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September 18, 2014

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman 
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Large Power Transformers from the
Republic of Korea; 2012-2013

SUMMARY

The Department of Commerce (the Department) is conducting this administrative review of the antidumping duty order on large power transformers (LPTs) from the Republic of Korea (Korea). The review covers five producers/exporters of the subject merchandise, Hyosung Corporation (Hyosung), Hyundai Heavy Industries Co., Ltd. (Hyundai), ILJIN, ILJIN Electric Co., Ltd. (ILJIN Electric), and LSIS Co., Ltd. ILJIN, ILJIN Electric, and LSIS Co., Ltd. (LSIS) were not selected for individual examination. The period of review (POR) is February 16, 2012, through July 31, 2013. We preliminarily find that Hyosung and Hyundai have sold subject merchandise at less than normal value (NV) during the POR.

Background

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.213(b), and the notice of opportunity to request an administrative review,¹ on August 29, 2013, ABB, Inc. (Petitioner) requested an administrative review of imports of LPTs from Korea produced by Hyosung, Hyundai, ILJIN, ILJIN Electric, and LSIS.² Additionally, pursuant to section 751(a)(1) of the Act and 19 CFR 351.213(b), Hyosung, Hyundai, and ILJIN Electric requested an administrative review of the antidumping duty order on LPTs from Korea on

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 78 FR 46573 (August 1, 2013).

² See Letter from Petitioner to the Department, regarding "Large Power Transformers from the Republic of Korea - Petitioner's Request for Administrative Review," dated August 29, 2013.



August 30, 2013.³ On September 24, 2013, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review of the antidumping duty order on LPTs from Korea.⁴

In the *Initiation Notice*, we stated our intention, in the event we limit the number of respondents for individual examination, to select respondents based on U.S. Customs and Border Protection (CBP) data.⁵ We released the CBP data to interested parties under an administrative protective order on October 24, 2013, and invited interested parties to submit comments on the data as well as potential respondent selection.⁶ On October 30, 2013, we received comments regarding the CBP data and respondent selection from Petitioner.⁷ On October 31, 2013, we received comments regarding respondent selection from Hyosung and Hyundai.⁸ No comments were received from the other parties named in the *Initiation Notice*.

On November 13, 2013, after considering the number of potential producers/exporters involved in this administrative review, as well as the resources available to the Department, we determined that it was not practicable to examine all exporters/producers of subject merchandise for which a review was requested.⁹ As a result, pursuant to section 777A(c)(2)(B) of the Act, we determined that we could reasonably individually examine only two producers/exporters accounting for the largest volume of LPTs from Korea during the POR (*i.e.*, Hyosung and Hyundai).¹⁰

The original deadline for the preliminary results of this review was May 5, 2014. As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1 through October 16, 2013.¹¹ As a result, the deadline for the preliminary results of this review was revised to May 21, 2014. Further, on May 16, 2014, in

³ See Letter from Hyosung to the Department, regarding “First Administrative Review of Large Power Transformers from the Republic of Korea: Request for Administrative Review,” dated August 30, 2013; Letter from Hyundai to the Department, regarding “Large Power Transformers from Korea,” dated August 30, 2013; and Letter from ILJIN to the Department, entitled “Large Power Transformers from the Republic of Korea: Request for Administrative Review,” dated August 30, 2013, respectively.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 60834 (October 2, 2013) (*Initiation Notice*).

⁵ See *Initiation Notice* at 60835.

⁶ See Letter to All Interested Parties, regarding CBP data and selection of respondents for individual review, dated October 24, 2013 (CBP Data Letter).

⁷ See Letter from Petitioner, regarding “1st Administrative Review of Large Power Transformers from Korea - Petitioners’ Comments on the Department’s Selection of Mandatory Respondents,” dated October 30, 2013.

⁸ See Letter from Hyosung, entitled “Large Power Transformers from the Republic of Korea: Respondent Selection Comments,” dated October 31, 2013; and Letter from Hyundai, regarding “Large Power Transformers from Korea: Respondent Selection Comments,” dated October 31, 2013, respectively.

⁹ See Memorandum to Richard O. Weible, Office Director, regarding “Antidumping Duty (“AD”) Administrative Review of Large Power Transformers (“LPTs”) from the Republic of Korea (“Korea”): Respondent Selection Memorandum,” dated November 13, 2013 (Respondent Selection Memorandum).

¹⁰ *Id.*

¹¹ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding “Deadlines Affected by the Shutdown of the Federal Government,” dated October 18, 2013.

accordance with section 751(a)(3)(A) of the Act, the Department extended the time period for issuing the preliminary results of this review by 120 days, to September 18, 2014.¹²

Companies Not Selected for Individual Examination

ILJIN, ILJIN Electric, and LSIS were not selected by the Department for individual review.¹³ The rate calculated for the non-selected companies is a weighted-average percentage margin which is calculated based on the publicly-ranged U.S. volumes of the two reviewed companies with an affirmative antidumping duty margin.¹⁴

Deadline for Submission of Updated Sales and Cost Information

Given that most LPTs sold in the United States were made pursuant to long-term contracts and the production of LPTs in general involves long lead times, certain expenses reported by respondents in their sales and cost databases were based upon estimates. We instructed respondents to provide actual cost and expense data for estimated figures for which actual data existed as of March 31, 2014. Therefore, for purposes of these preliminary results, the Department relied upon updated information for actual cost and expense (related to sales) data through and including March 31, 2014, where available, in determining the weighted-average dumping margins for Hyosung and Hyundai.

Scope of the Order

The scope of this order covers large liquid dielectric power transformers (LPTs) having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete.

Incomplete LPTs are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of LPTs. The “active part” of the transformer consists of one or more of the following when attached to or otherwise assembled with one another: the steel core or shell, the windings, electrical insulation between the windings, the mechanical frame for an LPT.

The product definition encompasses all such LPTs regardless of name designation, including but not limited to step-up transformers, step-down transformers, autotransformers, interconnection transformers, voltage regulator transformers, rectifier transformers, and power rectifier transformers.

The LPTs subject to this order are currently classifiable under subheadings 8504.23.0040, 8504.23.0080 and 8504.90.9540 of the Harmonized Tariff Schedule of the United States

¹² See Memorandum to Christian Marsh, Deputy Assistant Secretary, Antidumping and Countervailing Duty Operations, regarding “Large Power Transformers from the Republic of Korea: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2012-2013,” dated May 16, 2014.

¹³ See Respondent Selection Memorandum.

¹⁴ See Memorandum to the File, titled, “Large Power Transformers from the Republic of Korea: Margin for Respondents Not Selected for Individual Examination,” through Angelica Mendoza, Program Manager, dated concurrently with this memorandum.

(HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

DISCUSSION OF THE METHODOLOGY

Comparisons to Normal Value

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

A. *Determination of Comparison Method*

Pursuant to 19 CFR 351.414(b) and (c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average CEPs (or export prices (EPs)) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In antidumping investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping investigations.¹⁵ In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.¹⁶ The Department finds the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.¹⁷ The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

¹⁵ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁶ See, e.g., *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); and *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 69371 (November 19, 2013), and accompanying Preliminary Decision Memorandum at "Determination of Comparison Method," unchanged in *Notice of Affirmative Final Determination of Sales at Less Than Fair Value: Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan*, 79 FR 19869 (April 10, 2014).

¹⁷ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 48651 (August 9, 2013), and accompanying Preliminary Decision Memorandum at "Determination of Comparison Method," unchanged in *Polyethylene Terephthalate Film Sheet, and Strip From Taiwan: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 11407 (February 28, 2014).

The differential pricing analysis used in these preliminary results requires a finding of a pattern of CEPs (or EPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (*i.e.*, zip codes) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between CEP (or EP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* test is applied when the test and comparison groups of data each have at least two sales observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of CEPs (or EPs) that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of CEPs (or EPs) that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if (1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or (2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. *Results of the Differential Pricing Analysis*

For both Hyosung and Hyundai, based on the results of the differential pricing analysis, the Department finds that the value of total sales that passed the Cohen's *d* test was less than 33 percent, and, as such, these results do not confirm the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods and these results do not support consideration of an alternative to the average-to-average method.¹⁸ Accordingly, the Department has preliminarily determined to use the average-to-average method in making comparisons of CEP and NV for both Hyosung and Hyundai.¹⁹

Product Comparisons

In accordance with section 771(16) of the Act, we compared prices for products produced by Hyosung and Hyundai and sold in the home market on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product

¹⁸ See Memorandum from Brian Davis to the File, regarding "Analysis of Data Submitted by Hyosung Corporation in the Preliminary Results of the 2012-2013 Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea" (Hyosung Preliminary Analysis Memorandum) dated concurrently with this memorandum; *see also* Memorandum from David Cordell to the File, regarding "Analysis of Data Submitted by Hyundai Heavy Industries Co., Ltd. in the Preliminary Results of the 2012-2013 Administrative Review of the Antidumping Duty Order on Large Power Transformers from the Republic of Korea" (Hyundai Preliminary Analysis Memorandum) dated concurrently with this memorandum.

¹⁹ 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 CEPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

sold in the United States. In the order of importance, these physical characteristics are (1) number of phases; (2) maximum MVA rating; (3) transformer technology; (4) high line voltage; (5) high voltage winding basic insulation level; (6) number of windings in transformer; (7) type of tap changer and percentage regulation; (8) low line voltage; (9) impedance at maximum MVA rating; (10) type of core steel; (11) type of transformer; (12) low voltage winding basic insulation level; (13) load loss at maximum MVA rating; (14) no-load loss; (15) cooling class designation; (16) overload requirement; (17) decibel rating; and (18) frequency.²⁰

Date of Sale

Hyosung and Hyundai reported the purchase order date as the date of sale for all sales made in both the home and U.S. markets.²¹

19 CFR 351.401(i) states that, “[i]n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer’s records kept in the ordinary course of business.” The regulation provides further that the Department may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.²² The Department has explained that, “in situations involving large custom-made merchandise in which the parties engage in formal negotiation and contracting procedures, the Department usually will use a date other than the date of invoice.”²³

The Court of International Trade (CIT) has stated that “the party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to ‘satisfy’ the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.”²⁴ Alternatively, the Department may exercise its discretion to rely on a date other than invoice date if the Department “provides a rational explanation as to why the alternative date ‘better reflects’ the date when ‘material terms’ are established.”²⁵ The date of sale is generally the date on which the parties establish the material terms of the sale. This normally includes the price, quantity, delivery terms, and payment terms.²⁶

²⁰ See the Department’s letters to Hyosung and Hyundai regarding the antidumping duty questionnaire, dated November 13, 2013.

²¹ See Hyosung’s section A questionnaire response, dated December 24, 2013 (Hyosung’s December 24th AQR), at page A-2 through A-3 and A-28; Hyosung’s section B questionnaire response, dated January 13, 2014 (Hyosung’s January 13th BQR), at pages B-17 through B-18; Hyosung’s section C questionnaire, dated January 13, 2014 (Hyosung’s January 13th CQR), at pages C-14 through C-15; and Hyosung’s February 25, 2014, supplemental questionnaire response (Hyosung’s February 25th SQR), at pages 27-28; *see also* Hyundai’s December 18, 2013, section A questionnaire response (Hyundai’s December 18th AQR) at pages A-22 through A-23; Hyundai’s section B questionnaire response, dated January 7, 2014 (Hyundai’s January 7th BQR), at pages B-22 through B-23; and Hyundai’s section C questionnaire, dated January 7, 2014 (Hyundai’s January 7th CQR), at pages C-19 through C-20.

²² See 19 CFR 351.401(i); *see also Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) (*Allied Tube*).

²³ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27349 (May 19, 1997) (*Preamble*).

²⁴ See *Allied Tube*, 132 F. Supp. 2d at 1090.

²⁵ *SeAH Steel Corp. v. United States*, 25 C.I.T. 133, 135 (Ct. Int’l Trade 2001).

²⁶ See *USEC Inc. v. United States*, 31 C.I.T. 1049, 1055 (Ct. Int’l Trade 2007).

During the course of this review, we examined whether invoice date or another date better represents the date on which the material terms of sale were established. Hyosung and Hyundai have provided sales documentation for a number of both home market and U.S. sales covered by this review.²⁷ We examined this sales documentation, including alliance agreements²⁸ (U.S. market), purchase orders/sales contracts, order confirmations, invoices, *etc.*, as provided by respondents. This documentation demonstrates that all material terms of sale, as reported by Hyosung and Hyundai, are first established at the time Hyosung (or HICO America)²⁹ or Hyundai (or Hyundai USA)³⁰ receives a purchase order from its customer (*i.e.*, at the purchase order date). This methodology is consistent with the date of sale established in the investigation.³¹ While we note that record evidence appears to indicate that changes to pricing may occur up until invoicing or later,³² the record shows that it is the initial purchase order where there is a meeting of the minds with regard to both price and quantity. Therefore, we preliminarily determine that purchase order date is the appropriate date of sale for both home and U.S. market sales in this administrative review because it best represents the date upon which the material terms of sale were first established.³³

Constructed Export Price

For the price to the United States, we used CEP, in accordance with section 772(b) of the Act. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser

²⁷ See Hyundai's December 18th AQR at Attachment A-13 (U.S. sample sales documentation) and A-15 (home market sample sales documentation); Hyundai's supplemental questionnaire response, dated, February 24, 2014 (Hyundai's February 24th SQR), at Attachment SA-14 (U.S. sample sales documentation); Hyundai's supplemental questionnaire response, dated April 11, 2014 (Hyundai's April 11th SQR), at Attachments SB-5 and SB-21 (home market sample sales documentation); and Hyundai's supplemental questionnaire response, dated July 3, 2014, at Attachment SSS-4 (U.S. sample sales documentation); *see also* Hyosung's February 25th SQR at pages 10-15 and 28 and Exhibits SA-7 through SA-9 and SA-31 (home market sample sales documentation) and pages 15-20 and 28 and Exhibits SA-10 through SA-19 and SA-30 (U.S. sample sales documentation); and Hyosung's supplemental questionnaire response, dated April 10, 2014 (April 10th SQR), at page 13 and 26-28 and Exhibits S-16 (home market sample sales documentation) and S-29 through S-30 (U.S. sample sales documentation).

²⁸ The purpose of these alliance agreements is to establish business relationships, or "alliances," between a supplier and potential customers, and to ensure that a qualified supplier that possesses the necessary expertise will be willing and able to manufacture LPTs when the customer is ready to place an order. These agreements establish general terms that are applied if the customer places an order for an LPT. *See* Hyosung's February 25th SQR at page 24; *see also* Hyundai's December 18th SQR at page A-28.

²⁹ HICO America Sales and Technology, Inc. (HICO America) is Hyosung's U.S. sales affiliate.

³⁰ Hyundai Corporation USA (Hyundai USA) is Hyundai's U.S. sales affiliate.

³¹ *See Large Power Transformers from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 77 FR 40857 (July 11, 2012) (*Final Determination*) and accompanying Issues and Decision Memorandum at Comment 1.

³² *See* Hyosung's February 25th SQR at pages 8, 12, 16-17, and 20-21 and Exhibits SA-7 (for home market sample sale documentation) and SA-10 (for U.S. sample sale documentation which demonstrates that a customer issued a revised purchase order which changed the product specification and price); *see also* Hyundai's December 18th AQR at pages A-22 through A-23 and A-29 and Attachments A-13 and A-14; and Hyundai's February 24th SQR at pages 17-18 and 21 and Attachments SA-14 (additional documentation related to Attachment A-13) and SA-16 (additional documentation related to Attachment A-14).

³³ *See* Hyosung's Preliminary Analysis Memorandum and Hyundai's Preliminary Analysis Memorandum for additional information.

in the United States of the subject merchandise.³⁴ We based CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale.

With respect to Hyosung, in accordance with section 772(c)(2) of the Act, and where appropriate, we made deductions from the starting price for certain billing adjustments, certain movement expenses, including foreign inland freight, foreign inland insurance, foreign brokerage and handling, U.S. inland freight, international freight, marine insurance, and U.S. brokerage and handling expenses, direct selling expenses (*e.g.*, oil, installation, seismic analysis, duty drawback, inventory carrying costs incurred in Korea and certain other costs) and indirect selling expenses. For a detailed discussion of these adjustments, *see* Hyosung Preliminary Analysis Memorandum.

Pursuant to section 772(d)(1) of the Act, we made additional adjustments to CEP for commissions, credit expenses, and warranties. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. Except in certain instances, we used Hyosung's price adjustments and expenses, as reported, to calculate U.S. price. For a detailed discussion of these adjustments, *see* Hyosung Preliminary Analysis Memorandum.

With regard to Hyosung, we note that while we are accepting Hyosung's reporting of installation and warranty expenses for purposes of these preliminary results, in future administrative reviews, the Department expects Hyosung to be consistent with regard to its reporting of these expenses between the home and U.S. markets. With regard to Hyosung's reporting of installation expenses, while Hyosung treats certain expenses related to installation as direct in the home market, these same expenses are treated as indirect in the United States. With regard to Hyosung's reporting of warranty expenses, in the home market, Hyosung treats warranty expenses as indirect while those same warranty expenses are treated as direct expenses in the United States (except those that are indirect in nature (*i.e.*, travel expenses and salaries which they do treat as indirect)). Additionally, the Department expects Hyosung to report expenses related to the movement of existing LPTs consistently, and on a transaction-specific basis, in both the home and U.S. markets in future administrative reviews. While we note that during the POR there were no instances where home market customers requested that Hyosung provide inspection services related to the movement of an existing LPT unit,³⁵ we expect that in the event these expenses are incurred, Hyosung report them on a transaction-specific basis, consistently, between the home and U.S. markets and in future administrative reviews. Due to the proprietary nature of this discussion, *see* Hyosung Preliminary Analysis Memorandum for further information.

With respect to Hyundai, in accordance with section 772(c)(2) of the Act, and where appropriate, we made deductions from the starting price for certain movement expenses, where appropriate, for foreign inland freight, international freight, insurance, foreign brokerage, U.S. inland freight, certain other transportation expenses, supervision and installation expenses, U.S. customs duties, and U.S. brokerage and handling expenses, oil and oil transportation, bank charges, and expenses related to additional purchase orders. For a detailed discussion of these adjustments, *see* Hyundai Preliminary Analysis Memorandum.

³⁴ See section 772(b) of the Act.

³⁵ See Hyosung's August 21st SQR at pages 5-6.

Pursuant to section 772(d)(1) of the Act, we made additional adjustments to CEP for commissions, credit expenses, and warranties. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. For a detailed discussion of these adjustments, *see* Hyundai Preliminary Analysis Memorandum.

Normal Value

A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales of LPTs in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home-market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), the Department compared the volume of Hyosung's and Hyundai's respective home-market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that both Hyosung and Hyundai had a viable home market during the POR. Consequently, we based NV on home-market sales to unaffiliated purchasers made in the usual quantities in the ordinary course of trade, described in detail below.

B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP.³⁶ Pursuant to 19 CFR 351.412(c)(1)(iii), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on constructed value (CV), the starting price of the sales from which we derive selling, general and administrative expenses (SG&A), and profit. For CEP sales (which constituted all sales by both Hyosung and Hyundai), the U.S. LOT is based on the starting price of the U.S. sales, as adjusted under section 772(d) of the Act, which is from the exporter to the importer.³⁷

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.³⁸ If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision).³⁹

³⁶ See also section 773(a)(7) of the Act.

³⁷ See 19 CFR 351.412(c)(1)(ii).

³⁸ See 19 CFR 351.412(c)(2).

³⁹ See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732-33 (November 19, 1997) (applying the CEP offset analysis under section 773(a)(7)(B)).

In this review, we obtained information from Hyosung and Hyundai regarding the marketing stages involved by both parties in making their reported home and U.S. market sales, including a description of the selling activities performed by the respondents and/or their affiliates for each channel of distribution.⁴⁰ We did not make an LOT adjustment under section 773(a)(7)(A) of the Act and 19 CFR 351.412(e) because there was only one home market LOT for each respondent and we were unable to identify a pattern of consistent price differences attributable to differences in LOTs.⁴¹ Under section 773(a)(7)(B) of the Act and 19 CFR 351.412(f), we are preliminarily granting a CEP offset to reduce normal value by the appropriate amount of indirect selling expenses for both Hyosung and Hyundai because the NV sales for each company are at a more advanced LOT than the LOT for their U.S. CEP sales.

For a detailed description of our LOT methodology and a summary of the company-specific LOT findings for these preliminary results, *see* Hyosung Preliminary Analysis Memorandum and Hyundai Preliminary Analysis Memorandum.

C. Cost of Production

In the most recently completed segment of this proceeding, as of the date of initiation of this review in which Hyosung participated, the Department disregarded certain home-market sales made by Hyosung at prices below the cost of production (COP).⁴² Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Hyosung made sales of the foreign like product in the home market at prices below the COP in the current review period. On November 13, 2013, we therefore requested that Hyosung provide cost information in response to section D of the Department's antidumping duty questionnaire.

On January 27, 2014, Petitioner alleged that Hyundai made home market sales of LPTs at prices below the COP during the POR.⁴³ Based on the Department's analysis of Petitioner's allegation, we initiated a sales-below-cost investigation to determine whether Hyundai had sales that were made at prices below their COP pursuant to section 773(b) of the Act and requested that Hyundai respond to section D of the Department's November 13, 2013, antidumping duty questionnaire.⁴⁴

⁴⁰ See Hyundai's December 18th AQR at pages A-18 through A-21 (description of selling functions) and Attachment A-12 (selling activities chart); Hyundai's January 7th BQR at page B-30; and Hyundai's January 7th CQR at page C-27; *see also* Hyosung's December 24th AQR at pages A-16 through A-21 (description of selling functions) and Exhibit A-13 (selling activities chart); and Hyosung's February 25th SQR at page 4 and Exhibit SA-6 (support documentation demonstrating the categorization of certain selling functions).

⁴¹ See 19 CFR 351.412(d).

⁴² See *Large Power Transformers from the Republic of Korea: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 77 FR 9204 (February 16, 2012) (*Preliminary Determination*), unchanged in *Final Determination*.

⁴³ See Letter to the Department, regarding "1st Administrative Review of Large Power Transformers from Korea - Petitioner's Allegation of Home Market Sales Below the Cost of Production," dated January 27, 2014.

⁴⁴ See Memorandum to Richard O. Weible, regarding "Petitioner's Allegation of Sales Below the Cost of Production for Hyundai Heavy Industry Co., Ltd.," dated March 11, 2014.

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 SG&A expenses and packing, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by respondents.

2. Test of Comparison Market Sales Prices

For both Hyosung and Hyundai, on a product-specific basis, we compared the adjusted weighted-average COP 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. In particular, in determining whether to disregard home market sales made at prices below their COP, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with sections 773(b)(2)(B), (C), and (D) of the Act. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices were net of billing adjustments, movement charges, discounts, direct and indirect selling expenses and packing expenses, where appropriate.⁴⁵

3. Results of the Cost of Production Test

Section 773(b)(1) provides that where sales made at less than the COP “have been made within an extended period of time in substantial quantities” and “were not at prices which permit recovery of all costs within a reasonable period of time” the Department may disregard such sales when calculating NV. Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in “substantial quantities,” *i.e.*, where less than 20 percent of sales of a given product were at prices less than the COP. We disregarded below-cost sales when they were made in substantial quantities, *i.e.*, where 20 percent or more of a respondent’s sales of a given product were at prices less than the COP and where “the weighted average per unit price of the sales . . . is less than the weighted average per unit cost of production for such sales.”⁴⁶ Finally, based on our comparison of prices to the weighted-average COPs, we considered whether the prices would permit the recovery of all costs within a reasonable period of time.⁴⁷

Our cost test for Hyosung and Hyundai 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 disregarded these below-cost sales in our analysis as outside of the ordinary course of trade and used the remaining sales to determine NV.⁴⁸

⁴⁵ See Hyundai Preliminary Analysis Memorandum; *see also* Hyosung Preliminary Analysis Memorandum.

⁴⁶ See section 773(b)(2)(C)(ii) of the Act.

⁴⁷ See section 773(b)(2)(D) of the Act.

⁴⁸ See Hyosung Preliminary Analysis Memorandum; *see also* Hyundai Preliminary Analysis Memorandum.

D. *Calculation of Normal Value Based on Comparison Market Prices*

We calculated NV for Hyosung and Hyundai based on the reported packed, ex-factory, or delivered prices to comparison market customers.

With respect to Hyosung, we made deductions from the starting price, where appropriate, for certain movement expenses (*i.e.*, inland freight and inland insurance) and for certain direct selling expenses (*e.g.*, warranty, bank charges, installation costs, and other charges), pursuant to section 773(a)(6)(B)(ii) of the Act.⁴⁹

With respect to Hyundai, we made deductions from the starting price, where appropriate, for certain movement expenses (*i.e.*, inland freight and inland insurance) and for certain direct selling expenses (*e.g.*, charges related to the installation of LPTs, warranty, and certain other fees), pursuant to section 773(a)(6)(B)(ii) of the Act.⁵⁰

With respect to both Hyosung and Hyundai, we also made adjustments for differences in circumstances of sale, as appropriate (*i.e.*, credit expenses), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), and added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. Except in certain instances, we used Hyosung's and Hyundai's price adjustments and expenses as reported to arrive at the net home market price (*i.e.*, normal value).⁵¹

Finally, we made a CEP offset for both Hyosung and Hyundai pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses incurred on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

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 product and subject merchandise.⁵²

E. *Price-to-Constructed Value Comparison*

Where we were unable to find a home market match of such or similar merchandise, in accordance with section 773(a)(4) of the Act, we based NV on CV. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

⁴⁹ See Hyosung Preliminary Analysis Memorandum for additional information.

⁵⁰ See Hyundai Preliminary Analysis Memorandum for additional information.

⁵¹ See Hyosung's Preliminary Analysis Memorandum and Hyundai Preliminary Analysis Memorandum for additional information.

⁵² See 19 CFR 351.411(b).

F. Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Hyosung's and Hyundai's respective material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Cost of Production Analysis" section of this memorandum. 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 the respondents in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) 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. The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange>.

Recommendation

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree

Ronald K. Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

September 18, 2014

Date