




A-580-887
Investigation
Public Document
AD/CVDOps/VI/MJH

DATE: November 4, 2016

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement 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 Certain Carbon and Alloy
Steel Cut-To-Length Plate from the Republic of Korea

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from Korea is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) 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 April 8, 2016, the Department received an antidumping duty (AD) petition covering imports of CTL plate from the Republic of Korea¹ which was filed in proper form by ArcelorMittal USA LLC, Nucor Corporation (Nucor), and SSAB Enterprises, LLC (collectively, the petitioners). On April 14, 2016, the Department requested information and clarification of certain areas of the petition. The Petitioner filed timely responses to this request. The Department initiated this investigation on April 28, 2016.²

¹ See Petitions for the Imposition of Antidumping Duties on Imports of Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, South Africa, Taiwan, and Turkey; and Countervailing Duties on Imports from Brazil, the People's Republic of China, and the Republic of Korea, dated April 8, 2016 (the Petitions).

² See Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People's Republic of China, South Africa, Taiwan, and the Republic of Turkey: Initiation of Less-Than-Fair Value Investigations, 81 FR 27089 (May 5, 2016) (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.³ Accordingly, on May 5, 2016, 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.⁴ Additionally, on May 24, 2016 the Department issued a revised memorandum concerning this CBP data.⁵ On May 16, 2016, and May 26, 2016, the Department received comments on respondent selection on behalf of ArcelorMittal USA LLC, a petitioner.⁶ Finally, on May 27, 2016, the Department received respondent selection comments from Hyundai Steel.⁷

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 CTL plate to be reported in response to the Department's AD questionnaire.⁸ The Department received a number of timely scope comments on the record this investigation, as well as on the records of the companion CTL plate investigations involving Austria, Belgium, Brazil, France, Germany, Japan, Korea, the People's Republic of China, South Africa, Taiwan, and Turkey.⁹

On May 27, 2016, 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 CTL plate from Korea.¹⁰

On June 2, 2016, one of the petitioners (i.e., Nucor) and various other interested parties in this

³ See Initiation Notice, 81 FR at 27095.

⁴ See Letter from Robert James, Program Manager, to All Interested Parties, dated May 5, 2016.

⁵ See Letter from Robert James, Program Manager, to All Interested Parties, dated May 24, 2016.

⁶ See Letter from ArcelorMittal USA LLC, "Carbon and Alloy Steel Cut-to-Length Plate from South Korea: Comments on Selection of Mandatory Respondents," dated May 16, 2016; see also Letter from ArcelorMittal USA LLC, "Carbon and Alloy Steel Cut-to-Length Plate from South Korea: Comments on Selection of Mandatory Respondents," dated March 27, 2016.

⁷ See Letter from Hyundai Steel, "Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of South Korea: Comments on U.S. Import Data" dated May 27, 2016.

⁸ See Initiation Notice, 81 FR at 27090, 27091.

⁹ For further discussion of these comments, see Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the Republic of South Africa, Taiwan, and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations," dated September 6, 2016 (Preliminary Scope Decision Memorandum), and Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the Republic of South Africa, Taiwan, and Turkey: Additional Scope Comments Preliminary Decision Memorandum and Extension of Deadlines for Scope Case Briefs and Scope Rebuttal Briefs," dated October 13, 2016 (Additional Preliminary Scope Decision Memorandum).

¹⁰ See Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, Korea, South Africa, Taiwan, and Turkey: Determinations, 81 FR 33705 (May 27, 2016). See also Memorandum to the File from Brittany Bauer, Analyst, "Placing the International Trade Commission Preliminary Report on the record for the Anti-Dumping Investigations of Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People's Republic of China, South Africa, Taiwan, and the Republic of Turkey," dated October 7, 2016.

and/or the companion AD investigations submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. On June 8, 2016, Nucor and various other interested parties filed rebuttal comments.

On June 7, 2016, the Department limited the number of respondents selected for individual examination in this investigation to the two largest publicly identifiable producers/exporters of the subject merchandise by volume: POSCO and Daewoo International Corp (Daewoo). Accordingly, we selected POSCO and Daewoo as mandatory respondents in this investigation and issued the AD questionnaire to them.¹¹

In July 2016, POSCO and POSCO Daewoo (collectively POSCO) submitted a timely response to section A of the Department's AD questionnaire (i.e., the section relating to general information).¹² In July 2016, POSCO 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). Petitioners submitted comments on POSCO's questionnaire responses in August 2016.

In August 2016, 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 November 4, 2016.¹³

Between August and October 2016, we issued supplemental questionnaires to POSCO, and received responses to these supplemental questionnaires during the same time period.

On September 6, 2016, and October 13, 2016, the Department addressed the scope comments placed on the record of this investigation by interested parties.¹⁴

On October 31, 2016, POSCO requested that the Department postpone the final determination, and that provisional measures be extended.¹⁵

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

¹¹ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Respondent Selection for the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Korea" dated June 7, 2016.

¹² In March 2016, Daewoo International Corporation officially changed its name to POSCO Daewoo Corporation and ceased acting as an independent entity. See letter from POSCO and POSCO Daewoo, "Certain Carbon Alloy and Cut-To-Length Plate from Korea: Section A Questionnaire Response," dated July 7, 2016 (POSCO Section A Response). References to "POSCO" herein collectively refer to the consolidated activity of both POSCO and POSCO Daewoo; see also Memorandum from Michael J. Heaney to Scot Fullerton Re: Certain Carbon and Alloy Cut-To-Length Plate from the Republic of Korea: POSCO Affiliation and Collapsing Memorandum dated November 4, 2016 (Affiliation and Collapsing Memorandum).

¹³ See Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People's Republic of China, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 81 FR 59185 (August 29, 2016).

¹⁴ See Preliminary Scope Memorandum and Additional Preliminary Scope Memorandum, respectively.

¹⁵ See Letter from POSCO to Secretary of Commerce Re: Carbon and Alloy Steel Cut to Length Plate from Korea: Request to Postpone the Final Determination dated October 31, 2016 (POSCO Final Postponement Request).

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is April 1, 2015, through March 31, 2016. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was April 2016.¹⁶

IV. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

On July 26, 2016, the Petitioners filed allegations that critical circumstances exist with regard to the subject merchandise.¹⁷ On September 7, 2016, the Department published its preliminary critical circumstances determinations.¹⁸ Pursuant to this determination, the Department preliminarily determined that critical circumstances did not exist for imports of subject merchandise from POSCO.¹⁹

V. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on October 31, 2016 POSCO requested that the Department postpone the final determination, and that provisional measures be extended.²⁰

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.

VI. SCOPE COMMENTS

In accordance with the Preamble to the Department's regulations,²¹ the Initiation Notice set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).²² Certain interested parties commented on the scope of this investigation as it appeared in the Initiation

¹⁶ See 19 CFR 351.204(b)(1).

¹⁷ See Letter from the Petitioners, "Certain Carbon and Alloy Steel Cut to Length Plate From Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey, Critical Circumstances Allegations," dated July 26, 2016.

¹⁸ See Certain Carbon and Alloy Steel Cut-to Length-Plate from Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey, Antidumping and Countervailing Duty Investigations, Preliminary Determination of Critical Circumstances 81 FR 61966 (September 7, 2016); see also Memorandum Michael J. Heaney to the File Re: Calculations for Preliminary Determination of Critical Circumstances in the Antidumping Duty Investigation of Certain Carbon and Alloy Cut to Length Plate from the Republic of Korea dated August 30, 2016 (Preliminary Critical Circumstances Memorandum.)

¹⁹ See Preliminary Critical Circumstances Memorandum.

²⁰ See POSCO Final Postponement Request.

²¹ See Antidumping Duties; Countervailing Duties; Final rule, 62 FR 27296, 27323 (May 19, 1997) (Preamble).

²² See Initiation Notice, 81 FR at 27090.

Notice, as well as on additional language proposed by the Department.²³ For discussion of changes to the scope from that identified in the Initiation Notice, see the “Scope Comments” section of the accompanying Federal Register notice.

VII. AFFILIATION AND COLLAPSING

Due to the business proprietary nature of information relating to this analysis, a more detailed discussion of this matter can be found in the Affiliation and Collapsing Memorandum.²⁴

Section 771(33) of the Tariff Act of 1930, as amended (the Act), sets out several categories of persons who are considered to be “affiliated” or “affiliated persons” under the Act:

- (A) Members of a family;
- (B) Any officer or director of an organization and such organization;
- (C) Partners;
- (D) Employer and employee;
- (E) Any person, directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization;
- (F) Two or more persons directly or indirectly controlling, controlled by, or under common control, with any person;
- (G) Any person who controls any other person and such person.

The Act further states that “a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.”²⁵ “Person” is defined to include “any interested party as well as any other individual, enterprise, or entity, as appropriate.”²⁶

In addition, the Department’s practice of collapsing affiliated producers is codified in 19 CFR 351.401(f), which states:

{T}he Secretary will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production. . . . In identifying a significant potential for the manipulation of price or production, the factors the Secretary may consider include:

²³ For a summary of the product coverage comments and rebuttal responses submitted on the record of this investigation, and accompanying discussion and analysis of all comments timely received, see Preliminary Scope Memorandum and Additional Preliminary Scope Memorandum.

²⁴ See Affiliation and Collapsing Memorandum.

²⁵ See Section 771(33) of the Act.

²⁶ See 19 CFR 351.102(b)(37). Also when determining whether control exists within the meaning of this Regulation, the Department applies the definition of “Affiliated Persons” and “Affiliated Parties” that is set forth in Section 771(33) of the Act.

- (i) The level of common ownership;
- (ii) The extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and
- (iii) Whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

The Preamble to the final regulations clarifies how the Department should apply this section in its collapsing analysis, explaining that this list of factors is “non-exhaustive.”²⁷ The Preamble also states that “{t}he Department has not adopted the suggestion that it will collapse only in ‘extraordinary’ circumstances. A determination of whether to collapse should be based upon an evaluation of the factors listed in paragraph (f), and not upon whether fact patterns calling for collapsing are commonly or rarely encountered.”²⁸ The Preamble states, however, that the Department must still find that the potential for manipulation of price and production is significant.²⁹

The Department’s practice is consistent with the statement in the Preamble that the “significant potential” criteria provided in section 351.401(f) are non-exhaustive. For instance, in Carbon Steel Pipes from India, the Department stated that “{n}ot all of these criteria must be met in a particular case; the requirement is that the Department determine that the affiliated companies are sufficiently related to create the potential of price or production manipulation.”³⁰ Similarly, in Nails From Taiwan, while it addressed the section 351.401(f) criteria, the Department made its determination to collapse based on the “totality of the circumstances.”³¹

The Department’s determination in Fresh Cut Flowers From Colombia details the concerns underlying the Department’s practice of collapsing affiliates:

Because the Department calculates margins on a company-by-company basis, it must ensure that it reviews the entire producer or reseller, not merely part of it. The Department reviews the entire entity due to its concerns regarding price and cost manipulation. Because of this concern, the Department normally examines the question of whether reviewed companies ‘constitute separate manufacturers or exporters for purposes of the dumping law.’ Final Determination of Sales at Less than Fair Value; Certain Granite Products from Spain, 53 FR 24335, 24337 (June 28, 1988) (Granite Product from Spain).³²

²⁷ See Antidumping Duties; Countervailing Duties: Final rule, 62 FR 27296, 27345 (May 19, 1997) (Preamble).

²⁸ Id.

²⁹ See Preamble, 62 FR at 27345-46.

³⁰ See Certain Welded Carbon Standard Steel Pipes and Tubes From India; Final Results of New Shippers Antidumping Duty Administration Review, 62 FR 47632, 47638 (Sept. 10, 1997) (Carbon Steel Pipes from India).

³¹ See Notice of Final Determination of Sales at Less Than Fair Value: Collated Roofing Nails From Taiwan, 62 FR 51427, 51436 (Oct. 1, 1997) (Nails From Taiwan).

³² See Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews, 61 FR 42833, 42853 (Aug. 19, 1996) (Fresh Cut Flowers From Colombia), citing Granite Products from Spain.

The Court of International Trade expressly affirmed the Department's authority to collapse affiliated parties for purposes of antidumping analysis in Queen's Flowers de Colombia v. United States³³:

Commerce's authority to ignore the separate legal existence of some parties for purposes of calculating dumping margins arises out of the "basic purpose of the statute – determining current margins as accurately as possible," Rhone Poulenc, Inc. v. United States, 899 F.2d 1185, 1191 (Fed. Cir. 1990) as well as the Department's responsibility to prevent circumvention of the antidumping law. See Mitsubishi Electric Corp. v. United States, 700 F. Supp. 538, 555 (CIT 1988).

Evidence provided by POSCO in this investigation establishes that POSCO is affiliated with certain distributors and service centers, within the meaning of section 771(33)(E) of the Act. Specifically, POSCO holds direct or indirect ownership of five percent or more of certain home market distributors and service centers through which POSCO sells the foreign like product in Korea.³⁴ Record evidence also indicates that POSCO has a greater than five percent equity holding in each of its affiliated service centers, indicating common ownership, and that, in at least one instance, a manager of one of the affiliated service centers sat on the board of another POSCO affiliate.³⁵ Furthermore, based on record evidence, we have preliminarily collapsed POSCO with certain affiliated service centers and distributors, pursuant to 19 CFR 351.401(f). Specifically, record evidence shows that POSCO and its affiliated service centers manufacture subject merchandise, and so would not require substantial retooling to restructure manufacturing priorities.³⁶ With respect to whether there exists the potential for the manipulation of price and production, record evidence establishes that the operations of the companies are "intertwined" through significant transactions among POSCO and its affiliated service centers and distributors, giving POSCO the potential to shift sales and production among its affiliated distributors and service centers. In this regard, we note POSCO's significant sales volume with affiliated distributors and service centers which permit POSCO to potentially shift sales and production among its affiliated distributors and service centers.³⁷

Although the Department typically collapses affiliated producers, it has also previously collapsed affiliated distributors as well.³⁸ Moreover, we find that the equity holdings and transactions among the affiliated companies, as well as potential for shared production facilities, present the significant potential for manipulation in this case. We base this on the volume of POSCO's

³³ See Queen's Flowers de Colombia v. United States, 981 F. Supp. 617, 622 (1997).

³⁴ See Affiliation and Collapsing Memorandum at 1-2; see also Letter from POSCO to Secretary of Commerce Re: Carbon and Alloy Steel Cut to Length Plate from the Republic of Korea: Request for Exemption from Downstream Reporting and Confirmation of Reporting Requirements, dated June 29, 2016, at Attachments 1 and 2 (POSCO June 29, 2016 Letter).

³⁵ See Affiliation and Collapsing Memorandum at 9.

³⁶ Id. at 9-10.

³⁷ Id. at 10; POSCO June 29, 2016 letter at Attachments 1 and 2.

³⁸ See, e.g., Certain Hot Rolled Steel Flat Products from Australia: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination 81 FR 15241 (March 22, 2016) and accompanying Issues and Decision Memorandum at 4-8; unchanged in Certain Cut to Rolled Steel Flat Products From Australia: Final Determination of Sales at Less Than Fair Value (Australian Hot Rolled) (wherein the Department collapsed a respondent with its affiliated distributors).

affiliated party transactions in the home market with both affiliated distributors and affiliated service centers.³⁹

The Department's regulations also state that we may examine affiliated party transactions in calculating normal value (NV).⁴⁰ Pursuant to our regulations, we normally will not calculate NV based on affiliated party sales if they account for less than five percent of the total value or quantity of the exporter/producer's sale of the foreign like product or the sales are comparable to the price at which the exporter/producer sold the foreign like product to a non-affiliated buyer. Information on the record indicates that POSCO's aggregate volume of affiliated party sales is above five percent of home market sales volume. Moreover, we find that we cannot accurately compare the home market prices of POSCO's affiliated service centers to comparable transactions to non-affiliated customers. Thus, pursuant to our regulations, we have examined these affiliated party transactions in the home market for this preliminary determination.

VIII. DISCUSSION OF THE METHODOLOGY

Comparisons to Fair Value

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

A) Determination of 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-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.⁴¹ 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

³⁹ See Affiliation and Collapsing Memorandum at 10.

⁴⁰ See 19 CFR 351.403(d).

⁴¹ 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); and Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value, 80 FR 61362 (October 13, 2015).

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 reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip codes for POSCO) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau.⁴² Time periods are defined by the quarter within the POI 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, 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

⁴² See POSCO Section C Response at Exhibit C-2.

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

For POSCO, based on the results of the differential pricing analysis, the Department preliminarily finds that 48.79 percent of the value of U.S. sales pass the Cohen's *d* test,⁴³ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test.⁴⁴ Thus, for this preliminary determination, the Department is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those

⁴³ See the Memorandum to the File from Michael J. Heaney, Senior Import Compliance Specialist, "Analysis for the Preliminary Determination of the Less-Than-Fair-Value Investigation of Cut to Length Plate from the Republic of Korea" dated November 4, 2016 (POSCO Preliminary Analysis Memorandum).

⁴⁴ Id.

sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for POSCO.

IX. 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 Department normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, under the regulation, the Department may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁴⁵

POSCO reported the shipment date from the factory as the date of sale for all of its home market and EP sales, as well as for its "back to back" CEP sales that were shipped directly from Korea to the unaffiliated customer.⁴⁶ The Department has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.⁴⁷ Nothing on the record suggests that a different date better reflects the date on which the material terms of sale are established. Thus, we are basing the date of sale on the shipment date for POSCO's home market, EP, and "back to back" CEP sales.⁴⁸

For CEP sales made by POSCO out of inventory, POSCO reported the affiliate's invoice date as the date of sale.⁴⁹ Nothing on the record suggests that a different date better reflects the date on which the material terms of sale are established. Therefore, we preliminarily used the earlier of the invoice date or the shipment date as the date of sale in the home market, and the date of the commercial invoice date for CEP sales made out of inventory, in accordance with our practice.⁵⁰

X. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondent, POSCO, 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 base NV for U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical

⁴⁵ 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)).

⁴⁶ See POSCO Section A Response at A-30 (home market sales) and at A-30-A-31 (EP sales and "back to back" CEP sales).

⁴⁷ 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.

⁴⁸ See POSCO Section A response at A-30 (home market sales) and A-31-A32 (EP sales and back to back CEP sales).

⁴⁹ See POSCO Section C Response, at C-22; see also POSCO Section A response at A-31 (CEP sales made through out of inventory).

⁵⁰ Id.

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: quality, minimum specified carbon content, minimum specified chromium content, minimum specified nickel content, minimum specified yield strength, nominal thickness, heat treatment status, nominal width, form, painting, the existence of patterns in relief, and descaling.

XI. EXPORT PRICE/CONSTRUCTED EXPORT PRICE

For all sales made by POSCO, we used the EP methodology, in accordance with section 772(a) of the Act, when 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 the CEP methodology was not otherwise warranted. We used the CEP methodology, in accordance with section 772(b) of the Act, when the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer and the EP methodology was not otherwise warranted. We adjusted POSCO's CEP sales under sections 772(c) and (d) of the Act. We adjusted POSCO's EP prices under section 772(c) of the Act.

We calculated both EP and CEP based on prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, from both the EP and CEP for billing adjustments. We also made deductions from both the EP and CEP starting price, where appropriate, for movement expenses (e.g., foreign inland freight, international freight, marine insurance, U.S. brokerage and handling expenses, U.S. customs duties (including harbor maintenance fees), U.S. inland freight to the unaffiliated U.S. customer, and U.S. warehousing expenses) in accordance with section 772(c)(2)(A) of the Act.

For CEP transactions, in accordance with section 772(d)(1) of the Act, we also deducted selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses (imputed credit expenses and shipment inspection fees), commissions, 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 POSCO and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.⁵¹

POSCO claimed a duty drawback adjustment to U.S. price.⁵² Section 772(c)(1)(B) of the Act states that EP and CEP shall be increased by "the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the export of the subject merchandise to the United States." In determining whether an adjustment for duty drawback should be made, we look for a reasonable link between the duties

⁵¹ See POSCO Preliminary Analysis Memorandum at 8-11 for a detailed description of the deductions made from both EP and CEP.

⁵² See POSCO Section C Response, at C-38 and Exhibit C-17.

imposed and those rebated or exempted. We do not require that the imported material be traced directly from importation through exportation. We do require, however, that the company meet our “two-pronged” test in order for the adjustment to be made to EP or CEP.⁵³ The first element is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another; the second element is that the company must demonstrate that there were sufficient imports of the imported material to account for the duty drawback or exemption granted for the export of the manufactured product.⁵⁴

In this investigation, we preliminarily granted a duty drawback adjustment to POSCO because it has satisfied the criteria described above for Korea’s duty drawback program.⁵⁵ Also, consistent with the Department’s practice,⁵⁶ we based the amount of the duty drawback adjustment on the amount reported by POSCO in its cost of production (COP) database.⁵⁷

No other adjustments were claimed or applied.

XII. 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) 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 preliminarily determine that the aggregate volume of home market sales of the foreign like product for POSCO was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise.⁵⁸ Therefore, we used home market sales as the basis for NV for POSCO, in accordance with section 773(a)(1)(B) of the Act. Moreover, there is no evidence on the record supporting a particular market situation in the exporting companies’ country that would not permit a proper comparison of home market and U.S. prices.

⁵³ See *Saha Thai Steel Pipe Public Co., v. United States*, 635 F.3d 1335, 1440-41 (Fed Cir. 2011) (*Saha Thai*).

⁵⁴ *Id.*; see also, e.g., *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 7513 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 2.

⁵⁵ See POSCO Section C Response, at C-38 and Exhibit C-17.

⁵⁶ See, e.g., *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 81 FR 47355 (July 21, 2016), and accompanying Issues and Decision Memorandum at Comment 3.

⁵⁷ See Preliminary Analysis Memorandum at 8.

⁵⁸ See 19 CFR 351.404(b)(2); see also POSCO Section A Response at Exhibit A-1.

B) *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 level of trade (LOT) as the EP or CEP sale. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁵⁹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁶⁰ 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 and 19 CFR 351.412(c)(1), in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),⁶¹ 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.⁶²

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.⁶³

In this investigation, we obtained information from POSCO 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.⁶⁴ Our LOT findings are summarized below.

POSCO reported that it made sales in the home market through three channels of distribution: 1) sales to end-users (both affiliated and unaffiliated), 2) sales through affiliated resellers, and 3) “cyber transactions” to unaffiliated end-users which typically involve sales of overrun and “non-prime” merchandise.⁶⁵ According to POSCO, it performed the following selling functions for

⁵⁹ See 19 CFR 351.412(c)(2).

⁶⁰ *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).

⁶¹ 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).

⁶² See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

⁶³ See, e.g., OJ from Brazil, at Comment 7.

⁶⁴ See POSCO First Supplemental A-C Response, at 1-3 and exhibits SA-1 to SA-13.

⁶⁵ See POSCO Section A Response, at A-16 through A-17.

sales to all home market customers for all three levels of distribution: sales forecasting; strategic/economic planning; personal training/exchange; advertising assistance to promote POSCO's general brand; sales promotion inventory maintenance; order input/processing; employment of direct sales personnel; sales/marketing support; market research; provision of technical assistance; and freight and delivery.⁶⁶

Consistent with our practice in recent cases⁶⁷, in this investigation we grouped selling activities 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 POSCO performed sales and marketing, freight and delivery services, and warranty and technical support for its home market sales. Because we find no significant differences in selling activities performed by POSCO to sell to its home market customers, we determine that there is one LOT in the home market for POSCO.

With respect to the U.S. market, POSCO reported that it made sales through three channels of distribution: 1) sales in Korea through affiliated trading companies to unaffiliated trading companies, 2) sales in the United States through affiliated subsidiaries in the United States, and 3) sales in Korea to unaffiliated trading companies.⁶⁸ For the third channel of distribution, POSCO reported that it performed the following selling functions in Korea for sales in the third channel to its unaffiliated U.S. customer: sales forecasting; strategic/economic planning; order input/processing; sales/marketing support; provide claims service; freight and delivery; and provision of port services.⁶⁹ However for the CEP sales that POSCO made through channels one and two, POSCO contended that it performed significantly less sales and marketing activity, freight and delivery services, and warranty and technical support than it did on its home market sales.⁷⁰ The selling functions performed by POSCO for its EP sales do not constitute significant enough differences in channels of distribution between the EP and the home market to distinguish POSCO as having distinguishable levels of distribution and separate marketing stages in the home market. Therefore, consistent with the position we took in Korean Cold Rolled with regards to Hyundai Steel, we determine that POSCO's U.S. EP sales are at the same LOT as are POSCO's home market sales.⁷¹ Finally, we note that in our LOT analysis, we compared POSCO's reported U.S. and home market sales data as reported by POSCO.⁷²

If the home-market sales are at a different LOT from that of a U.S. sale and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, POSCO has contended that the difference in selling expenses between home market sales and CEP sales warrant

⁶⁶ Id., at A22-A-26.

⁶⁷ See e.g., Certain Cold Rolled Steel Flat Products from the Republic of Korea: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination 81 FR 11757 (March 7, 2016) and Accompanying Issues and Decision Memorandum at Issues at 19, unchanged in Certain Cold Rolled Steel Flat Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value 81 FR 49953 (July 29, 2016) (Korean Cold Rolled).

⁶⁸ See POSCO Section A Response at A-18 through A-20

⁶⁹ Id., at Exhibit A-8.

⁷⁰ Id.

⁷¹ See Korean Cold Rolled Preliminary Issues and Decision Memorandum at 19; unchanged in Final Results.

⁷² See POSCO Preliminary Analysis Memorandum at 4-5.

granting of a CEP offset. However, having considered the totality of circumstances reported by POSCO concerning its CEP and home market channels of distribution, our review of the information submitted by POSCO indicates that there is insufficient difference in the home market and CEP LOTs pursuant to section 773(a)(7)(B) of the Act. Specifically, we note that for many sales services considered by the Department in a LOT analysis,⁷³ POSCO performed no selling services for either the home market or CEP channel of distribution. Also, we note that for several other aspects of sales support, such as sales forecasting; strategic/economic planning; order input/processing; and sales/marketing support, POSCO acknowledged that it provided some of these services on its CEP sales, while contending that it provided a greater degree of these services on its home market sales.⁷⁴ Based on the foregoing, we conclude that the differences in selling expenses cited by POSCO do not establish CEP sales as a separate level of trade to home market sales. We further that the position we have taken in the instant investigation is consistent with that taken in Korean Cold Rolled wherein we also determined that no granting of a CEP offset was warranted.⁷⁵ Accordingly, we have not granted a CEP offset, pursuant to 773(a)(7)(B) of the Act.

C) *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 CVD law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than COP.⁷⁶ The 2015 law does not specify dates of application for those amendments.⁷⁷ On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.⁷⁸ 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 CV and COP information from respondent companies in all AD proceedings.⁷⁹ Accordingly, the Department requested this information from POSCO. We examined POSCO'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.

⁷³ These include 'Engineering Services,' Distributor/Dealer Training, Procurement/Sourcing Services, Packing, the Provision of Rebates or Cash Discounts, the Payment of Commissions, the Provision of Guarantees, the Provision of After Sales Servicing, and the Provision of Post Sale Warehousing. See id.

⁷⁴ Id.

⁷⁵ See Korean Cold Rolled Preliminary Issues and Decision Memorandum at 21; unchanged in Final Results.

⁷⁶ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

⁷⁷ The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>; see also the Petitions.

⁷⁸ 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).

⁷⁹ Id., 80 FR at 46794-95.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated weighted-average COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and interest expenses.

We relied on the data submitted by POSCO except as follows:

1. We adjusted the cost of inputs purchased by POSCO from affiliated suppliers to reflect the market price of the inputs in accordance with Section 773(f)(2) of the Act.⁸⁰
2. We revised POSCO's G&A expense ratio to include certain non-operating expenses.⁸¹

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 for POSCO to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs within an extended period of time (*i.e.*, normally a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We compared the COP to the comparison market prices. 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;⁸² 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.⁸³ 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 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.

⁸⁰ See Memorandum from Kalsang Dorjee to Neal M. Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—POSCO, dated November 4, 2016.

⁸¹ Id.

⁸² See sections 773(b)(2)(B) and (C) of the Act (defining "extended period of time" and "substantial quantities").

⁸³ See section 773(b)(2)(D) (defining "recovery of costs").

As discussed in further detail in the preliminary calculation memorandum, we found that, for certain products, more than 20 percent of POSCO'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.⁸⁴ 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*

For POSCO's comparison market prices, 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, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight to the warehouse, warehousing expenses, and inland freight from the warehouse under section 773(a)(6)(B)(ii) of the Act. We offset these movement expenses with reported freight revenue, with the latter capped at no higher than the sum of movement expenses, in accordance with our normal practice. In determining NV, based on comparison-market prices, we used the first price from POSCO or its affiliated distributor to an unaffiliated customer in the home market.⁸⁵

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b) for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales (*i.e.*, shipment inspection fees and credit expenses) and added U.S. direct selling expenses (*i.e.*, credit expenses). We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market or the United States where commissions were granted on sales in one market but not in the other, also known as the "commission offset." Specifically, where commissions were incurred in only one market, we limited the amount of such allowance to the amount of either the indirect selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

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, but not identical, 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, using period-wide, weighted-average costs.⁸⁶

⁸⁴ See Preliminary Calculation Memorandum for POSCO at 11-13.

⁸⁵ See the "Affiliation and Collapsing" Section above.

⁸⁶ See Preliminary Analysis Memorandum at 14.

XIII. 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.⁸⁷


XIV. CONCLUSION

We recommend applying the above methodology for this preliminary determination.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

4 NOVEMBER 2016

Date

⁸⁷ The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>