




A-580-880  
Investigation  
Public Document  
AD/CVDOps/II/AM

DATE: February 22, 2016

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement's and Compliance

FROM: Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the  
Antidumping Duty Investigation of Heavy Walled Rectangular  
Welded Carbon Steel Pipes and Tubes from the Republic of  
Korea (Korea)

---

## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that heavy walled rectangular welded carbon steel pipes and tubes (HWR pipes and tubes) from Korea are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of the accompanying Federal Register notice.

## II. BACKGROUND

On July 21, 2015, the Department received an antidumping duty (AD) petition covering imports of HWR pipes and tubes from Korea,<sup>1</sup> which was filed in proper form by Atlas Tube, a division of JMC Steel Group; Bull Moose Tube Company; EXLTUBE; Hannibal Industries, Inc.; Independence Tube Corporation; Maruichi American Corporation; Searing Industries; Southland Tube; and Vest, Inc. (collectively, the petitioners). The Department initiated this investigation on August 10, 2015.<sup>2</sup>

---

<sup>1</sup> See Petitions for the Imposition of Antidumping Duties on Imports of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from South Korea, Mexico, and Turkey; and Countervailing Duties on Imports from Turkey, dated July 21, 2015 (the Petition).

<sup>2</sup> See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations, 80 FR 49202 (August 17, 2015) (Initiation Notice).



In the Initiation Notice, the Department stated that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for certain of the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.<sup>3</sup> Accordingly, on August 19, 2015, the Department released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection. On August 24, 2015, we received comments from HiSteel Co., Ltd. (HiSteel), a producer/exporter of HWR pipes and tubes from Korea.<sup>4</sup>

Also in the Initiation Notice, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of HWR pipes and tubes to be reported in response to the Department's AD questionnaire.<sup>5</sup> No parties submitted comments on the scope of this investigation.

On September 4, 2015, the Department limited the number of respondents selected for individual examination to the two largest publicly-identifiable producers/exporters of the subject merchandise by volume, Dong-A Steel Company (DOSCO) and HiSteel (collectively, the respondents). Accordingly, DOSCO and HiSteel were issued AD questionnaires.<sup>6</sup>

On September 8, 2015, Productos Laminados de Monterrey S.A. de C.V. (i.e., a respondent in the companion AD investigation on HWR pipes and tubes from Mexico) submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. On September 10, 2015, the petitioners and DOSCO filed rebuttal comments.

On September 11, 2015, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of HWR pipes and tubes from Korea.<sup>7</sup>

In October 2015, DOSCO and HiSteel submitted timely responses to section A of the Department's AD questionnaire (i.e., the section relating to general information). In this same month, we issued supplemental section A questionnaires to DOSCO and HiSteel, and received timely responses in November 2015.

---

<sup>3</sup> See Initiation Notice, 80 FR at 49206.

<sup>4</sup> See Letter from HiSteel, "Antidumping Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea – Comments on CBP Data and Respondent Selection," dated August 24, 2015.

<sup>5</sup> See Initiation Notice, 80 FR at 49204.

<sup>6</sup> See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Respondent Selection for the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea," dated September 4, 2015.

<sup>7</sup> See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea, Mexico, and Turkey: Determinations, 80 FR 54802 (September 11, 2015) (ITC Preliminary Determination). See also Memorandum to the File from Whitley Herndon, Analyst, entitled, "Placing the International Trade Commission Preliminary Report on the Record for the Anti-Dumping Investigations of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea, Mexico, and Turkey, and the Countervailing Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey," dated February 11, 2016.

In November 2015, DOSCO and HiSteel responded to sections B, C, and D of the Department's AD questionnaire (i.e., the sections relating to home market sales, U.S. sales, and cost of production (COP)/constructed value (CV), respectively). Also in November 2015, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation. Based on the request, the Department published a postponement of the preliminary determination until no later than February 16, 2016.<sup>8</sup>

From November 2015 through February 2016, we issued additional supplemental questionnaires to DOSCO and HiSteel, and received responses to these supplemental questionnaires during the same time period.

In January 2016, DOSCO requested that the Department postpone the final determination, and that provisional measures be extended.<sup>9</sup> Also in January, as explained in the memorandum from the Acting Assistant Secretary for Enforcement & Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary determination of this investigation is now February 22, 2016.<sup>10</sup>

We are conducting this investigation in accordance with section 733(b) of the Act.

### **III. PERIOD OF INVESTIGATION**

The period of investigation (POI) is July 1, 2014, through June 30, 2015. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was July 2015.<sup>11</sup>

### **IV. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES**

Pursuant to section 735(a)(2) of the Act, on January 13, 2016 and February 8, 2016, DOSCO and HiSteel, respectively, requested that the Department postpone the final determination, and that provisional measures be extended.<sup>12</sup> In addition, on February 4, 2016, the petitioners also

---

<sup>8</sup> See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 80 FR 76269 (December 8, 2015).

<sup>9</sup> See letter from DOSCO entitled, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Request for Extension of Time for the Department's Final Determination," dated January 13, 2016 (DOSCO Final Postponement Request).

<sup>10</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm Jonas," dated January 27, 2016.

<sup>11</sup> See 19 CFR 351.204(b)(1).

<sup>12</sup> See DOSCO Final Postponement Request; and letter from HiSteel entitled, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Request for the Department's Final Determination

requested that, in the event of a negative preliminary determination, the Department postpone its final determination in accordance with 19 CFR 351.210(b)(2)(i).<sup>13</sup>

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because 1) our preliminary determination is affirmative, 2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and 3) no compelling reasons for denial exist, we are granting the respondents' requests and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the Federal Register, and are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

## **V. SCOPE COMMENTS**

As noted in the Initiation Notice, we set aside a period of time for parties to raise issues regarding product coverage.<sup>14</sup> No parties submitted comments on the scope of this investigation.

## **VI. DISCUSSION OF THE METHODOLOGY**

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether DOSCO's and HiSteel's sales of HWR pipes and tubes from Korea to the United States were made at LTFV, we compared the export price (EP) or constructed export price (CEP) to the normal value (NV), as described in the "Export Price/Constructed Export Price," and "Normal Value" sections of this memorandum.<sup>15</sup>

### *A) Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (i.e., the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, the Department examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (i.e., the average-to-

---

Extension of Deadline," dated February 8, 2016.

<sup>13</sup> See letter from the petitioners entitled, "Heavy Walled Rectangular Welded Carbon Steel Pipe and Tubes from Korea: Request to Postpone Final Determination," dated February 4, 2016.

<sup>14</sup> See Initiation Notice; see also Antidumping Duties; Countervailing Duties; Final rule, 62 FR 27296, 27323 (May 19, 1997) (Preamble).

<sup>15</sup> In comments dated February 11, 2016, the petitioners requested that the Department base EP, CEP, and NV on theoretical rather than actual weights. See letter from the petitioners entitled, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea: Petitioners' Pre-Preliminary Comments," dated February 11, 2016. For the preliminary determination, we are comparing NVs with EPs and CEPs reported based on theoretical weight, in light of the fact that the "actual" weights reported by the respondents are not determined by the weighing of the merchandise. See the Memorandum to the File from Alice Maldonado, Senior Analyst, entitled, "Preliminary Determination Calculations for Dong A-Steel Company (DOSCO)," dated February 22, 2016 (DOSCO Preliminary Calc Memo); and the Memorandum to the File from Elizabeth Eastwood, Senior Analyst, entitled, "Preliminary Determination Calculations for HiSteel Co., Ltd. (HiSteel)," dated February 22, 2016 (HiSteel Preliminary Calc Memo).

transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In recent investigations, the Department has applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>16</sup> The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. 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 analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes reported by the respondents. Regions are defined using the reported destination code (*i.e.*, zip code) 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 period of investigation based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period 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 prices to the particular purchaser, region or time period differ significantly from the 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 (0.2, 0.5 and 0.8,

---

<sup>16</sup> See, *e.g.*, Xanthan Gum From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013); Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, 79 FR 54967 (September 15, 2014); or Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value, 80 FR 61362 (October 13, 2015).

respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

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

If both tests in the first stage (i.e., the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of 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 comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison 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 margins 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 margins between the average-to-average method and the appropriate alternative method move across the de minimis threshold.

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

## *B) Results of the Differential Pricing Analysis*

### DOSCO

Based on the results of the differential pricing analysis, the Department finds that 81.93 percent of DOSCO's U.S. sales passed the Cohen's *d* test, which confirms the existence of a pattern of

EPs and CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Thus, the results of the test support consideration of the application of an average-to-transaction method.<sup>17</sup> Further, the Department determines that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margin moves across the de minimis threshold when calculated using an alternative method based on the average-to-transaction method. Accordingly, the Department preliminarily determines to use the average-to-transaction method to calculate the estimated weighted-average dumping margin for DOSCO.

### HiSteel

Based on the results of the differential pricing analysis, the Department finds that 69.55 percent of HiSteel's U.S. sales passed the Cohen's *d* test, which confirms the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Thus, the results of the test support consideration of the application of an average-to-transaction method.<sup>18</sup> Further, the Department determines that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margin moves across the de minimis threshold when calculated using an alternative method based on the average-to-transaction method. Accordingly, the Department preliminarily determines to use the average-to-transaction method to calculate the estimated weighted-average dumping margin for HiSteel.

## **VII. DATE OF SALE**

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>19</sup>

DOSCO and HiSteel reported the date of sale for all home market sales as the earlier of the date of shipment from the factory, or the date of invoice to the unaffiliated customer.<sup>20</sup> With respect to the U.S. market, HiSteel reported the date of invoice to the first unaffiliated customer as the date of sale for all of its U.S. sales, while DOSCO reported the date of shipment from the factory in Korea for CEP sales and the date of invoice for EP sales.<sup>21</sup> The Department has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment

---

<sup>17</sup> See DOSCO Preliminary Calc Memo.

<sup>18</sup> See HiSteel Preliminary Calc Memo.

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

<sup>20</sup> See DOSCO's Response to Sections B, C, and D of the Questionnaire, dated November 5, 2015 (DOSCO's Sections B - D Response), at B-15; and Sections B - C response from HiSteel, dated November 2, 2015 (HiSteel's Sections B and C Response), at 12.

<sup>21</sup> See DOSCO's Sections B - D Response at C-16; and HiSteel's Sections B and C Response at 49.

date better reflects the date on which the material terms of sale are established.<sup>22</sup> Therefore, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale in both markets, in accordance with our practice.<sup>23</sup>

## **VIII. PRODUCT COMPARISONS**

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents, DOSCO and HiSteel, in Korea during the POI that fit the description in the “Scope of Investigation” section of this notice 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 to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: steel input type, quality, metallic coating, painted, perimeter, wall thickness, scarfing, and shape.<sup>24</sup>

## **IX. EXPORT PRICE/CONSTRUCTED EXPORT PRICE**

For all sales made by HiSteel and certain sales by DOSCO, we used EP in accordance with section 772(a) of the Act, because the merchandise under consideration was first sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted. We used CEP methodology for the remainder of DOSCO’s sales, in accordance with section 772(b) of the Act, because the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer and EP methodology was not otherwise warranted.

### **DOSCO**

With respect to EP sales, we based the starting price on packed prices to unaffiliated purchasers who shipped the merchandise to the United States. We made deductions from the starting price, where appropriate, for movement expenses (e.g., foreign inland freight and foreign brokerage and handling expenses), in accordance with section 772(c)(2)(A) of the Act.<sup>25</sup> Regarding foreign

---

<sup>22</sup> See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 72 FR 52065 (September 12, 2007), and accompanying Issues and Decision Memorandum at Comment 11; see also Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>23</sup> Id.

<sup>24</sup> We received arguments in the companion investigation on HWR pipes and tubes from Mexico relating to the treatment of custom-designed parts for original equipment manufacturers. We may consider altering our product comparison criteria to account for these parts in future segments of this proceeding, consistent with our proposed treatment of them in the investigation involving Mexico.

<sup>25</sup> See DOSCO Preliminary Calc Memo.



inland freight, DOSCO used an affiliated company to arrange delivery of its merchandise to the port of exportation. Because DOSCO's affiliate did not provide the same service to unaffiliated parties, nor did DOSCO use unaffiliated companies to arrange its deliveries, we were unable to test the arm's-length nature of the fees paid by DOSCO. Therefore, we based these expenses on the affiliate's costs.<sup>26</sup>

We calculated CEP based on packed prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, from the starting price for billing adjustments. We also made deductions, from the starting price, where appropriate, for foreign inland freight, foreign brokerage and handling expenses, international freight, marine insurance, U.S. brokerage and handling expenses, U.S. customs duties (including harbor maintenance fees), U.S. inland freight from port to warehouse, U.S. inland freight from the warehouse to the unaffiliated U.S. customer, and other movement expenses, in accordance with section 772(c)(2)(A) of the Act. Because DOSCO used the same affiliated company to deliver EP and CEP sales to the port, we made the same adjustment to foreign inland freight noted above.

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses (commissions, imputed credit expenses, other direct selling expenses, and bank charges) and indirect selling expenses (inventory carrying costs and other indirect selling expenses). Finally, we made an adjustment for profit allocated to these expenses, in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by DOSCO and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.

## HiSteel

We calculated the EP based on packed prices to unaffiliated purchasers in the United States or to unaffiliated purchasers who shipped the merchandise to the United States. We made deductions from the starting price, where appropriate, for movement expenses (e.g., foreign inland freight, foreign brokerage and handling expenses, and international freight), in accordance with section 772(c)(2)(A) of the Act.<sup>27</sup>

## **X. NORMAL VALUE**

### **A) *Home Market Viability***

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is 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)

---

<sup>26</sup> Id.

<sup>27</sup> See HiSteel Preliminary Calc Memo.

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 investigation, we determined that the aggregate volume of home market sales of the foreign like product for each respondent was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for DOSCO and HiSteel, in accordance with section 773(a)(1)(B) of the Act.

*B) Affiliated-Party Transactions and Arm's-Length Test*

During the POI, HiSteel made sales of the foreign like product in the home market to affiliated parties, as defined in section 771(33) of the Act. Consequently, we tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). To test whether the sales to affiliates were made at arm's-length prices, where appropriate, we compared the unit prices of sales to affiliated and unaffiliated customers net of all billing adjustments, discounts, movement charges, direct selling expenses, and packing expenses. Pursuant to 19 CFR 351.403(c) and in accordance with the Department's practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade (LOT), we determined that the sales made to the affiliated party were at arm's length.<sup>28</sup> Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.<sup>29</sup>

*C) Level of Trade*

Section 773(a)(1)(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. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>30</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>31</sup> 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.

---

<sup>28</sup> See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186 (November 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 and 102 percent in order for sales to be considered in the ordinary course of trade and used in the NV calculation).

<sup>29</sup> See section 771(15) of the Act and 19 CFR 351.102(b)(35).

<sup>30</sup> See 19 CFR 351.412(c)(2).

<sup>31</sup> Id.; see also 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), and accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

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),<sup>32</sup> 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.<sup>33</sup>

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.<sup>34</sup>

In this investigation, we obtained information from DOSCO and HiSteel regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution.<sup>35</sup> Our LOT findings are summarized below.

## DOSCO

In the home market, DOSCO reported that it made sales through one channel of distribution (*i.e.*, direct sales to distributors and end users).<sup>36</sup> According to DOSCO, it performed the following selling functions for sales to all home market customers: sales forecasting; strategic/economic planning; personnel training/exchange; advertising; sales promotion; packing; inventory maintenance; order input/processing; employment of direct sales personnel; sales/marketing support; market research; and handling of freight and delivery arrangements.<sup>37</sup>

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that DOSCO

---

<sup>32</sup> 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 expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

<sup>33</sup> See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>34</sup> See, e.g., *OJ from Brazil*, at Comment 7.

<sup>35</sup> See DOSCO's Section A response, dated October 13, 2015 (DOSCO's Section A Response), at A-14 – A-18; DOSCO's Supplemental Section A response, dated November 19, 2015 (DOSCO's Supplemental Section A Response), at SA-4 – SA-5; DOSCO's Supplemental Sections A-C response, dated January 5, 2016 (DOSCO's Supplemental Sections A-C Response), at 4-5 and Exhibit SA-6; HiSteel's Section A response, dated October 13, 2015 (HiSteel's Section A response), at 15-19, and Exhibit A-4; and HiSteel's Supplemental Section A response, dated November 12, 2015 (HiSteel's Supplemental Section A Response), at 6-8.

<sup>36</sup> See DOSCO's Sections B-D Response, at B-14.

<sup>37</sup> See DOSCO's Section A Response, at A-15 – A-16; DOSCO's Supplemental Section A Response, at SA-4; and DOSCO's Supplemental Sections A-C Response, at 4-5 and Exhibit SA-6.

performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for its home market sales. Because we find that there were no differences in selling activities performed by DOSCO to sell to its home market customers, we determine that there is one LOT in the home market for DOSCO.

With respect to the U.S. market, DOSCO reported that it made sales through two channels of distribution (i.e., sales to its U.S. affiliate, DOSCO America, and direct sales to a Korean trading company).<sup>38</sup> DOSCO reported that it performed the following selling functions in Korea for both its CEP and EP sales: packing; order input/processing; employment of direct sales personnel; and handling of freight and delivery arrangements.<sup>39</sup> Based on these selling function categories, we find that DOSCO performed sales and marketing and freight and delivery services for all of its U.S. sales. Further, while DOSCO reported sales through two different channels of distribution, because the selling functions performed by DOSCO in Korea for the U.S. sales do not differ significantly between channels we determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT. While DOSCO reported additional selling functions related to its home market sales, we find that these additional functions (e.g., annual sales forecasting monthly sales planning, making stock ledgers, making order sheets) are not substantial.<sup>40</sup> Further, it remains unclear that such activities performed by DOSCO for its home market sales would not be performed for DOSCO's sales to DOSCO America or to the Korean trading company (e.g., sales forecasting and strategic/economic planning). Finally, DOSCO failed to provide POI documentation to support its claim with respect to the intensity at which certain home market selling activities were performed, despite the Department's request that it do so.<sup>41</sup> Consequently, we do not find the selling functions performed by DOSCO for its home market customers to be significantly different from those performed for its sales to DOSCO America, such that they would constitute a different marketing stage. Therefore, we preliminarily determine that sales to the home market during the POI were made at the same LOT as sales to the United States. Because DOSCO's home market LOT is not at a more advanced stage of distribution than DOSCO's U.S. LOT, a CEP offset is not warranted.

## HiSteel

In the home market, HiSteel reported that it made sales through one channel of distribution (i.e., direct sales to distributors and end users).<sup>42</sup> According to HiSteel, it performed the following selling functions for sales to all home market customers: sales forecasting; strategic planning;

---

<sup>38</sup> See DOSCO's Section A Response at A-14 – A-15; and DOSCO's Section B - D Response at C-15.

<sup>39</sup> See DOSCO's Section A Response, at A-17 – A-18; DOSCO's Supplemental Section A Response, at SA-4 – SA-5; and DOSCO's Supplemental Sections A-C Response, at Exhibit SA-6.

<sup>40</sup> See DOSCO's Supplemental Sections A-C Response, at 4-5 and Exhibit SA-5.

<sup>41</sup> See DOSCO's Supplemental Sections A-C Response, at Exhibit SA-5, where DOSCO provided supporting documentation for activities performed outside the POI.

<sup>42</sup> See HiSteel's Sections B and C Response, at 11.

personnel training; sales promotion; packing; inventory maintenance; order input/processing; market research; and handling of freight and delivery arrangements.<sup>43</sup>

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that HiSteel performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for its home market sales. Because we find that there were no differences in selling activities performed by HiSteel to sell to its home market customers, we determine that there is one LOT in the home market for HiSteel.

With respect to the U.S. market, HiSteel reported that it made sales through two channels of distribution (*i.e.*, to U.S. distributors and to Korean trading companies).<sup>44</sup> HiSteel reported that it performed the following selling functions in Korea for sales to all U.S. customers: sales forecasting; strategic planning; personnel training; sales promotion; packing; inventory maintenance; order input/processing; market research; and handling of freight and delivery arrangements.<sup>45</sup> Accordingly, based on the selling function categories noted above, we find that HiSteel performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for all of its reported U.S. sales. Because HiSteel performed the same selling functions at the same relative level of intensity for all of its U.S. sales, we determine that all U.S. sales are at the same LOT.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions HiSteel performed for its U.S. and home market customers are virtually identical. Therefore, we preliminarily determine that sales to the United States and home market during the POI were made at the same LOT and, as a result, no LOT adjustment is warranted.

#### D) *Cost of Production Analysis*

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and countervailing duty (CVD) law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than cost of production.<sup>46</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment of the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission (ITC).<sup>47</sup> Section 773 (b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request

---

<sup>43</sup> See HiSteel's Section A response, at Exhibit A-4; and HiSteel's Supplemental Section A Response at 6- 8.

<sup>44</sup> See HiSteel's Section A Response at 16; and HiSteel's Sections B and C Response, at 48, and Exhibit C-2.

<sup>45</sup> See HiSteel's Section A response, at Exhibit A-4; and HiSteel's Supplemental Section A Response at 6- 8.

<sup>46</sup> See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. (2015).

<sup>47</sup> See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015).

constructed value and cost of production information from respondent companies in all AD proceedings.<sup>48</sup> Accordingly, the Department requested this information from DOSCO and HiSteel.<sup>49</sup> We examined DOSCO's and HiSteel's 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 COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses.<sup>50</sup>

We relied on the COP data submitted by HiSteel without adjustment. We relied on the COP data submitted by DOSCO except as follows:<sup>51</sup>

- We weight averaged the reported hot-rolled coil costs for products identical in all physical characteristics except painting to mitigate the impact of cost differences unrelated to the physical characteristics of the products (e.g., steel input type, quality, metallic coating, perimeter, wall thickness, scarfing, and shape).

### 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 COPs to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, discounts and rebates, where applicable, movement charges, actual direct and indirect selling expenses, and packing expenses.

### 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 comparison market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine

---

<sup>48</sup> Id., 80 FR at 46794-95.

<sup>49</sup> The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>; see also the Petition.

<sup>50</sup> See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

<sup>51</sup> See Memorandum from Heidi K. Schriefer, Lead Accountant, to Neal M. Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Dong-A Steel Company," dated February 22, 2016.

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) they were made within an extended period of time in “substantial quantities,” in accordance with sections 773(b)(2)(B) and (C) of the Act; and, 2) based on our comparison of prices to the weighted-average COPs for the POI, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain products, more than 20 percent of DOSCO’s and HiSteel’s home market sales during the POI were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

E) *Calculation of NV Based on Comparison-Market Prices*

DOSCO

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight under section 773(a)(6)(B)(ii) of the Act.

Regarding inland freight, DOSCO used an affiliated company to arrange delivery of its merchandise from the factory to the customer. Because DOSCO’s affiliate did not provide the same service to unaffiliated parties, nor did DOSCO use unaffiliated companies to arrange its deliveries, we were unable to test the arm’s-length nature of the fees paid by DOSCO. Therefore, we based these expenses on the affiliate’s costs.<sup>52</sup>

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales (*i.e.*, credit expenses) and added U.S. direct selling expenses (*i.e.*, credit expenses). For comparisons to CEP sales, we deducted home market credit expenses, pursuant to 773(a)(6)(C) of the Act. When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>53</sup>

HiSteel

---

<sup>52</sup> See DOSCO Preliminary Calc Memo.

<sup>53</sup> See 19 CFR 351.411(b).

We calculated NV based on delivered or ex-factory prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments and early payment discounts, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight under section 773(a)(6)(B)(ii) of the Act.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales (i.e., credit expenses) and added U.S. direct selling expenses (i.e., credit expenses and bank charges).

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>54</sup>

## **XI. CURRENCY CONVERSION**

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

---

<sup>54</sup> Id.




## XII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

  
\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

22 FEBRUARY 2016  
Date