




A-580-809

Administrative Review
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MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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

SUBJECT: Decision Memorandum for the Preliminary Results of
Antidumping Duty Administrative Review: Circular Welded Non-
Alloy Steel Pipe from the Republic of Korea: 2013-2014

I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on circular welded non-alloy steel pipe (CWP or subject merchandise) from the Republic of Korea (Korea). The review covers three producers and exporters of the subject merchandise: Husteel Co., Ltd. (Husteel), Hyundai HYSCO (HYSCO), and SeAH Steel Corporation (SeAH). The period of review (POR) is November 1, 2013, through October 31, 2014. We preliminarily determine that Husteel and HYSCO made sales of the subject merchandise at prices below normal value (NV) during the POR. We also preliminarily determine that SeAH did not make sales of the subject merchandise at prices below NV during the POR.

II. BACKGROUND

On November 2, 1992, the Department published an AD order on CWP from Korea.¹ On December 1, 2014, Wheatland Tube Company (Wheatland), a domestic producer of CWP, timely requested a review of subject merchandise sales made by Husteel, HYSCO, and SeAH.² Also on December 1, 2014, Husteel timely requested a review of itself.³

¹ See *Notice of Antidumping Duty Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea*, 57 FR 49453 (November 2, 1992).

² See Letter to the Department from Wheatland, "Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Request for Administrative Review," (December 1, 2014).

³ See Letter to the Department from Husteel, "Circular Welded Non-Alloy Steel Pipe from Korea: Case No. A-589-809: Request for Administrative Review," (December 1, 2014).



On December 23, 2014, the Department initiated this administrative review.⁴ On February 6, 2014, we released CBP data for comment by interested parties regarding our selection of respondents for individual examination.⁵ We received no comments from interested parties.

On January 22, 2015, Wheatland submitted a request for a duty absorption determination for Husteel, SeAH, and HYSCO.⁶ Previously, the Court of Appeals for the Federal Circuit found that the Department lacks authority to conduct two- and four-year duty absorption inquiries for transitional orders (orders in effect before January 1, 1995).⁷ Because the order on CWP from Korea was issued in 1992, we have not conducted a duty absorption inquiry in the context of this administrative review.

On March 13, 2015, SeAH requested to modify its reporting requirements regarding 16-inch outside diameter pipe produced at the Suncheon facility using the submerged-arc-welding process.⁸ The Department responded to this request on April 3, 2015, permitting SeAH to exclude from its reporting this specific type of pipe only for this administrative review, with the understanding that the Department will request the excluded sales and cost data if it is determined that the excluded data is necessary.⁹ On April 2, 2015, Allied Tube & Conduit and JMC Steel Group (Allied & JMC)¹⁰ timely submitted a request for verification for Husteel, SeAH and HYSCO.¹¹ On June 4, 2015, the Department extended the due date for the preliminary results of this review to December 1, 2015.¹²

On February 23, 2015, the Department sent initial questionnaires to Husteel, HYSCO, and SeAH.¹³ The respondents submitted timely initial questionnaire responses to section A¹⁴ and

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 76959 (December 23, 2014) (*Initiation Notice*).

⁵ See Memorandum to the File, “Release of Customs and Border Protection (CBP) Entry Data to Interested Parties for Comment,” (February 6, 2015).

⁶ See Letter from Wheatland, “Circular Welded Non-Alloy Steel Pipe from Republic of Korea: Request for Duty Absorption Determination,” (January 22, 2015).

⁷ See *FAG Italia S.p.A. v. United States*, 291 F.3d 806, 819 (Fed. Cir. 2002).

⁸ See Letter from SeAH, “Administrative Review of the Antidumping Order on Circular Welded Non-Alloy Steel Pipe for the 2013- 14 Review Period - Request to Modify Reporting Requirements,” (March 13, 2015).

⁹ SeAH reported that this product was sold exclusively in the home market and produced only at the Suncheon plant and that these sales would not likely be used for comparison purposes to SeAH’s United States sales. See Letter from the Department, “Antidumping Duty Administrative Review of Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Review Period – Request to Modify Reporting Requirements,” (April 3, 2015).

¹⁰ These two companies are domestic producers of subject merchandise.

¹¹ See Letter from Allied & JMC, “Circular Welded Non-Alloy Steel Pipe from Republic of Korea: Request for Verification,” (April 2, 2014). We did not conduct verification because we conducted verification within the two immediately preceding administrative reviews in which the respondents participated. See 351.307(a)(iv)(B).

¹² See Memorandum to the File, “Circular Welded Non-Alloy Steel Pipe from Republic of Korea: Extension of Time Limit for Preliminary Results of Antidumping Administrative Review,” (June 4, 2015).

¹³ See Letters from the Department to Husteel, SeAH, and HYSCO, “Initial Questionnaire,” (February 23, 2014) (initial questionnaire).

¹⁴ See Letter from Husteel, “Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A-580-809: Section A Questionnaire Response,” (March 30, 2015) (Husteel’s QR-A), see Letter from SeAH, “Response of SeAH Steel Corp., Ltd. To Section A of the Department’s February 23 Questionnaire,” (April 6, 2015) (SeAH’s QR-A), and see Letter from HYSCO, “Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Section A Questionnaire Response,” (April 10, 2015) (HYSCO’s QR-A).

sections B through D.¹⁵ Allied & JMC submitted comments on the questionnaire responses submitted by Husteel, HYSCO, and SeAH.¹⁶ The Department sent all three respondents supplemental questionnaires¹⁷ and received timely responses.¹⁸

III. SCOPE OF ORDER

The merchandise subject to the order is circular welded non-alloy steel pipe and tube, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in the order.

¹⁵ See Letter from Husteel, “Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A-580-809: Sections B-D Questionnaire Response,” (April 22, 2015) (Husteel’s QR B-D), *see* Letter from SeAH, “Administrative Review of the Antidumping Duty Order on Circular Welded Non-Alloy Steel Pipe from Korea for the 2013-14 Review Period – Response to Sections B, C, and D of February 23 Questionnaire,” (April 22, 2015)(SeAH’s QR B-D), *see* Letter from SeAH, “Administrative Review of the Antidumping Duty Order on Circular Welded Non-Alloy Steel Pipe from Korea: Submission of 2014 Financial Statements for SeAH Steel Corporation and Affiliate,”(May 13, 2015)(SeAH’s Financial Statements), *see* Letter from HYSCO, “Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Sections B-D Questionnaire Response,” (May 13, 2015) (HYSCO’s QR B-D), and *see* Letter from HYSCO, “Certain Circular Welded Non-Allow Steel Pipe from the Republic of Korea: Financial Statements,”(May 20, 2015)(HYSCO’s Financial Statements).

¹⁶ See Letter from Allied & JMC, “Certain Circular Welded Non-Alloy Steel Pipe from Korea: Comments on Questionnaire Responses of Husteel,” (June 11, 2015)(Comments on Husteel’s QR), *see* Letter from Allied & JMC, “Certain Circular Welded Non-Alloy Steel Pipe from Korea: Comments on Questionnaire Responses of SeAH,” (June 18, 2015)(Comments on SeAH’s QR), and *see* Letter from Allied & JMC, “Circular Welded Non-Alloy Steel Pipe from Republic of Korea: Comments on the Questionnaire Response of HYSCO,”(June 29, 2015)(Comments on HYSCO’s QR).

¹⁷ See Letter from the Department, “Antidumping Duty Administrative Review of Circular Welded Non-Alloy Steel Pipe from the Republic of Korea (November 1, 2013 - October 31, 2014),” (September 2, 2015)(Husteel SQ A-D); *see* Letter from the Department, “Antidumping Duty Administrative Review of Circular Welded Non-Alloy Pipe from the Republic of Korea: First A-D Supplemental Questionnaire,” (October 9, 2015)(HYSCO’s SQ A-D); *see* Letter from the Department, “Antidumping Duty Administrative Review of Circular Wleded Non-Alloy Steel Pipe from the Republic of Korea (November 1, 2013 - October 31, 2014),” (September 8, 2015)(SeAH SQ A-C); and *see* Letter from the Department, “Antidumping Duty Administrative Review of Circular Wleded Non-Alloy Steel Pipe from the Republic of Korea (November 1, 2013 - October 31, 2014),” (October 20 , 2015)(SeAH SQ D).

¹⁸ See Letter from Husteel, “Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Case No. A-580-809: Supplemental Sections A-D Questionnaire Response,” (September 25, 2015)(Husteel’s SQR); *see* Letter from HYSCO, “Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea Supplemental Sections A-D Questionnaire Response,” (November 5, 2015)(HYSCO’s SQR A-D); *See* Letter from SeAH “Adminitrative Review of the Antidumping Duty Order on Circular Welded Non-Alloy Steel Pipe from the Republic of Korea Response to September 8 Supplemental Questionnaire,” (September 29, 2015) (SeAH SQR A-C); and *see* Letter from SeAH “Adminitrative Review of the Antidumping Duty Order on Circular Welded Non-Alloy Steel Pipe from the Republic of Korea Response to October 20, 2015) (November 9, 2015)(SeAH SQR D).

All carbon-steel pipes and tubes within the physical description outlined above are included within the scope of the order except line pipe, oil-country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit.¹⁹

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090. Although the HTSUS numbers are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

IV DISCUSSION OF THE METHODOLOGY

To determine whether sales of CWP from Korea to the United States were made at less than fair value, in accordance with 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), we compared the constructed export price (CEP) to Normal Value (NV) as described in the “Constructed Export Price” and “Normal Value” sections of this decision memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(b)(1) and (c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) or CEPs (the average-to-average method), unless the Secretary determines that another method is appropriate in a particular situation. In AD 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 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 analogous to the issue in antidumping duty investigations.²⁰ In recent investigations, pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act, the Department has applied a “differential pricing” analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation.²¹ The Department finds that the differential pricing analysis used in those recent investigations may be

¹⁹ See *Final Negative Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube From Brazil, the Republic of Korea, Mexico, and Venezuela*, 61 FR 11608 (March 21, 1996). In accordance with this determination, pipe certified to the API 5L line-pipe specification and pipe certified to both the API 5L line-pipe specifications and the less-stringent ASTM A-53 standard-pipe specifications, which falls within the physical parameters as outlined above, and entered as line pipe of a kind used for oil and gas pipelines, is outside of the scope of the AD order.

²⁰ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (Dec. 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

²¹ See, e.g., *Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350 (June 4, 2013), and the accompanying Issues and Decision Memorandum at Comment 3; and *Hardwood and Decorative Plywood From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (Sept. 23, 2013), and the accompanying Issues and Decision Memorandum at Comment 3.

instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, as well as 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.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) 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 codes. Regions are defined using the reported destination codes (*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 EP (or CEP) 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* coefficient is calculated when the test and comparison groups of data each have at least two 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 used 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, and passed the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large threshold (*i.e.*, 0.8).

Next, the "ratio test" assesses the extent of the significance of the 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 accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports 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 but less than 66 percent of the value of total sales, then the results support 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 the application 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 prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines 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, 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 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 Husteel, the Department finds that 41.09 percent of the value of Husteel's U.S. sales pass the Cohen's *d* test and this confirms the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Further, the Department determines that the average-to-average method cannot appropriately account for such differences because there is a meaningful difference in the weighted-average dumping margins when calculated using the average-to-average method and an alternative method based on the average-to-transaction method applied to the U.S. sales which pass the Cohen's *d* test. Accordingly, the Department has preliminarily determined to use the average-to-transaction method for those sales passing the Cohen's *d* test and the average-to-average method for those sales which did not pass the test.

For SeAH, the Department finds that 10.24 percent of the value of SeAH's U.S. sales pass the Cohen's *d* test 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. Accordingly, the Department has preliminarily determined to use the average-to-average method in making comparisons of CEP to normal value for SeAH.

For HYSCO, the Department finds that 65.40 percent of the value of HYSCO's U.S. sales pass the Cohen's *d* test and this confirms the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Further, the Department determines that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margins move across the *de minimis* threshold when calculated using the average-to-average method and the alternative method based on the average-to-transaction method applied to all U.S. sales. Accordingly, the Department has preliminarily determined to use the average-to-transaction method for those sales passing the Cohen's *d* test and the average-to-average method for those sales which did not pass the test.

V DATE OF SALE

The Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale, but may use a date other than the invoice date if the Department is satisfied that a different date better reflects the date on which the material terms of sale are established.²²

Husteel

For its comparison market sales, Husteel has reported the shipment invoice as the date of sale, as it issues the invoice at the time of shipment.²³ For its U.S. sales, Husteel reported the earlier of the date of shipment from Korea or the date of its U.S. affiliate Husteel USA's invoice to the unaffiliated U.S. customer as the date of sale.²⁴ Husteel explained that the price and quantity are subject to change until invoicing and shipment of the merchandise.²⁵ We are relying on the sale dates reported by Husteel for both the comparison and U.S. market sales.

HYSCO

For its comparison market sales, HYSCO reported the date of sale as the earlier of the date of shipment from HYSCO's factory or the date on which HYSCO issued its tax and commercial invoices. HYSCO also reported that quantity can change until shipment from HYSCO's factory and that negotiations may continue until HYSCO's issuance of its tax and commercial invoice.²⁶

For its U.S. sales, the record evidence shows that the material terms of sale can and do change until the shipment date.²⁷ HYSCO has provided examples of changes in quantity that occurred between the purchase order date and the shipment date and that were outside of the tolerance stated on HYSCO's offer sheet to its affiliates on a line-item basis. HYSCO has shown how it can and does change the quantity outside the tolerance for specific line items within the order. HYSCO has shown that when it codes each sale into its accounting system, it codes the quantity

²² See 19 CFR 351.401(i).

²³ See Husteel's QR – A at 16-19; Husteel's QR B-D at B19.

²⁴ *Id.* at C15-19.

²⁵ *Id.*

²⁶ See HYSCO's QR B-D at B-20.

²⁷ *Id.* at C-13.

tolerance next to each line item. Because record evidence for HYSCO indicates that the quantity ordered was subject to change and, in some instances, did change beyond the specified line-item quantity tolerance between the purchase order date and the shipment date, and the shipment date precedes the sales invoice date, we find it appropriate to use the shipment date as the date of sale.

SeAH

For its comparison market sales, SeAH reported the date of the billing document, which is entered in SeAH's accounting system when the merchandise is ready for shipment, as the date of sale. In determining the date of sale, we consider which date best reflects the date on which the exporter/producer establishes the material terms of sale, *e.g.*, price and quantity.²⁸ As stated in SeAH's section A and B responses, the billing document generated by SeAH when the product is ready for shipment contains the final price and quantity of the sale to be entered into SeAH's accounting system.²⁹ For a small number of sales for which shipment date preceded the sale date, we used shipment date.³⁰ For all other sales, we relied on the sales dates reported by SeAH.

For its U.S. sales, SeAH reported the earlier of the date of shipment from Korea or the date of its U.S. affiliate Pusan Pipe America Inc. (PPA) invoice to the unaffiliated U.S. customer as the date of sale.³¹ SeAH explained that the price and quantity are subject to change until invoicing and shipment of the merchandise.³²

VI. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products, as described in the "Scope of the Order" section above, produced and sold by the respondents in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In accordance with section 771(16) of the Act, we compared products produced by Husteel, HYSCO, and SeAH and sold in both the U.S. and home markets. We compared products which were either identical or the most similar in terms of certain physical characteristics. In order of importance, these physical characteristics are: 1) grade; 2) nominal pipe size; 3) wall thickness; 4) surface finish; and 5) end-finish.

²⁸ See *e.g.*, *Sahaviriya Steel Industries Public Company Limited v. United States*, 714 F. Supp. 2d 1279-80, 1281 (CIT 2010).

²⁹ See SeAH's QR-A, at 21; SeAH's QR B-D, at 15.

³⁰ See 19 CFR 351.401(i). We are seeking to clarify this information for the final results.

³¹ *Id.*

³² *Id.*

VII. CONSTRUCTED EXPORT PRICE (CEP)

The CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter..³³

Husteel

For purposes of this review, Husteel classified all of its sales of CWP to the United States as CEP sales. During the POR, Husteel made sales in the United States through its U.S. affiliate, Husteel USA Inc., which then resold the merchandise to unaffiliated customers in the United States. We calculated CEP based on the packed, delivered prices to unaffiliated purchasers in the United States. We adjusted these prices for movement expenses, including foreign inland freight, international freight, marine insurance, foreign and U.S. brokerage and handling, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including imputed credit expenses, warranty expenses, and indirect selling expenses. We also made an adjustment for profit, in accordance with section 772(d)(3) of the Act.

SeAH

For purposes of this review, SeAH classified all of its sales of CWP to the United States as CEP sales. During the POR, SeAH made sales in the United States through its U.S. affiliate, PPA, which then resold the merchandise to unaffiliated customers in the United States. We calculated CEP based on the packed, delivered prices to unaffiliated purchasers in the United States. We adjusted these prices for movement expenses, including foreign inland freight, international freight, marine insurance, foreign and U.S. brokerage and handling, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including imputed credit expenses, warranty expenses, and indirect selling expenses. We also made an adjustment for profit, in accordance with section 772(d)(3) of the Act.

HYSCO

HYSCO also classified all of its sales of CWP to the United States as CEP sales. During the POR, HYSCO made sales in the United States through its U.S. subsidiary HHU and a second affiliated party,³⁴ which then resold the merchandise to unaffiliated U.S. customers. We calculated CEP based on the packed, delivered price to unaffiliated purchasers in the United States. We adjusted these prices for movement expenses, including foreign and U.S. inland

³³ See section 772(b) of the Act.

³⁴ HYSCO has treated the name of this affiliated company as proprietary information. See HYSCO's QR-A at A-17.

freight, international freight, marine insurance, foreign and U.S. brokerage and handling, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including, imputed credit expenses, warranty expenses, other direct selling expenses, and indirect selling expenses.

VIII. NORMAL VALUE

A. Comparison Market Viability

To determine whether there was a sufficient volume of sales in Korea to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for comparison market sales, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this administrative review, we preliminarily determined that Husteel's, SeAH's, and HYSCO's volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of subject merchandise. Therefore, we used home market sales as the basis for NV for Husteel, HYSCO, and SeAH, in accordance with section 773(a)(1)(B) of the Act.

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

During the POR, SeAH and HYSCO reported sales of the foreign like product to affiliated and unaffiliated customers in the comparison market, as defined in section 771(33) of the Act.³⁵ The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at "arm's length."³⁶ To test whether the sales to affiliates were made at arm's-length prices, on a model-specific basis, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we considered the sales to be at arm's length and included such sales in the calculation of NV.³⁷

³⁵ See SeAH's QR at 13-14, and See HYSCO's QR-A at A-17.

³⁶ See 19 CFR 351.403(c).

³⁷ See, generally, *id*; see also *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*; 2011-2012, 78 FR 78336 (December 26, 2013) and accompanying Decision Memorandum at 10.

Conversely, where sales to the affiliated party did not pass the arm's-length test, all sales to that affiliated party were excluded from the NV calculation.³⁸

C. Level of Trade(LOT)/CEP Offset

Section 773(a)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same LOT as the U.S. sales.³⁹ Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁴⁰ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTS for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),⁴¹ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.⁴²

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁴³

In this administrative review, we obtained information from Husteel, HYSCO, and SeAH regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.⁴⁴ Our LOT findings are summarized below.

³⁸ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69194 (November 15, 2002).

³⁹ See section 773(a)(1)(B)(i) of the Act and 19 CFR 351.412.

⁴⁰ See 19 CFR 351.412(c)(2), and see *Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*).

⁴¹ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.312(c)(i).

⁴² See *Micron Tech. Inc. v. United States*, 243 F.3d 1301, 1214-16 (Fed. Cir. 2001).

⁴³ See, e.g., *OJ from Brazil* at Comment 7.

⁴⁴ See Husteel's QR-A at 14-19, and Exhibits A10 - A12; see SeAH's QR-A at 25-30, and Appendices A-5 - A-6; and see HYSCO's QR-A at A-17 and Exhibit A-8.

Husteel

Husteel reported two types of customers in the comparison market: distributors and end-users.⁴⁵ The selling activities associated with the two types of customers did not differ.⁴⁶ Therefore, we consider the two reported channels of distribution to constitute one LOT. In the U.S. market, Husteel reported CEP sales to distributors only; therefore, we considered the CEP to constitute only one LOT. We compared the selling activities reported by Husteel at the CEP LOT with its selling activities at the comparison market LOT. We found that sales at the CEP level, unlike sales in the comparison market, involved no price negotiations or meetings with customers. Furthermore, we found that sales at the CEP level involved less invoicing and personnel management compared to the sales in the comparison market. Therefore, we considered the comparison market sales to be at a different LOT and at a more advanced stage of distribution than the CEP LOT.

Because the comparison market LOT was different from the CEP LOT, we could not match to sales at the same LOT in the comparison market. Moreover, because the CEP LOT does not exist in the comparison market, there is no basis for a LOT adjustment. Therefore, for Husteel's U.S. sales, all of which were CEP sales, we granted a CEP offset, in accordance with section 773(a)(7)(B) of the Act. The CEP offset adjustment to NV is subject to a cap, and it is calculated as the sum of comparison market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP.

HYSCO

HYSCO also reported two types of customers in the comparison market: distributors and end-users. The selling activities associated with the two types of customers did not differ. Therefore, we consider the two reported channels of distribution to constitute one LOT. In the U.S. market, HYSCO reported CEP sales through two channels of distribution: (1) sales to affiliate Hyundai HYSCO USA, Inc. (HHU), which in turn sold the merchandise to unaffiliated customers in the United States; and (2) sales through another affiliated party to unaffiliated U.S. customers. The selling activities associated with these two channels did not differ. Therefore, we considered the CEP to constitute one LOT. We compared the selling activities at the CEP LOT with the selling activities at the comparison market LOT and found, after examining selling functions corresponding to economic activities in the United States, that sales at the CEP LOT involved no sales forecasting, strategic and economic planning, personnel training and exchange, advertising, sales promotion, sales and marketing support, market research, or technical assistance. Therefore, we considered the comparison market sales to be at a different LOT and at a more advanced stage of distribution than the CEP LOT.

Because the comparison market LOT was different from the CEP LOT, we could not match to sales at the same LOT in the comparison market. Moreover, because the CEP LOT did not exist in the home market, there is no basis for a LOT adjustment. Therefore, for HYSCO's U.S. sales, all of this were CEP sales, we granted a CEP offset, in accordance with section 773(a)(7)(B) of the Act. The CEP offset adjustment to NV is subject to a cap, and it is calculated as the sum of

⁴⁵ See Husteel's QR-A at 11-12.

⁴⁶ *Id.* at 11-19.

home market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP.

SeAH

SeAH also reported two types of customers in the comparison market: distributors and end-users.⁴⁷ The selling activities associated with the two types of customers did not differ.⁴⁸ Therefore, we consider the two reported channels of distribution to constitute one LOT. In the U.S. market, SeAH reported CEP sales to distributors only; therefore, we considered the CEP to constitute only one LOT. SeAH stated that its U.S. sales were made at a different, less advanced LOT than its comparison market sales.⁴⁹ Because SeAH had no comparison market sales that were at the same LOT as the U.S. CEP sales, SeAH claims that a CEP offset is warranted.

We compared the selling activities reported by SeAH at the CEP LOT with its selling activities at the comparison market LOT. We found that SeAH undertakes significant activities in the comparison market related to the sales process and marketing support, as well as warehousing and warranty services that it does not undertake for its US. CEP sales. These differences indicate that SeAH's comparison market sales are made at a more advanced stage of distribution than its CEP sales. Therefore, we considered the comparison market sales to be at a different LOT.

Because the comparison market LOT was different from the CEP LOT, we could not match to sales at the same LOT in the comparison market. Moreover, because the CEP LOT did not exist in the comparison market, there is no basis for a LOT adjustment. Therefore, for SeAH's U.S. sales, all of which were CEP sales, we granted a CEP offset, in accordance with section 773(a)(7)(B) of the Act to reflect that its comparison market sales are at a more advanced stage than the LOT of its CEP sales. The CEP offset adjustment to NV is subject to a cap, and it is calculated as the sum of comparison market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP.

D. Cost of Production Analysis

In the last completed reviews in which we examined Husteel, HYSCO, and SeAH individually, the Department disregarded sales below the cost of production (COP) for Husteel, HYSCO, and SeAH.⁵⁰ Thus, in accordance with section 773(b)(2)(A)(ii) of the Act,⁵¹ there is a reasonable basis to believe or suspect that Husteel, HYSCO, and SeAH made sales of the subject

⁴⁷ See SeAH's QR B-D at 15

⁴⁸ See SeAH's QR-A at 25-30, and Appendices A-5 – A-6

⁴⁹ See SeAH's QR-A, at 26.

⁵⁰ See *Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of the Antidumping Duty Administrative Review*, 80 FR 32937 (June 10, 2015), and *Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 77 FR 34344 (June 11, 2012)

⁵¹ The Department's determination in this regard is consistent with the former provisions of section 773(b)(2)(A)(ii) of the Act, which have since been amended by the Trade Preferences Extension Act of 2015. However, because the Department issued the complete initial questionnaire to Husteel, HYSCO, and SeAH prior to August 6, 2015, the recent amendment to section 773(b)(2) of the Act does not apply to these preliminary results. See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015.

merchandise in their comparison market at prices below the COP in the current review period. Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Husteel,⁵² SeAH, and HYSCO. We examined the respondents' cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

1. Calculation of Cost of Production (COP)

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses.⁵³ Therefore, we followed our normal methodology of calculating an annual weighted-average cost. We relied on the COP data submitted by Husteel, HYSCO, and SeAH in their questionnaire responses.⁵⁴ To mitigate unreasonable cost differences, which are unrelated to the reported products' physical characteristics, we have reallocated Husteel's hot-rolled direct material costs among products with common grade. In addition, we have reallocated Husteel's fabrication costs among products with common thickness, surface finish, and end finish.⁵⁵ For SeAH, we relied on the revised cost of production data submitted as part of SeAH's section D supplemental questionnaire response and we made adjustments to total cost of manufacturing, G&A expenses, and interest expenses, as described in SeAH's calculation memorandum.⁵⁶ We relied on the COP data submitted by HYSCO, and made certain adjustments, which are of a proprietary nature, and are described in HYSCO's calculation memorandum.⁵⁷

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices were exclusive of any applicable movement charges, discounts and rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.

⁵² Husteel provided two cost datasets in Husteel QR B-D. The Department decided to use the hstep01 dataset for the calculation of these preliminary results because it complies with our original request; the alternative dataset (hstep01_v2) did not include a column for scrap costs, and the alternative dataset was submitted with minimal explanation of the adjustments included.

⁵³ See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

⁵⁴ See Memorandum to Dana S. Mermelstein, "Husteel's Preliminary Results Calculation," (December 1, 2015) (Husteel's Preliminary Calculation Memo) at 1; see Memorandum to Dana S. Mermelstein, "SeAH's Preliminary Results Calculation," (December 1, 2015) (SeAH's Preliminary Calculation Memo) at 1; and see Memorandum to Dana S. Mermelstein, "HYSCO's Preliminary Results Calculation," (December 1, 2015) (HYSCO's Preliminary Calculation Memo) at 1.

⁵⁵ See Husteel's Preliminary Calculation Memo at 3.

⁵⁶ See SeAH's Preliminary Calculation Memo.

⁵⁷ See HYSCO's Preliminary Calculation Memo.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's home market sales of a given product are at prices less than the COP, we do not disregard the below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) the sales were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and 2) based on our comparison of prices to the weighted-average COPs for the POR, the sales were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our cost tests for Husteel, HYSCO, and SeAH indicated that for comparison 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 have disregarded these below-cost sales and used in our analysis the remaining above-cost sales to determine NV.

E. Calculation of Normal Value Based on Comparison Market Prices

In accordance with section 773(a) of the Act, we calculated NV based on prices to unaffiliated customers. For those comparison products for which there were an appropriate number of sales at prices above the COP for Husteel, HYSCO, and SeAH, we based NV on comparison market prices. We calculated NV based on packed prices of sales to unaffiliated customers in Korea and prices of sales to affiliated customers which were determined to be at arm's length.⁵⁸

Pursuant to section 773(a)(6)(A) of the Act, for Husteel we adjusted the starting prices by deducting discounts and foreign inland freight. For HYSCO, we adjusted the starting prices by deducting billing adjustments, foreign inland freight, and warehousing. For SeAH, we adjusted the starting prices by deducting foreign inland freight. Pursuant to sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, we adjusted the differences in packing, and in circumstances of sale (for imputed credit expenses, late payment fees, and warranty expenses (HYSCO only)), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

For comparisons to CEP, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses, *i.e.*, imputed credit. We calculated credit expenses to reflect negative credit expenses, where applicable. As discussed above, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated

⁵⁸ See the "Affiliated Party Transactions and Arm's-Length Test" section above.

the CEP offset as the lesser of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

Furthermore, 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 associated with those physical differences for the foreign like products and the subject merchandise.⁵⁹

F. Constructed Value

If applicable, and in accordance with section 773(e) of the Act, we calculated CV based on the sum of Husteel's, HYSCO's, and SeAH's 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" section. 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 comparison market.

XI. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.


X. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree



Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

12/1/15

(Date)

⁵⁹ See 19 CFR 351.411(b).