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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty
Administrative Review of Certain Cut-to-Length Carbon-Quality
Steel Plate Products from the Republic of Korea for the Period of
Review February 1, 2013, through January 31, 2014

Summary

We analyzed the comments filed in the 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) for the period of review (POR) February 1, 2013, through January 31, 2014. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues for which we have received comments and rebuttal comments from the interested parties:

1. Differential Pricing
 - a. Cohen's *d* Test
 - b. Averaging Methodology
2. Major Input Adjustments
3. Minor Inputs
4. General and Administrative Expenses
5. Interest Expenses

Background

On December 19, 2014, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on CTL plate from Korea.¹ We invited interested parties to comment on the *Preliminary Results*. We received case and rebuttal briefs from interested parties.²

¹ See *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014*, 79 FR 75791 (December 19, 2014) (*Preliminary Results*).

² See the case and rebuttal briefs from Nucor Corporation and Dongkuk Steel Mill Co., Ltd., dated January 20, 2015, and January 29, 2015, respectively.



Company Abbreviations

DSM – Dongkuk Steel Mill Co., Ltd.
DKC – Dongkuk Corporation
DKA – Dongkuk International, Inc.
Intergis – Intergis Co., Ltd.
Nucor – Nucor Corporation

Other Abbreviations

A-A – average-to-average
A-T – average-to-transaction
CEP – constructed export price
CIT – Court of International Trade
COGS – Cost of Goods Sold
COM – cost of manufacturing
COP – cost of production
DP – differential pricing
EP – export price
I&D Memo – Issues and Decision Memorandum adopted by a *Federal Register* notice of final determination of an investigation or final results of review
The Act – The Tariff Act of 1930, as amended

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 CTL 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.

Final Determination of No Reviewable Entries

For the final results of this review, we determine that Hyosung Corporation, Samsung C&T Corporation, and TCC Steel Corporation had no reviewable entries during the POR.

Changes Since the Preliminary Results

We made no changes from the *Preliminary Results*.

Discussion of the Issues

Differential Pricing

Comment 1: Cohen's *d* Test

According to DSM, the Department's DP analysis uses the Cohen's *d* test to identify price differences that the Department considers to be significant. DSM explains that the first step of the Cohen's *d* test evaluates whether there is a pattern of prices for comparable merchandise that differ significantly by region, time period, or customer. DSM asserts that the Cohen's *d* coefficient equals the difference of the weighted-average net prices between the base group and the test group, divided by the pooled standard deviation of the test and base group. DSM states that the Department considers the Cohen's *d* coefficient equal to or exceeding 0.8 to be a significant price difference (*i.e.*, passing the Cohen's *d* test).

DSM contends that the Cohen's d test is not an appropriate statistical test to find the "targeted dumping" described in the statute and legislative history. DSM argues that section 777A(d) of the Act allows the use of the A-T method only when (1) there is a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or periods of time and (2) the Department explains why such differences cannot be taken into account using one of the standard comparison methodologies.

Citing Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 (1994) at 843 (SAA), DSM claims that Congress made clear that the A-T method was only intended to be used to capture targeted dumping. According to DSM, the SAA also explained that the Department was previously reluctant to use an A-A method because this method could conceal targeted dumping. DSM argues that, given this clear intent that the A-T method is only to be applied where targeted dumping may be occurring, a test which does not distinguish such sales is inconsistent with Congressional intent and thus unlawful.

DSM contends that the Cohen's d test does not (1) identify causal links or statistical significance, let alone significance as intended by the statute, and (2) distinguish between high and low priced sales. DSM explains that the Cohen's d test measures the size of a difference between the means of two groups relative to the population's standard deviation. DSM explains further that the Cohen's d test only measures the extent of the difference between the mean of a test group and the mean of a comparison group called "effect size." DSM claims that, because the denominator in the Cohen's d test shows nothing about relative magnitude, tiny price variations can result in passing the Cohen's d values. In addition, according to DSM, the Cohen's d test cannot differentiate between targeted dumping and other potential causes of price variations, *e.g.*, market factors, differences in producers' costs, or differences in material, which can be relevant to the Department's analysis.

DSM states that the Cohen's d test can produce a strong positive result when the price variations are insignificant to the market but happen to exceed the standard deviation between the two sets of values. DSM asserts that this is particularly the case when the price variations in the sample being tested are relatively small and overall prices are stable because standard deviations under such circumstances will also be quite small, meaning that even minor deviations in price around the mean may be measured as significant. DSM argues that the Cohen's d test cannot differentiate between market driven price fluctuations and actual targeting and therefore is an inappropriate tool for identifying targeted dumping.

DSM claims that the Cohen's d test does not distinguish between positive and negative deviations. In other words, DSM explains, the Cohen's d test does not distinguish between circumstances in which the mean prices of the target group are above or below the mean prices of the base group. According to DSM, targeted dumping is, by definition, pricing that is aberrationally low. DSM explains that a producer is not targeting a particular purchaser, region, or time period when the producer is selling identical product to the target group at higher prices than to the control group. However, DSM argues, the Cohen's d test treats prices of the test group that are high (in relation to standard deviations) the same as those that are low. Therefore, according to DSM, a sale with a Cohen's d coefficient of 0.8 or greater would pass the Cohen's d test regardless of whether the sale was priced higher or lower than the comparison group and be

categorized as targeted. DSM argues that the DP analysis should uncover evidence that U.S. prices to alleged targets are lower than prices to other customers or at other times but a higher price cannot be evidence of targeted dumping because it means the targeted price is higher than the mean price. DSM insists that these sales are not dumped and the Cohen's *d* test did not distinguish between sales that are above or below their comparison group. DSM argues that, even if the Department continues to apply the Cohen's *d* test, it should apply the A-T method only to the low-priced differential sales.

DSM explains that the second step in the Department's DP analysis is to determine the percentage of the total value that pass the Cohen's *d* test by purchaser, region, or time period. According to DSM, the Department will apply (1) the A-A method to all U.S. sales if less than 33 percent pass, (2) the A-T method to all U.S. sales if more than 66 percent pass, and (3) the A-A method to those U.S. sales that do not pass the Cohen's *d* test and the A-T method to those U.S. sales that pass the Cohen's *d* test if between 33 percent and 66 percent of U.S. sales pass the Cohen's *d* test. DSM explains that the Department also compares the margin based solely on the A-A method to the margins based wholly or in part on the A-T method to examine whether the margins based wholly or in part on the A-T method yield a "meaningful difference." DSM contends that the Department did not explain its reasons for establishing the cutoff percentages (*i.e.*, 33 percent and 66 percent) for the use of the A-T method and that these cutoff percentages appear to be arbitrary.

Nucor argues that the Department satisfied the statutory criteria in section 777A(d) of the Act to apply the A-T method to DSM in the *Preliminary Results*. According to Nucor, section 777A(d) of the Act requires that (1) "there is a pattern of export prices ... for comparable merchandise that differ significantly among purchasers, regions, or periods of time; and (2) the administering authority explains why such differences cannot be taken into account" using one of the standard comparison methodologies. Nucor states that the Department's DP analysis addressed both statutory criteria in the *Preliminary Results* and that the Department applied the A-T method in accordance with section 777A(d) of the Act.

Citing, *e.g.*, *Certain Steel Nails From the People's Republic of China: Final Results of the Fourth Antidumping Duty Administrative Review*, 79 FR 19316 (April 8, 2014) (*Steel Nails*), and the accompanying I&D Memo at Comment 7, Nucor explains that section 777A(d) of the Act only requires a finding of a pattern of prices that differ significantly, not statistically significantly, and that statistical significance is not a relevant consideration in the DP analysis. Citing and quoting *Steel Nails* and the accompanying I&D Memo at Comment 7, Nucor claims that "the Cohen's *d* test is a generally recognized measure of the significance of the difference of two means and the Department has set a threshold of 'large' to provide the strongest indications that there is a significant difference between the means of the test and comparison groups." Nucor contends that DSM did not demonstrate that the Department's Cohen's *d* test is unreasonable and that some higher threshold that is not in the statute must be satisfied.

Citing, *e.g.*, *Steel Nails*, Nucor claims that (1) both higher and lower priced sales are equally capable to create a pattern of prices that differ significantly and (2) higher priced sales will offset lower priced sales either implicitly through the calculation of a weighted average price or explicitly through the granting of offsets. Citing *Steel Nails*, Nucor insists that the Department's

use of the Cohen's *d* test is consistent with the SAA, which states that there may be targeted dumping when there is a pattern of prices that differ significantly among purchasers, regions, or time periods. Nucor argues that a finding of targeted dumping is not a precondition to using the A-T method as long as there is a pattern of prices that differ significantly.

In response to DSM's argument that the DP analysis does not distinguish between positive and negative deviations, Nucor cites *Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 79665 (December 31, 2013), and the accompanying I&D Memo at Comment 8, and explains that (1) the targeted or masked dumping involves both dumped and non-dumped sales and (2) a pattern of prices that differ significantly can involve prices that are either higher or lower than a comparison price. Nucor argues that normal value and dumping are not parts of the DP analysis to establish whether a pattern of prices that differ significantly exists.

Department's Position: We disagree with DSM. The SAA expressly recognizes that the statute "provides for a comparison of average normal values to individual export prices or constructed export prices in situations where an average-to-average or transaction-to-transaction methodology cannot account for a pattern of prices that differ significantly among purchasers, regions, or time periods, *i.e.*, where targeted dumping may be occurring."³ As the SAA implies, we are not tasked with determining whether targeted dumping is, in fact, occurring. Rather, the SAA recognizes that targeted dumping may be occurring where there is a pattern of prices that differ significantly among purchasers, regions, or time periods. In our view, the purpose of section 777A(d)(1)(B) of the Act is to evaluate whether the A-A method or the A-T method is the appropriate tool to measure whether, and if so, to what extent, a given respondent is dumping the merchandise at issue.⁴ While targeting may be occurring with respect to such sales, it is neither a requirement nor a precondition for us to otherwise determine that the A-T method is warranted based upon a finding of a pattern of prices that differ significantly as provided in the statute.

We use the A-A method unless we determine that another method is appropriate in a particular case.⁵ In order to determine whether the A-A method or an alternative comparison method is an appropriate tool with which to measure the extent of a respondent's dumping in a given situation, we look to section 777A(d)(1)(B) of the Act. Section 777A(d)(1)(B)(i) of the Act requires that there exists "a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time." The statute leaves to our discretion how to determine the existence of such a pattern under section 777A(d)(1)(B) of the Act and does not provide a specific direction on how to make such determination. The statute simply requires that we find the existence of a pattern of prices that "differ significantly," and we reasonably demonstrated that such a pattern exists in this administrative review.

The Cohen's *d* coefficient is a statistical measure which gauges the extent (or "effect size") of the difference between the means of two groups. "Effect size is a simple way of quantifying the

³ See SAA at 843.

⁴ See 19 CFR 351.414(c)(1).

⁵ *Id.*

difference between two groups and has many advantages over the use of tests of statistical significance alone.”⁶ In *Xanthan Gum*, we stated as follows:

Effect size is the measurement that is derived from the Cohen’s *d* test. Although Deosen argues that effect size is a statistic that is “widely used in meta-analysis,” we note that the article also states that “{e}ffect size quantifies the size of the difference between two groups, and may therefore be said to be a *true measure of the significance of the difference*.” The article points out the precise purpose for which the Department relies on Cohen’s *d* test to satisfy the statutory language, to measure whether a difference is significant.⁷

Accordingly, we disagree with DSM’s claim that the Cohen’s *d* test is not an appropriate and reasonable approach to examine whether there exists a pattern of prices that differ significantly.

The statute only requires a finding of a pattern of prices that differ “significantly.” The statute does not require that the difference be “statistically significant.” DSM does not demonstrate that our reliance on the Cohen’s *d* test, which is a generally recognized statistical measure of effect size, is unreasonable and that some higher threshold, not enumerated in the statutory language, must be satisfied. Further, as discussed above, the Cohen’s *d* test is a generally recognized measure of the significance of the differences of two means, and we set a threshold of “large” to provide the strongest indication that there is a significant difference between the means of the test and comparison groups.

If Congress intended to require a particular result be obtained, with a level of “statistical significance” of price differences as a condition for finding that there exists a pattern of prices that differ significantly, then Congress presumably would have used language beyond the stated requirement and more precise than “differ significantly.” This is what Congress did, for example, with respect to enacting the sampling provision for respondent selection in section 777A(c)(2)(A) of the Act. But it did not do so with respect to the determination of the existence of a pattern in section 777A(d)(1)(B)(i) of the Act. As the executive agency tasked with implementing the antidumping law, resolving statutory ambiguities, and filling gaps in the statute, we do not agree with DSM’s opinion that the term “significantly” in the statute can mean only “statistically significant.” The law includes no such directive. Our analysis, including the use of the Cohen’s *d* test, reasonably fills the statutory gap as to how to determine whether a pattern of prices “differ significantly.”

The Cohen’s *d* test does not need to take into account any “causal links” for the identified pattern of prices that differ significantly. The statute does not require that we account for some kind of causality for any observed pattern of prices that differ significantly, such as differences in market factors, production costs, or material inputs. Congress did not speak to the intent of the producers or exporters in setting export prices that exhibit a pattern of significant price

⁶ See *Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) (*Xanthan Gum*) and the accompanying I&D Memo at Comment 3, quoting from Coe, Robert, “It’s The Effects Size, Stupid: What effect size is and why it is important,” presented at the Annual Conference of British Educational Research Association (September 12-14, 2002).

⁷ *Id.* Footnote omitted and emphasis originally included.

differences. Nor is an intent-based analysis consistent with the purpose of the statutory provision, as noted above, which is to determine whether averaging is a meaningful tool to measure whether, and if so, to what extent, dumping is occurring. Consistent with the statute and the SAA, we determined whether a pattern of significant price differences exists. Neither the statute nor the SAA requires us to conduct an additional analysis to account for potential reasons for the observed pattern of prices that differ significantly.

We agree with DSM's description of effect size but we disagree with DSM's contention that the Cohen's *d* test does not measure the significance of the differences between the mean prices between the test and comparison groups. The examination of the price differences between test and comparison groups is relative to the "pooled standard deviation." The pooled standard deviation reflects the dispersion, or variance, of prices within each of the two groups. When the variance of prices is small within these two groups, then a smaller difference between the weighted-average sale prices of the two groups represents a more significant difference because there is less of an overlap in the prices between the test and comparison groups. When the variance within the two groups is larger (*i.e.*, the dispersion of prices within one or both of the groups is greater), then the difference between the weighted-average sale prices of the two groups must be larger in order for the difference to be significant. When the difference in the weighted-average sale prices between the two groups is measured relative to the pooled standard deviation, this value is expressed in standardized units based on the dispersion of the prices within each group. This is the concept of an effect size, as represented in the Cohen's *d* coefficient.

We disagree with DSM's interpretation of the statute and the SAA that the purpose of the DP analysis should be to identify "targeted dumping." Rather, as discussed above, the purpose of the application of the DP analysis in this review is to determine whether the A-A method is the appropriate tool to evaluate the extent of dumping by DSM. We disagree further with DSM's interpretation that a pattern of prices that differ significantly necessarily involves only lower priced sales as these can be the only sales which are "targeted" or that higher priced sales are incapable of masking dumping. The statute does not require that we consider only lower-priced sales when considering whether the A-A method is appropriate. In our view, it is reasonable for us to consider sales information on the record and to draw reasonable inferences as to what the data show. Contrary to DSM's claim, it is reasonable for us to consider both lower-priced and higher-priced sales in the Cohen's *d* analysis because higher-priced sales are equally capable as lower-priced sales to create a pattern of prices that differ significantly.

Further, the statute states that we may apply the A-T method if "there is a *pattern of export prices . . . for comparable merchandise that differ significantly among purchasers, regions, or periods of time,*" and we explain "why *such differences* cannot be taken into account" using the A-A method.⁸ The statute directs us to consider whether a pattern of significantly different prices exist. The statutory language references prices that "differ" and does not specify whether the prices differ by being lower or higher than the remaining prices. The statute does not provide that we consider only higher-priced sales or only lower-priced sales when conducting the analysis, nor does the statute specify whether the difference must be the result of certain sales

⁸ See section 777A(d)(1)(B) of the Act (emphasis added).

being priced higher or lower than other sales. Higher-priced sales and lower-priced sales do not operate independently; all sales are relevant to the analysis.⁹

The statute allows us to apply the A-T method if “there is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time,” and we explain “why such differences cannot be taken into account” using the A-A comparison method.¹⁰ The first requirement examines a pattern of EPs or CEPs (*i.e.*, the prices of transactions in the U.S. market) and makes no provision for comparisons with NVs as is provided for when examining dumping.¹¹ In other words, the statute does not require us to find whether higher-priced sales are not dumped or lower-price sales are dumped before we examine whether a pattern of prices that differ significantly exists. Therefore, whether U.S. prices are above or below their comparable NVs, *i.e.*, whether they are dumped or not, is not a consideration when examining whether there exists a pattern of prices that differ significantly consistent with section 777A(d)(1)(B)(i) of the Act.

The purpose of considering an alternative comparison method is to examine whether the A-A method is appropriate to measure the amount of DSM’s dumping, some of which may be masked. Masked dumping is the result of two concurrent situations: dumped sales and non-dumped sales. One without the other does not result in masked dumping. Because the existence of both dumped and non-dumped sales creates the potential for masked dumping, we must consider both low-priced and high-priced sales to determine whether a pattern of prices that differ significantly exists and whether masking is occurring. When we look for a pattern of prices that differ significantly pursuant to section 777A(d)(1)(B)(i) of the Act, a pattern can involve prices that are higher and/or lower than the comparison price.

Consequently, it is reasonable for us to consider the sales prices that are higher and lower than the comparison sales price in the Cohen’s *d* analysis because higher priced sales are equally capable as lower priced sales to create a pattern of prices that differ significantly. Further, higher priced sales will offset lower priced sales, either implicitly through the calculation of a weighted-average price or explicitly through the granting of offsets, that can mask dumping. The statute directs us to consider whether there is a pattern of prices that differ significantly. The statutory language references prices that “differ” and does not specify whether the prices differ by being lower or higher than the remaining prices. The statute does not provide that we consider *only* higher priced sales or only lower priced sales when conducting the analysis, nor does the statute specify whether the difference must be the result of certain sales being priced higher or lower than other sales.¹²

Higher priced sales and lower priced sales do not operate independently; all sales are relevant to the analysis. Higher or lower priced sales could be dumped or could be masking other dumped sales – this is immaterial in the Cohen’s *d* test and the question of whether there is a pattern of prices that differ significantly because this analysis includes no comparisons with normal values.

⁹ See *Hardwood and Decorative Plywood From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013) and the accompanying I&D Memo at Comment 5.

¹⁰ See section 777A(d)(1)(B) of the Act.

¹¹ See section 771(35)(A) of the Act.

¹² See section 777A(d)(1)(B)(i) of the Act.

By considering all sales, higher priced sales and lower priced sales, we are able to (1) analyze an exporter's pricing behavior and (2) identify whether there is a pattern of prices that differ significantly. Moreover, finding such a pattern of prices that differ significantly among purchasers, regions, or periods of time signals that the exporter is discriminating between purchasers, regions, or periods of time within the U.S. market, rather than following a more uniform pricing behavior. Where the evidence indicates that the exporter is engaged in a pricing behavior which creates a pattern, there is cause to continue with the analysis to determine whether masked dumping is occurring. Accordingly, both higher and lower priced sales are relevant to our analysis of DSM's pricing behavior.

Finally, we disagree with DSM's claim that the thresholds provided for in our DP analysis regarding the results of the ratio test and the identification of an appropriate alternative comparison method, if any, are unlawful. Neither the statute nor the SAA provides any guidance in determining how to apply the A-T method once the requirements of section 777A(d)(1)(B)(i) and (ii) of the Act have been satisfied. Accordingly, we have reasonably created a framework to determine how the A-T method may be considered as an alternative to the standard A-A method based on the extent of the pattern of prices that differ significantly as identified with the Cohen's *d* test. As stated in the *Preliminary Results*, the purpose of the Cohen's *d* test is "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."¹³ When 66 percent or more of a respondent's U.S. sales, by value, are found to differ significantly, then we find that the extent of these price differences throughout the pricing behavior of the respondent does not permit the segregation of this pricing behavior from the remainder of the respondent's U.S. sales. Accordingly, we determine that considering the application of the A-T method to all U.S. sales is reasonable. Further, when 33 percent or less of a respondent's U.S. sales, by value, differ significantly, then we consider this extent of the pattern to not be significant in considering whether the A-A method is appropriate, and we do not consider the application of the A-T method as an alternative comparison method. When between 33 percent and 66 percent of a respondent's U.S. sales, by value, differ significantly, then the extent of this pattern justifies considering whether the A-A method is appropriate, but we also find that segregating this pricing behavior from the pricing behavior which does not contribute to the pattern is reasonable. Therefore, we only consider the application of the A-T method as an alternative comparison method to this limited portion of a respondent's U.S. sales.¹⁴

Comment 2: Averaging Methodology

DSM contends that, even assuming that the mechanical application of the Cohen's *d* test was sufficient to establish a significant pattern of price difference under section 777A(d)(1)(B)(i) of the Act, the Department has not explained why such differences cannot be taken into account using the A-T method under section 777A(d)(1)(B)(ii) of the Act. DSM states that the Department never examined the differences other than finding that they existed as a result of the Cohen's *d* test and thus never considered whether or not the pattern of significant price differences indicates that targeted dumping is occurring. DSM explains that the Department

¹³ See *Preliminary Results* and the accompanying Preliminary Decision Memorandum at 5.

¹⁴ See *Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 79 FR 71087 (December 1, 2014), and the accompanying I&D Memo at Comment 5.

should examine and explain whether the basis for the price differences can justify a departure from the A-A method. DSM states that the use of the A-T method is an exception that the Department may use and justify and that this exception is not a requirement under the statute.

DSM argues that the meaningful difference between the dumping margins produced by the A-A and an alternative method does not meet the statutory requirement because it does not establish that the pricing patterns the Department identified reflect targeted dumping. Citing *Beijing Tianhai Indus. Co. Ltd. v. United States*, 7 F. Supp. 3d 1318 (CIT 2014) (*Beijing Tianhai*), DSM claims that the meaningful difference test does not satisfy section 777A(d)(1)(B)(ii) of the Act because (1) it allows the Department to use the targeted dumping methodology whenever a significant pattern of price differences exists and (2) when prices differ, a method that averages prices will generate different results than one that uses individual transactions. DSM states that the Department's meaningful difference test collapses the two distinct requirements of sections 777A(d)(1)(B)(i) and (ii) of the Act.

Nucor argues that CIT upheld the Department's meaningful difference test in *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014) (*Apex Frozen Foods*). The CIT distinguished *Beijing Tianhai* from *Apex Frozen Foods* and held that the price differences the Cohen's *d* test measured cannot be taken into account using the A-A method because the A-T method yields a dumping margin as opposed to the A-A method which yields no dumping margin, according to Nucor. Nucor explains that the Department's preliminary explanation for its selection of the above *de minimis* margin that counteracted DSM's U.S. sales that passed the Cohen's *d* test is consistent with and has been upheld by *Apex Frozen Foods*.

Department's Position: As explained in the *Preliminary Results*, if the difference in the weighted-average dumping margins calculated using the A-A method and an appropriate alternative comparison method is meaningful, then this demonstrates that the A-A method cannot account for price differences and, therefore, an alternative comparison method would be appropriate.¹⁵ We decided that 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 A-A method and the appropriate alternative method when both margins are above the *de minimis* threshold; or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.¹⁶

In this review, such a meaningful difference exists for DSM because, when comparing DSM's weighted-average dumping margin calculated pursuant to the A-A method and an alternative comparison method based on applying the A-T method only to those U.S. sales that passed the Cohen's *d* test, DSM's weighted-average dumping margin moves across the *de minimis* threshold. Our evaluation of section 777A(d)(1)(B)(ii) of the Act is reasonable because comparing the weighted-average dumping margins calculated using the two comparison methods

¹⁵ See *Preliminary Results* and the accompanying Preliminary Decision Memorandum at 4-5. See also, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip From India: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 11160 (March 2, 2015), and the accompanying I&D Memo at Comment 3, and *Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 10051 (February 25, 2015) (*PET Film Taiwan*), and the accompanying I&D Memo at Comment 2.

¹⁶ *Id.*

allows the Department to quantify the extent to which the A-A method cannot take into account different pricing behaviors exhibited by the exporter in the U.S. market (*i.e.*, masked dumping). For DSM, the fact that the result of the “mixed” A-T and A-A method crosses the *de minimis* threshold while the result of the A-A method does not means there is a difference between either an affirmative or negative finding of dumping during the POR. There is a meaningful difference in the results in that dumping is being masked to an extent that it is invisible. The CIT has sustained our practice of comparing weighted-average dumping margins using the A-A method and, in the alternative, the A-T method to determine whether the A-A method can account for a pattern of significant price differences, specifically where the margin of dumping moves across the *de minimis* threshold.¹⁷ Therefore, for these final results, we continue to find that the A-A method cannot take into account the observed differences in DSM’s pricing behavior during the POR, and we continue to apply an alternative comparison method to calculate DSM’s weighted-average dumping margin.

We disagree with DSM’s reliance on *Beijing Tianhai* as support for its effort to invalidate our examination of the calculated results between the two comparison methods to determine whether the second statutory requirement has been met. In the underlying investigation at issue in *Beijing Tianhai*, the Department did not explain why the A-A method could not account for such differences.¹⁸ Accordingly, the CIT remanded the issue to the Department for an explanation, which it has provided. In this review, we supplied this explanation of why the A-A method cannot account for such differences.¹⁹ Therefore, the facts underlying the CIT’s decision in *Beijing Tianhai* are not present in this review. The facts and explanation discussed here and in the *Preliminary Results* demonstrate that the A-A method is insufficient and that an alternative comparison method is appropriate.

Comment 3: Major Input Adjustments

Nucor argues that the Department should use DSM’s affiliated supplier’s slab COP in applying the major input rule in accordance with section 773(f)(3) of the Act. Nucor explains that the Department determines “the value of the major input on the basis of the information available regarding such cost of production” under section 773(f)(3) of the Act and, pursuant to this statutory provision, the Department values the major input using the transfer price, the market price, or the affiliate’s COP, whichever is highest under 19 CFR 351.407(b). Nucor argues that the affiliated supplier’s COP is the most appropriate measure to value DSM’s slab purchased during the POR. Nucor also requests that the Department find that DSM purchased slab directly from this affiliated supplier.

Nucor explains that, although the affiliated supplier’s COP includes production of various higher end steel products, it used a per-unit cost for crude steel in order to (1) calculate a conservative estimate of the COP for slab and (2) eliminate any distortions from higher-valued products.

¹⁷ See *Apex Frozen Food*, 37 F. Supp. 3d at 1300.

¹⁸ See *High Pressure Steel Cylinders From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 26739 (May 7, 2012), and the accompanying I&D Memo at Comment IV. See also *PET Film Taiwan* and the accompanying I&D Memo at Comment 2.

¹⁹ See *Preliminary Results* and the accompanying Preliminary Decision Memorandum at 6 (the Results of the Differential Pricing Analysis section).

Nucor states that its proposed COP thus likely understates the affiliated supplier's true COP for slab. Nucor claims that this information is likely more accurate than the petition information the Department relied on in prior cases because the information Nucor used has been maintained in the normal course of business. Nucor argues that the U.S. Court of Appeals for the Federal Circuit has upheld a similar calculation using information from financial statements in *Huvis Corp. v. United States*, 570 F.3d 1347, 1350-51 (Fed. Cir. 2009).

Nucor requests that, if the Department decides not to use the affiliated supplier's COP to value slab DSM purchased, the Department should continue the preliminary methodology for valuing slab DSM purchased from its affiliated supplier, *i.e.*, use the market price that DSM paid for slab from unaffiliated producers for its major input rule adjustment.

DSM explains that the Department's preliminary adjustment of DSM's major input was proper. DSM asserts that, when the affiliated supplier's COP is unavailable, as in this case, it has been the Department's practice to compare the transfer price to the market price to apply the major input rule. DSM contends that Nucor misstates the statute and the Department's policy regarding application of the major input rule by arguing that the use of the affiliated producer's COP is required in every case. DSM states that, unlike Nucor's argument, section 773(f)(3) of the Act allows, but does not require, the Department to use the affiliated supplier's COP. According to DSM, 19 CFR 351.407(b) states that, for purposes of section 773(f)(3) of the Act, the Department "normally will determine the value of a major input purchased from an affiliated person based on the higher of" transfer price, market price, or the affiliated supplier's COP. Citing *Huvis Corp.*, 570 F.3d at 1353, DSM argues that a comparison of all three costs is a permissible, but not required, interpretation of the major input rule.

DSM contends that Nucor's proposed COP for the slab supplied by DSM's affiliated producer is based on "segment" information in the affiliated producer's parent company's consolidated financial statements. DSM contends further that this "segment" information includes all of the affiliated producer's business activities and is not limited to the affiliated producer's production of slab or even to the production of crude or processed steel products. Moreover, DSM argues, this segmented information does not include a complete income statement and does not provide the COGS, let alone the COM. DSM explains that the Department's practice is to base its cost calculations on the financial statements of the actual producer of the merchandise, not a consolidated corporate parent company of the actual producer of the merchandise.

DSM argues that Nucor's proposed COP is distorted because Nucor calculated it by dividing the total cost of the affiliated producer's parent company (derived based on the consolidated income statement for the entire steel business adjusted for investments and interest) by the total million metric tons of crude steel. DSM states that the crude steel used in this calculation is not clearly defined. DSM claims that the numerator of this calculation includes the total cost of all products manufactured by this affiliated producer, including sheets, plates, shapes, pipe and tubes, electrical steel, stainless steel, steel bars and rods, iron powders and titanium, produced in six different manufacturing facilities in Japan. DSM contends that Nucor's reliance on the consolidated financial statements resulted in a COP that is more than 40 percent higher than the average price DSM paid to unaffiliated suppliers of slab during the POR. DSM claims Nucor's proposed COP does not represent an actual COP of steel slab.

DSM explains that *Huvis Corp.* is not a precedent supporting Nucor's proposed COP, which was calculated based on a product or a group of products different from slab and segment information from the affiliated producer's parent company's consolidated financial statements. According to DSM, the issue in *Huvis Corp.* was the Department's construction of a market price by deriving an amount for profit from the supplier's financial statements. DSM explains that in *Huvis Corp.*, the supplier's COP of each input was on the record and that there was no argument or evidence suggesting that the methodology at issue which the Department constructed (1) inaccurately reflected the profit margin for the particular input or (2) resulted in a transfer price grossly out of line with actual market prices on the record for transactions between unaffiliated parties.

DSM argues that Nucor's proposed COP amounts to an unwarranted application of AFA. DSM states that, in order to comply with the Department's request for information, it has made good faith efforts to obtain the COP of slab from its affiliated producer but the affiliated producer refused to supply the information. Citing, e.g., *Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products From Turkey*, 67 FR 62126 (October 3, 2002), and the accompanying I&D Memo at Comment 3, DSM explains that the Department has declined to apply AFA in adjusting the major input cost in instances where the respondent has been cooperative and has attempted to obtain accurate COP but is unable to do so through no fault of its own.

Department's Position: For the final results, we continued to apply our preliminary adjustment of the major input cost. We applied the "major input" rule in valuing the slab purchased from an affiliated producer through affiliates DKC and DKA. DSM is affiliated with its slab suppliers DKC, DKA, as well as the slab producer.²⁰ While DSM purchased slab from its affiliated trading companies, DKC and DKA, the slab was produced by an affiliated producer.

Pursuant to section 773(f)(3) of the Act, we may value major inputs purchased from affiliated parties at the higher of the market value, transfer price, or the affiliated supplier's COP. We will determine the value of the major input purchased from an affiliated person based on the higher of: 1) the price paid by the exporter or producer to the affiliated person for the major input; 2) the amount usually reflected in sales of the major input in the market under consideration between unaffiliated parties; and 3) the cost to the affiliated person of producing the major input.²¹ We have relied on this methodology in other cases involving trading companies.²²

²⁰ See the DSM preliminary analysis memorandum dated December 15, 2014, at 3.

²¹ See 19 CFR 351.407(b).

²² See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From Taiwan*, 65 FR 16877 (March 30, 2000), and the accompanying I&D Memo at Comment 11, where we stated as follows:

Moreover, the CIT upheld our application and interpretation of this statutory provision.²³ The major input rule applies to slab transactions between DSM and its affiliated suppliers.²⁴

However, in this case, DSM was unable to obtain the slab COP from its affiliated producer.²⁵ We requested that DSM provide its affiliate's slab COP information. DSM indicated that, despite its repeated requests, its affiliated producer refused to provide the COP information. Where an interested party or any other person withholds information that has been requested, the application of facts available is appropriate in reaching a determination, in accordance with section 776(a)(2)(A) of the Act. Under section 776(b) of the Act, we may use an inference adverse to the interests of an interested party that failed to cooperate by not acting to the best of its ability to comply with a request for information. In determining whether a respondent acted to the best of its ability in seeking the COP information from its affiliate, we normally examine the nature of the affiliation, in addition to other facts.²⁶ Given the fact that the affiliate in question only owned a small percentage of DSM's shares, we determine that DSM could not compel it to provide its COP. Therefore, we are not applying an adverse inference in selecting from the facts available. In prior cases, we turned to other COP information on the record, if available, as non-adverse "gap-filling" facts available.

We disagree with Nucor that it would be appropriate to use the segment information from the affiliated producer's parent's consolidated financial statements to calculate the affiliated producer's COP for slab as a gap filler. The segment information contained in the affiliated producer's parent's financial statements would be inappropriate to use as an estimate of the cost

FETL does not purchase EG, the input at issue, directly from its affiliated producer. Rather, it is obtained through a line of affiliates, including the affiliated producer. Since the affiliated producer and all of the parties in the transaction between the producer and the respondent are affiliated with FETL, and the total value of the purchases of the EG from the affiliates is significant in relation to the total cost of manufacture of the subject merchandise, we have determined that section 773(f)(3) of the Act applies in this case. We disagree with FETL that the intent of section 773(f)(3) of the Act and the related regulations is only to be concerned with the cost of production of the immediate affiliated supplier. To do so in this case would mean to blindly base the cost of production computation of the affiliated supplier immediately preceding the respondent on the transfer price between the affiliated supplier and its affiliate, which in effect, contradicts the purpose of section 773(f)(3) of the Act. As discussed in *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Round Wire from Canada*, the intent of sections 773(f)(2) and (3) of the Act "and the related regulations is to account for the possibility of shifting costs to an affiliated party. This possibility arises when an input passes to the responding company through the hands of an affiliated supplier, regardless of the value added to the product by the affiliated supplier." As such, we consider the appropriate method for computing the cost of production for a major input obtained from an affiliated producer through a chain of affiliated party transactions to be based on the actual cost of production incurred by the affiliated producer plus a portion of the general expenses of all of the affiliates involved in the transaction between the affiliated producer and the respondent. Thus, for the final determination, we computed the cost of production for the affiliated EG purchases based on the affiliated producer's cost of production plus a portion of the general expenses for each affiliate involved in the transaction.

²³ See *Mannesmann v. United States*, 77 F. Supp. 2d 1302 (CIT 1999).

²⁴ See section 773(f)(3) of the Act.

²⁵ See DSM's second supplemental response dated October 2, 2014, at 2-3 and Exhibit D-27.

²⁶ See *Certain Cut-to-Length Carbon Steel Plate from Brazil: Final Results of Antidumping Duty Administrative Review*, 63 FR 12744, 12751 (March 16, 1998) (*Plate from Brazil*).

of slab because it represents all of the activities of the segment and is not limited to the production of slab.²⁷ The segment includes the production of various higher end steel products in addition to slab as well as other activities. Moreover, nothing on the record of this review clearly defines the crude steel the petitioner relied on. Therefore, no reasonable information exists on the record to calculate the COP of slab from the affiliated producer.

In prior cases, when there was no such COP data on the record and no indication that the affiliated supplier's COP was higher than the transfer or market price, we used the higher of the transfer price or the market price as facts available.²⁸ As facts available in this case, and consistent with our prior cases, we used the higher of the transfer price or the market price that DSM reported for its purchases of slab.²⁹ Thus, as we did in the *Preliminary Results*, we examined these slab purchases for the final results and adjusted DSM's cost of manufacturing to reflect the higher of market price or transfer price.³⁰

For the reasons stated above, we made no changes to our preliminary major input analysis.

Comment 4: Minor Input

According to Nucor, Intergis is DSM's affiliate that provided transportation services to DSM at below-market prices. Nucor requests that the Department use Intergis's full COP as a surrogate for the market value of Intergis's services and increase DSM's COM.

Nucor contends that section 773(f)(2) of the Act allows the Department to disregard transactions between affiliated parties if the value of the services does not reflect market prices and, if the Department does so and no other transactions are on the record for consideration, then section 773(f)(2) of the Act requires the Department to base the disregarded transaction value on the value that would have been agreed upon in a transaction between unaffiliated parties. Nucor claims that the transportation services Intergis provided to DSM are minor inputs and transactions disregarded in section 773(f)(2) of the Act.

Nucor explains that the Department is required to compare the transportation values DSM paid Intergis to the transportation values DSM paid unaffiliated transportation providers to determine whether DSM paid Intergis at market value for Intergis's transportation services. Nucor states that DSM provided one transportation transaction in which two invoices (one between DSM and Intergis and another between Intergis and an unaffiliated subcontractor) demonstrate that Intergis

²⁷ See Nucor's comments dated October 20, 2014, at Exhibit 1, pages 12-13, which lists the activities performed at the steel segment.

²⁸ See, e.g., *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review*; 2012-2013, 79 FR 54264, 54265 (September 11, 2014), and the accompanying I&D Memo at Comment 6, *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53370, 53375 (September 11, 2006), unchanged in *Notice of Final Results of the Twelfth Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 72 FR 13086 (March 20, 2007), *Plate from Brazil*, 63 FR at 12751; *Notice of Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From the Republic of Korea*, 65 FR 16880 (March 30, 2000), and the accompanying I&D Memo at Comment 6.

²⁹ See the DSM Preliminary Analysis Memorandum dated December 15, 2014, at 3.

³⁰ *Id.*

charged DSM more than the unaffiliated subcontractor charged Intergis for the transportation. Nucor contends that these invoices are insufficient to demonstrate that Intergis provided transportation services at arm's-length prices. Nucor contends further that these invoices do not capture any fluctuations in the cost of transportation during the POR. Nucor argues that the price difference between Intergis and its subcontractor reflects a price between a prime contractor and a subcontractor, not a price between a customer and transportation service provider. Nucor explains that there is a fundamental difference in obtaining a subcontractor and the associated prices with an open-market transaction for transportation services. Finally, Nucor claims that Intergis incurred a loss in 2013 as a result of providing transportation services to DSM at prices below market value.

DSM claims that its evidence demonstrates that Intergis charged market-value prices to DSM for transporting raw materials from Japan to Korea. DSM explains that it cannot compare the prices Intergis charged DSM for transporting raw materials from Japan to Korea with the prices other unaffiliated transportation service providers charged DSM for transporting raw materials from, *e.g.*, South America to Korea. DSM asserts that the comparison of the price Intergis charged DSM and the price the unaffiliated subcontractor charged Intergis for the transportation of raw materials for DSM demonstrates that Intergis charged DSM market-value prices for the transportation services.

DSM argues that there is no statutory requirement that the comparison market price must be a POR weighted-average sample market price and that Nucor never requested the Department to ask DSM for such price data. According to DSM, the Department accepts sample invoices as evidence of market price, rather than a calculated weighted-average price for the POR. DSM claims that Nucor provided no support (statutory or the Department's practice) for the difference between a prime contractor and a subcontractor. DSM contends that Intergis did not incur a loss in 2013 and that Nucor calculated a small loss by excluding financial related expenses on Intergis's financial statements and substituting the consolidated interest rate of DSM. DSM explains that Intergis made a profit in 2013.

Department's Position: We find that Intergis charged DSM market prices for the services it provided to DSM for transporting raw materials, and we did not make any COM adjustments with respect to Intergis. We base our decision on this issue not only on the two transportation invoices that DSM provided and Nucor claims to be insufficient. In its sections B and C response, DSM provided various transportation contracts between DSM and Intergis and between Intergis and an unaffiliated subcontractor for the transportation services provided to DSM.³¹ Also in its sections B and C response, DSM provided the price charts for the comparison between Intergis and the unaffiliated subcontractor for the transportation services provided to DSM.³² As DSM stated, the rates Intergis charged DSM were higher than the rates the unaffiliated subcontractor charged Intergis.³³

³¹ See DSM's section B response dated June 11, 2014, at 30 and Exhibits B-8 and B-9 and section C response dated June 11, 2014, at 27-28 and Exhibit C-4.

³² *Id.*

³³ *Id.*

Nucor did not explain why obtaining an unaffiliated subcontractor through an affiliated transportation service provider is fundamentally different from obtaining an unaffiliated subcontractor directly when both the affiliated transportation service provider and the unaffiliated transportation subcontractor provided the services for DSM. We find that there is no meaningful difference. Moreover, Nucor did not challenge the arm's-length nature of the transportation service prices Intergis charged DSM compared to the transportation service prices the unaffiliated transportation service provider charged Intergis and reported in the sections B and C response. We find that the transportation service prices that Intergis charged DSM and that the unaffiliated subcontractor charged Intergis, which were reported in the sections B and C response, along with the two sample invoices DSM provided, all support DSM's assertion that Intergis charged DSM a market price for the transportation services Intergis provided to DSM.³⁴

Finally, for purposes of addressing this issue, we find that Intergis made a profit in 2013.³⁵ Nucor's calculation of Intergis's loss in 2013 is distorted because Nucor used DSM's consolidated interest rate to calculate this loss. Nucor did not provide any justification for its use of DSM's consolidated interest rate in this calculation. For these reasons, Intergis's transportation prices do not need to be adjusted for the final results of review.

Comment 5: General and Administrative Expenses

Nucor argues that certain miscellaneous revenues DSM included in the numerator of the G&A calculation are related to DSM's other COGS. Nucor requests that the Department take these miscellaneous revenues from the numerator of the G&A calculation and include them in the denominator of the G&A calculation in order to offset the related other COGS included in the denominator of the G&A calculation. Nucor claims that, in response to the Department's question on whether these miscellaneous revenues are related to its other COGS, DSM did not provide a direct answer. However, Nucor explains, the partial answers DSM provided with respect to these miscellaneous revenues and the nature of the other COGS indicate that these miscellaneous revenues are related to the other COGS.

Specifically, Nucor raises this issue with respect to four miscellaneous revenue items. Nucor argues that a miscellaneous revenue item related to DSM's processing of reinforcement bar that represents sales of materials such as reinforcement bar coupler should be applied as an offset to those costs. Nucor also identifies two additional miscellaneous revenue items that it claims are related to DSM's costs of byproducts sold, which are included in DSM's other COGS. The fourth miscellaneous revenue item at issue is not related to selling activities but it is related to the lease of an office building and a wharf DSM owned, according to Nucor. Nucor contends that, since this miscellaneous revenue item is related to DSM's leasing activities, it should also be included in DSM's other COGS line item.

DSM denies Nucor's allegation that it evaded the Department's question concerning these miscellaneous revenues and how they are related to the other COGS. DSM claims that it has

³⁴ See the DSM final analysis memorandum dated concurrently with this I&D Memo for more details containing DSM's business proprietary information.

³⁵ See DSM's section A response dated June 4, 2014, at Exhibit A-26. See also the DSM final analysis memorandum for the business proprietary explanation on Intergis's profit.

been a cooperative respondent and that it responded to the Department's questions concerning the miscellaneous revenues fully. DSM contends that it segregated its miscellaneous revenues and expenses accounts into three categories: those connected to financing, those not connected to production, and those related to production. DSM explains that it included those miscellaneous revenues and expenses related to production into the G&A expense calculation and excluded the other two categories of miscellaneous revenues and expenses from the G&A expense calculation. DSM claims that it described the nature of certain miscellaneous revenue accounts and explained how they are connected to production and the associated costs in various G&A accounts and thus properly included in the G&A expense calculation.

DSM argues that it also responded to the Department's questions regarding the components of its other COGS and explained why these costs were (1) excluded in the COMs for purposes of cost reconciliation but (2) included in the COGS as part of the denominator in the calculation of the G&A expense ratio. DSM reiterates that the other COGS includes the cost related to purchased goods, semi-finished products sold to customers, and lease costs, and that they are not related to the COMs for finished goods and thus excluded from the COMs DSM reported. DSM contends that including the other COGS in the denominator for the calculation of the G&A expense ratio is appropriate because general expenses, including miscellaneous income and expense items, are for the entire company, not just for the finished goods DSM produced. DSM argues that the miscellaneous revenues at issue were included properly in the numerator of the calculation of the G&A expense ratio and that it is necessary to include the total COGS, inclusive of both the COGS of the finished products and the other COGS, in the denominator as the expenses and income items included in this cost related to DSM's entire operations.

DSM contends that Nucor provides no support for its proposed methodology to calculate DSM's G&A ratio, *i.e.*, removing these miscellaneous revenues from the numerator of the G&A ratio calculation and then offsetting the COGS denominator by the same miscellaneous revenues. Citing the Department's section D questionnaire at III.D.1, DSM argues that the Department's stated and long-standing practice is to allocate all G&A expenses over the COGS for the fiscal year that most closely correspond to the POR. Citing, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Indonesia*, 70 FR 13456 (March 21, 2005), and the accompanying I&D Memo at Comment 9, DSM explains that the Department treats miscellaneous revenues related to production as a component of general expenses in order to calculate a G&A ratio on the same basis as the COM to which it is being applied.

DSM states that three of the miscellaneous revenues at issue are related to revenue earned on miscellaneous scrap items but treating them like scrap revenue earned on scrap generated in the production process by subtracting it from the COGS is inappropriate. DSM explains that, unlike scrap generated during the production, the scrap in these three miscellaneous revenue accounts, *e.g.*, reinforcement bar coupler, iron oxide, waste materials, *etc.*, are not generated during production and hence are not part of the normal operations of the company. As such, DSM contends, it books these revenues as miscellaneous revenues in accordance with Korean IFRS.

According to DSM, one other remaining miscellaneous revenue at issue is related to a business and a wharf that DSM owns. DSM explains that the costs associated with these two assets are

included in DSM's cost, *e.g.*, in salaries, depreciation, *etc.* DSM states that the Department asked whether this account covered selling activities, apparently out of concern that if this revenue was related to selling expenses, it would be inappropriate as an offset to the G&A expenses. DSM explains that it clarified the revenue categories and the Department properly included this revenue as an offset to the total G&A expenses incurred.

Department's Position: For the final results, we made no adjustments to DSM's G&A expenses. In our section D questionnaire, we instructed DSM to calculate "G&A expenses on an annual basis as a ratio of *total company-wide G&A expenses* divided by cost of goods sold (COGS)."³⁶ In our questionnaire, we did not instruct DSM to offset the COGS with specific line items, *e.g.*, miscellaneous revenues, to offset the corresponding costs in the COGS. In the numerator of the G&A ratio, DSM included several miscellaneous revenues and expenses. Therefore, we find it reasonable to conclude that miscellaneous revenues offset the miscellaneous expenses in the numerator and the way DSM reported these miscellaneous revenues and expenses is consistent with our instructions in our section D questionnaire at D-14. Even if we find that those four miscellaneous revenues are related to DSM's other COGS, without knowing details of the miscellaneous expenses DSM included in the numerator and taking into account how they are exactly connected to the four miscellaneous revenues at issue, we cannot conclude that removing the four miscellaneous revenue items from the numerator and including them in the denominator of the G&A ratio calculation is reasonable.

Comment 6: Interest Expenses

Nucor requests that the Department include certain line items related to hedging against changes in foreign currency exchange rates in the calculation of DSM's interest expenses. Nucor argues that DSM (1) excluded these items from the calculation of its interest expenses and (2) made no claims that they are included at the consolidated level of its calculation of interest expenses. DSM did not comment on this issue.

Department's Position: We continue to use the interest expense DSM calculated. The values for line items that Nucor claims DSM excluded from the interest expense calculation came from DSM's unconsolidated financial statements.³⁷ Our long-standing practice is to calculate a respondent's interest expense ratio based on the audited financial statements of the highest level of consolidation available.³⁸ In this review, DSM's audited consolidated financial statements are at the highest level of consolidation.³⁹ Also, DSM reported that its "net interest expense was calculated by deducting the amount of interest income earned on short-term investments of working capital from DSM's total interest expense and inclusive of foreign exchange gains and losses. The reported interest expense also includes the amount of exchange gains and losses on financial transactions, as well as exchange gains and losses on translations of foreign-currency denominated financial assets and liabilities."⁴⁰ We tied the interest expenses DSM used to

³⁶ See the Department's section D questionnaire dated June 11, 2014, at D-14 (emphasis added).

³⁷ See DSM's section A response dated June 4, 2014, at Exhibit 22 and section D response dated June 11, 2014, at 39 and Exhibit D-14. See also DSM's third supplemental response dated November 4, 2014, at 2 and Exhibit D-30.

³⁸ See, *e.g.*, *Certain Welded Carbon Steel Pipe and Tube From Turkey: Notice of Final Results of Antidumping Duty Administrative Review*, 76 FR 76939 (December 9, 2011), and the accompanying I&D Memo at Comment 9.

³⁹ See DSM's section A response dated June 4, 2014, at Exhibit 21.

⁴⁰ See DSM's section D response dated June 11, 2014, at 29.

calculate its interest expense ratio to the interest expenses reported in DSM's 2013 audited consolidated financial statements and we found no evidence that DSM excluded any specific line items related to foreign exchange from this calculation.⁴¹ Because we do not find discrepancies between the interest expenses used to calculate the ratio and DSM's 2013 audited consolidated financial statements, we do not find the excluded line items from DSM's unconsolidated financial statements relevant in our analysis of DSM's interest expenses.

Recommendation

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

Agree ✓

Disagree _____

Paul Piquado
Paul Piquado
Assistant Secretary
for Enforcement and Compliance

20 APRIL 2015
(Date)

⁴¹ See DSM's section A response dated June 4, 2014, at Exhibit A-21, page 57-58 and section D response dated June 11, 2014, at Exhibit D-15. See also the DSM final analysis memorandum in which we explained how we tied these two exhibits.