value (NV) or had no shipments during this POR.

Background

On February 10, 2000, the Department published in the *Federal Register* an antidumping duty order on CTL plate from Korea. See *Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea*, 65 FR 6585 (February 10, 2000). On February 1, 2012, the Department published in the *Federal Register* a notice of opportunity to request an administrative review of the order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 4990 (February 1, 2012).

On March 30, 2012, based on timely requests for administrative review, the Department initiated an administrative review of seven companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, and Deferral of Administrative Review*, 77 FR 19179 (March 30, 2012), as corrected in *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 25401, 25402 (April 30, 2012). On May 24, 2012, we selected Dongkuk Steel Mill Co., Ltd. (DSM) for individual examination in this review. See Memorandum entitled "Certain Cut-to-Length



Carbon-Quality Steel Plate from the Republic of Korea: Respondent Selection,” dated May 24, 2012. On October 3, 2012, the Department extended the due date for the preliminary results of review to January 14, 2013. *See* Memorandum to the File entitled “Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated October 3, 2012.

As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29 through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the preliminary results of this review is now January 16, 2013. *See* Memorandum to the Record from Paul Piquado, Assistant Secretary for Import Administration, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Hurricane Sandy,” dated October 31, 2012.

The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the antidumping duty order are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to length (not in coils) and without patterns in relief), of iron or non-alloy quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products included in the scope of the order are of rectangular, square, circular, or other shape and of rectangular or non-rectangular cross section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been “worked after rolling”) – for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished, or coated with plastic or other non-metallic substances are included within the scope. Also, specifically included in the scope of the order are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products included in the scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the order unless otherwise specifically excluded. The following products

are specifically excluded from the order: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

Imports of steel plate are currently classified in the HTSUS under subheadings 7208.40.30.30, 7208.40.30.60, 7208.51.00.30, 7208.51.00.45, 7208.51.00.60, 7208.52.00.00, 7208.53.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.13.00.00, 7211.14.00.30, 7211.14.00.45, 7211.90.00.00, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00, 7225.40.30.50, 7225.40.70.00, 7225.50.60.00, 7225.99.00.90, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by the order is dispositive.

Preliminary Determination of No Reviewable Entries

We received timely submissions from Daewoo International Corp. (Daewoo), Dongbu Steel Co., Ltd. (Dongbu), GS Global Corp. (GS Global), and Hyundai Steel Co. (Hyundai Steel) reporting to the Department that they had no exports, sales or entries of subject merchandise to the United States during the POR.¹ The Department transmitted a “No-Shipment Inquiry” to U.S. Customs and Border Protection (CBP) regarding these four companies.² Pursuant to this inquiry, the Department received no notifications from CBP of any entries of subject merchandise from Daewoo, Dongbu, or GS Global within the 10-day deadline. With respect to Hyundai Steel, CBP entry documents the Department received on December 18, 2012,³ do not contradict Hyundai Steel’s no-shipment letter, in which the company stated “that it did not know or have reason to know” that any of its CTL plate customers “would subsequently export or sell Hyundai Steel’s merchandise to the United States during the period of review.” Accordingly, based on record evidence, we preliminarily determine that Daewoo, Dongbu, GS Global, and Hyundai Steel had no reviewable entries during the POR.

Our past practice concerning no-shipment respondents was to rescind the administrative review if the respondent certified that it had no shipments and we confirmed the certified statement through an examination of CBP data.⁴ We would then instruct CBP to liquidate any entries of merchandise produced by the respondent at the deposit rate in effect on the date of entry. However, in our May 6, 2003, “automatic assessment” clarification, we explained that, where respondents in an administrative review demonstrated that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the all-

¹ See the letters from Daewoo, Dongbu, GS Global, and Hyundai Steel dated May 22, 2012, April 26, 2012, May 22, 2012, and April 24, 2012, respectively.

² See the no-shipment inquiries for these four companies to the CBP dated September 7, 2012.

³ See Memorandum to the File regarding “Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: CBP Entry Documents,” dated December 19, 2012.

⁴ See 19 CFR 351.213(d)(3). See also *Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 41/2 Inches) From Japan: Final Results of Antidumping Duty Administrative Review*, 77 FR 27428, 27430 (May 10, 2012).

others rate applicable to the proceeding.⁵ Because “as entered” liquidation instructions do not alleviate the concerns which the *Assessment Policy Notice* was intended to address, instead of rescinding the review with respect to Daewoo, Dongbu, GS Global, and Hyundai Steel, we find it appropriate to complete the review and issue liquidation instructions to CBP concerning entries for these companies following the final results of the review. If we continue to find that Daewoo, Dongbu, GS Global, and Hyundai Steel had no reviewable transactions of subject merchandise in the final results, we will instruct CBP to liquidate any existing entries of merchandise produced by Daewoo, Dongbu, GS Global, and Hyundai Steel but exported by other parties at the all-others rate.⁶

Rates for Respondents Not Selected for Individual Examination

Generally we have looked to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents not selected for individual review. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based on total facts available. Accordingly, the Department’s usual practice has been to average the rates for the selected companies excluding zero, *de minimis*, and rates based entirely on facts available.⁷ Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, *de minimis*, or based on total facts available, we may use “any reasonable method” for assigning the rate to non-selected respondents. One method that section 735(c)(5)(B) of the Act contemplates as a possible method is “averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.”

In this review, we have calculated a zero or *de minimis* weighted-average dumping margin for the sole respondent (DSM) selected for individual examination. In previous cases, the Department has determined that a “reasonable method” to use when, as here, the rate of the respondent selected for individual examination is zero or *de minimis* is to apply to the companies not selected for individual examination the average of the most recently determined rates that are not zero, *de minimis*, or based entirely on facts available (which may be from a prior review or new shipper review).⁸ If any such non-selected company had its own calculated rate that is contemporaneous with or more recent than such prior determined rates, however, the Department has applied such individual rate to the non-selected company in the review in question, including when that rate is zero or *de minimis*.⁹ However, all prior rates for this proceeding were calculated using the methodology the Department abandoned in its *Final Modification for Reviews* pursuant to section 123 of the Uruguay Round Agreements Act.¹⁰ Therein, the

⁵ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (“*Assessment Policy Notice*”).

⁶ See, e.g., *Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989 (September 17, 2010).

⁷ See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum (I&D Memo) at Comment 16 (*AFBs 2008*).

⁸ See *AFBs 2008* and accompanying I&D Memo at Comment 16.

⁹ *Id.*

¹⁰ See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in*

Department stated that it will not use this methodology in administrative reviews with preliminary determinations issued after April 16, 2012.¹¹ Therefore, we will not apply any rates calculated in prior reviews to the non-selected companies in this review. Based on this, and in accordance with the statute, we determine that a reasonable method for determining the weighted-average dumping margins for the non-selected respondents in this review is to assign the rate calculated for DSM, which is the sole respondent selected for individual examination.

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B)(ii) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether DSM's sales of CTL plate from Korea were made in the United States at less than NV, we compared the constructed export price (CEP) to NV as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum, below.¹²

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the "scope of the order" section above produced and sold by DSM in the comparison market during the POR to be foreign like product for the purposes of determining appropriate product comparisons to U.S. sales of subject merchandise. Specifically, we made comparisons to weighted-average comparison market prices that were based on all sales which passed the cost of production (COP) test of the identical product during the relevant or contemporary month.

Date of Sale

The Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale, but may use a date other than the invoice date if the Department is satisfied that a different date better reflects the date on which the material terms of sale are established. *See* 19 CFR 351.401(i). For home market sales, DSM explained that the sales quantity and price may change between the time of the initial order and the shipment of the merchandise. For U.S. sales, DSM explained that the essential terms of sale are fixed at the time of shipment. For home market sales, the date of shipment was the same as the sales invoice date. For U.S. sales, the date of shipment precedes the sales invoice date. We used DSM's date of shipment as the date of sale for both the home market and U.S. sales because the date of shipment better reflects the date on which the material terms of sale are established.

Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012).

¹¹ *Id.*

¹² In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average export prices (or CEPs) with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted average dumping margin.

Level of Trade/CEP Offset

To the extent practicable, we determine normal value for sales at the same level of trade as CEP sales. *See* section 773(a)(1)(B)(i) of the Act and 19 CFR 351.412. When there are no sales at the same level of trade, we compare CEP sales to comparison market sales at a different level of trade. The normal value level of trade is that of the starting-price sales in the comparison market.

We examined the differences in selling functions reported in DSM's responses to our requests for information. DSM reported two types of customers in the home market: end-users and distributors. The selling activities associated with the two types of customers did not differ; therefore, we consider the two reported channels of distribution to constitute one level of trade. In the U.S. market, DSM reported CEP sales to distributors only; therefore, we considered the CEP to constitute only one level of trade. We compared the selling activities at the CEP level of trade with the selling activities at the home market level of trade and found, after deducting selling functions corresponding to economic activities in the United States, *i.e.*, those performed by DSM's U.S. affiliate Dongkuk International, Inc., that these levels were substantially dissimilar. For example, sales at the CEP level do not involve sales promotion/advertising, customer negotiation/contract, or invoicing unaffiliated customers while sales at the home market level include these activities. Therefore, we have preliminarily determined the home market sales to be at a different level of trade and at a more advanced stage of distribution than the CEP level of trade.

Because there is only one level of trade in the home market, we were unable to calculate a level-of-trade adjustment based on DSM's home market sales of the foreign like product and we have no other information that provides an appropriate basis for determining a level-of-trade adjustment. Moreover, because the CEP level of trade did not exist in the home market, there is no basis for a level of trade adjustment. For DSM's CEP sales, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act. The CEP offset adjustment to normal value is subject to the so-called offset cap, which is calculated as the sum of home market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP.

Constructed Export Price

The Department based the price of DSM's U.S. sales of subject merchandise on CEP, as defined in section 772(b) of the Act, because the merchandise was sold, before importation, by a U.S.-based seller affiliated with the producer to unaffiliated purchasers in the United States. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses and those indirect selling expenses associated with economic activities occurring in the United States. We also deducted the profit allocated to expenses deducted under section 772(d)(1) in accordance with section 772(d)(3) of the Act. Pursuant to section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and comparison markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and comparison markets.

Normal Value

A. Overrun Sales

Section 773(a)(1)(B) of the Act provides that normal value shall be based on the price at which the foreign like product is first sold, *inter alia*, in the ordinary course of trade. Section 771(15) of the Act defines “ordinary course of trade” as the “conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind.”

DSM reported home market sales of “overrun” merchandise, *i.e.*, sales of products that failed to meet the original customer’s order specifications because of differences in size, chemical components, and/or strength. In the past, the Department has examined various factors to determine whether “overrun” sales are in the ordinary course of trade. *See China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1364-65 (CIT May 14, 2003). *See also, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 77 FR 2032 (January 13, 2012) (2010-11 Prelim), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 77 FR 21527 (April 10, 2012) (2010-11 Final). The Department has the discretion to choose how best to analyze the many factors involved in determining whether sales are made within the ordinary course of trade. *See Laclede Steel Co. v. United States*, 19 CIT 1076, 1078 (1995). These factors include, but are not limited to, the following: (1) whether the merchandise is “off-quality” or produced according to unusual specifications; (2) the comparative volume of sales and the number of buyers in the home market; (3) the average quantity of an overrun sale compared to the average quantity of a commercial sale; and (4) price and profit differentials in the home market.

Based on our analysis of these factors and the terms of sale, we preliminarily determine that DSM’s overrun sales are outside the ordinary course of trade. Because our analysis includes business proprietary information, the analysis is available in a separate decision memorandum. *See* the memorandum entitled “Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Home Market Overruns” dated concurrently with this memorandum and hereby incorporated by reference.

B. Selection of Comparison Market

To determine whether there was a sufficient volume of sales in Korea to serve as a viable basis for calculating NV, we compared DSM’s volume of home market sales of the foreign like product to its U.S. sales volume, in accordance with sections 773(a)(1)(B) and (C) of the Act. Because the volume of DSM’s home market sales of the foreign like product exceeded five percent of its aggregate U.S. sales volume of the subject merchandise, we preliminarily determine that DSM’s home market was viable for comparison purposes.

C. Affiliated Party Transactions and Arm's-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's-length prices. *See* 19 CFR 351.403(c). To test whether DSM's comparison market sales were made at arm's-length prices, we compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, and direct selling expenses. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length prices. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We included in our calculations of NV those sales to affiliated parties that were made at arm's-length prices and excluded those sales that failed the arm's-length test.

DSM made home market sales to a subsidiary of Dongkuk Industries Co., Ltd. (DKI). DKI owns 60 percent of this subsidiary. DSM's Chairperson, Sae Joo Chang, and CEO, Sae Wook Chang, are brothers. DKI's Chairperson and DKI's subsidiary's director, Sang Kuhn Chang, is an uncle of DSM's Chairperson, Sae Joo Chang, and CEO, Sae Wook Chang. Together the Chang family grouping owns the largest block of the outstanding shares of DSM and DKI.

Members of a family are affiliates pursuant to section 771(33)(A) of the Act and 19 CFR 351.102(b)(3). The definition of family includes uncle-nephew relationships under section 771(33)(A) of the Act. *See Ferro Union, Inc. v. United States*, 44 F. Supp. 2d 1310, 1325-26 (CIT 1999). Two or more persons directly or indirectly controlling, controlled by, or under common control with any person are affiliates under section 771(33)(F) of the Act and 19 CFR 351.102(b)(3). In past reviews, the Department has found that DSM and DKI are affiliated. *See, e.g., 2010-11 Prelim*, 77 FR at 2033, unchanged in *2010-11 Final*. The U.S. Court of International Trade has upheld the Department's decision to find that DSM and DKI are affiliates in a separate review. *See Dongkuk Steel Mill Co. v. United States*, 29 CIT 724 (June 22, 2005).

Therefore, we preliminarily find that DKI's Chairperson, Sang Kuhn Chang, and DSM's Chairperson, Sae Joo Chang, and CEO, Sae Wook Chang, are affiliated under section 771(33)(A) of the Act and 19 CFR 351.102(b)(3) because of their uncle-nephew relationship. We also preliminarily find that DSM, DKI, and DKI's subsidiary are affiliated under section 771(33)(F) of the Act and 19 CFR 351.102(b)(3) because DSM, DKI, and DKI's subsidiary are under common control of the Chang family grouping. For more details which contain DSM's business proprietary information, *see* Memorandum entitled "Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Affiliation of Dongkuk Steel Mill Co., Ltd., and Dongkuk Industries Co., Ltd.," dated concurrently with this memorandum and hereby incorporated by reference. Accordingly, we preliminarily treated DSM's home market sales to DKI's subsidiary as sales to an affiliated party and performed the arm's-length test for these sales.

D. Cost of Production

The Department disregarded sales below the cost of production (COP) in the last completed review in which we examined DSM. *See Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 77 FR 2032, 2034 (January 13, 2012), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 77 FR 21527 (April 10, 2012). Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that DSM made sales of the subject merchandise in its comparison market at prices below the COP in the current review period. Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by DSM. We examined the cost data for DSM and determined that our quarterly cost methodology is not warranted and, therefore, we have applied our standard methodology of using annual costs based on the reported data, adjusted as described below.

1. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expenses, in accordance with section 773(b)(3) of the Act.

Except as stated below, we relied on the COP data submitted by DSM in its questionnaire responses for the COP calculation.

During the POR, DSM purchased slabs from its affiliates. Slab is a major input to the merchandise. Therefore, we analyzed DSM's affiliated transactions in accordance with section 773(f)(3) of the Act, and adjusted DSM's cost of manufacturing to reflect the higher of market price or transfer price. *See Preliminary Analysis Memorandum*¹³ for further details.

2. Test of Comparison Market Sales Prices

As required under sections 773(b)(1) and (2) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.

¹³ See Memorandum to the File from Yang Jin Chun, International Trade Compliance Analyst, entitled, "Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Analysis Memorandum for Dongkuk Steel Mill Co., Ltd." dated concurrently with this memorandum and hereby incorporated by reference (Preliminary Analysis Memorandum).

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

Our cost test for DSM indicated that for home market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales to determine NV.

E. Constructed Value

In accordance with section 773(e) of the Act, we calculated constructed value (CV) based on the sum of DSM's material and fabrication costs, selling, general and administrative (SG&A) expenses, profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by DSM in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the comparison market.

F. Calculation of Normal Value Based on Comparison Market Prices

For those comparison products for which there were sales at prices above the COP for DSM, we based NV on home market prices. We calculated NV based on packed prices to unaffiliated customers in Korea and prices to affiliated customers which were determined to be at arm's length. *See* the "Affiliated Party Transactions and Arm's-Length Test" section, above. We adjusted the starting price for foreign inland freight pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and in circumstances of sale (for imputed credit expenses and warranty expenses) in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the subject merchandise. *See* 19 CFR 351.411(b).

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the Import Administration website at <http://ia.ita.doc.gov/exchange/index.html>.


RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

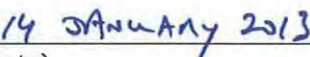


Agree

Disagree



Paul Piquado
Assistant Secretary
for Import Administration



(Date)