



A-580-809

Administrative Review
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MEMORANDUM TO: Paul Piquado
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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

SUBJECT: Decision Memorandum for the Preliminary Results of
Antidumping Duty Administrative Review: Circular Welded Non-
Alloy Steel Pipe from the Republic of Korea: 2014-2015

I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea) covering the period of review (POR) is November 1, 2014, through October 31, 2015. We selected one company for individual examination in this administrative review: Husteel Co., Ltd. (Husteel). We preliminarily determine that Husteel made sales of the subject merchandise at prices below normal value (NV).

II. BACKGROUND

On November 2, 1992, we published in the *Federal Register* an AD order on CWP from Korea.¹ On November 25, 2015, the petitioner² timely requested a review of AJU Besteel, Husteel, Hyundai Steel Company (Hyundai Steel), NEXTEEL, and SeAH Steel Corporation (SeAH).³ On November 30, 2015, Husteel and SeAH also requested an administrative review.⁴

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

² The petitioner, Wheatland Tube Company (Wheatland), is a domestic producer of CWP.

³ See Letter to the Department from Wheatland, "Certain Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Request for Administrative Review," dated November 25, 2015. See also Wheatland's Letter to the Department, "Certain Circular Welded Non-Alloy Steel Pipe from Korea: Clarification of Request for Administrative Review," dated November 30, 2015, to include the name change of Hyundai HYSCO to Hyundai Steel Company.

⁴ See Letter to the Department from Husteel, "Certain Circular Welded Non-Alloy Steel Pipe from Korea: Case No. A-589-809: Request for Administrative Review," dated November 30, 2015; Letter to the Department from SeAH, "Circular Welded Non-Alloy Steel Pipe from Korea – Request for Administrative Review," dated November 30, 2015.



On January 7, 2016, the Department initiated this administrative review.⁵ On February 11, 2016, Hyundai Steel certified that it had no shipments of subject merchandise during the POR.⁶ On February 12, 2016, we released entry data we obtained from U.S. Customs and Border Protection (CBP) for comment by interested parties regarding our selection of respondents for the instant review.⁷ On February 19, 2016, the petitioner submitted comments and Hyundai Steel submitted rebuttal comments.⁸ On March 31, 2016, we selected Husteel for individual examination in this review.⁹

On April 7, 2016, the Department issued the AD questionnaire to Husteel.¹⁰ Husteel timely submitted its questionnaire response.¹¹ The petitioner submitted comments on Husteel's questionnaire response.¹² The Department issued a supplemental questionnaire to Husteel¹³ and received a timely response.¹⁴

III. SCOPE OF THE ORDER

The merchandise subject to the order is circular welded non-alloy steel pipe and tube, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 736 (January 7, 2016) (*Initiation Notice*); see also *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 6832 (Feb. 9, 2016).

⁶ See Hyundai Steel's Letter to the Department, "Certain Circular Welded Non-Alloy Steel Pipe from Korea: No Shipment Letter," dated February 11, 2016, in which Hyundai Steel claimed no shipments of subject merchandise during the POR. This claim encompassed both Hyundai Steel and its predecessor-in-interest, Hyundai HYSCO. See *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Circular Welded Non-Alloy Steel Pipe From the Republic of Korea*, 81 FR 42653 (June 30, 2016).

⁷ See Memorandum to the File, "Release of Customs and Border Protection (CBP) Entry Data to Interested Parties for Comment," dated February 12, 2016.

⁸ See Letter from Wheatland to the Department, "Certain Circular Welded Non-Alloy Steel Pipe from Korea: Wheatland's Comments on CBP Data," dated February 19, 2016. See also Hyundai Steel's Letter to the Department, "Certain Circular Welded Non-Alloy Steel Pipe from Korea: Rebuttal Comments on CBP Data," dated February 19, 2016.

⁹ See Memorandum from Lana Nigro, International Trade Analyst, to James Maeder, Senior Office Director, "Respondent Selection: Antidumping Duty Administrative Review: Circular Welded Non Alloy Steel Pipe from the Republic of Korea," dated March 31, 2016.

¹⁰ See the antidumping duty questionnaire from the Department to Husteel, dated April 7, 2016.

¹¹ See Letter from Husteel, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A-580-809: Section A Questionnaire Response," dated April 28, 2016 (Husteel's AQR) and Letter from Husteel, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A-580-809: Sections B-D Questionnaire Response," dated June 7, 2016 (Husteel's B, C, or DQR).

¹² See Letter from the petitioner to the Department, "Certain Circular Welded Non-Alloy Steel Pipe from Korea: Comments on Husteel's Initial Questionnaire Response," dated August 26, 2016 (Comments on Husteel's QR).

¹³ See Letter from the Department, "Antidumping Duty Administrative Review of Circular Welded Non-Alloy Steel Pipe from the Republic of Korea," dated September 21, 2016 (Husteel A-DSQ).

¹⁴ See Letter from Husteel to the Department, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Case No. A-580-809: Supplemental Sections A-D Questionnaire Response," dated October 17, 2016 (Husteel's SQR).

sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in the order.

All carbon-steel pipes and tubes within the physical description outlined above are included within the scope of the order except line pipe, oil-country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit.¹⁵

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

IV. PRELIMINARY DETERMINATION OF NO SHIPMENTS

We received a timely submission from Hyundai Steel reporting to the Department that it had no exports, sales, or entries of subject merchandise to the United States during the POR. We transmitted a “No-Shipment Inquiry” to CBP regarding this company.¹⁶ Pursuant to this inquiry, we received no notifications from CBP of any entries of subject merchandise from this company. Accordingly, based on record evidence, we preliminarily determine that Hyundai Steel had no reviewable entries during the POR. Consistent with the Department’s practice regarding no shipments claims, we will complete this review with respect to Hyundai Steel and issue appropriate instructions to CBP based on the final results of this review.

V. RATES FOR RESPONDENTS NOT SELECTED FOR INDIVIDUAL EXAMINATION

AJU Besteel, NEXTEEL, and SeAH were not selected for individual examination in this review. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents not selected for individual examination in an administrative review. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based on total facts available. Accordingly, our usual

¹⁵ See *Final Negative Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube From Brazil, the Republic of Korea, Mexico, and Venezuela*, 61 FR 11608 (March 21, 1996). In accordance with this determination, pipe certified to the API 5L line-pipe specification and pipe certified to both the API 5L line-pipe specifications and the less-stringent ASTM A-53 standard-pipe specifications, which falls within the physical parameters as outlined above, and entered as line pipe of a kind used for oil and gas pipelines, is outside of the scope of the AD order.

¹⁶ See CBP message number 6308307, dated November 3, 2016.

practice has been to average the rates for the selected companies excluding zero, *de minimis*, and rates based entirely on facts available.¹⁷

In this review, we preliminarily calculated a weighted-average dumping margin above zero or *de minimis* for Husteel, the sole respondent selected for individual examination. We, therefore, determine that a reasonable method for determining the weighted-average dumping margin for AJU Besteel, NEXTEEL, and SeAH is to assign the rate calculated for Husteel.

VI. DISCUSSION OF THE METHODOLOGY

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

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average export prices (EPs) or CEPs (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department’s examination of this question in the context of administrative and new-shipper reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative and new-shipper reviews is, in fact, analogous to the issue in less-than-fair-value investigations.¹⁸

In the last completed administrative review of this order, the Department applied a “differential pricing” analysis for determining whether application of the A-T method was appropriate, pursuant to section 777A(d)(1)(B) of the Act and 19 CFR 351.414(c)(1).¹⁹ The Department finds that the differential pricing analysis used in recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in these administrative and new shipper reviews. 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

¹⁷ See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

¹⁸ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012) and accompanying Issues and Decision Memorandum at Comment 1. See also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

¹⁹ See *Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 39908 (June 20, 2016).

Department uses the A-A method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results 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 purchaser, region and time period 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 A-A 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) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR 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 A-T method to all sales as an alternative to the A-A 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 A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A 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 A-A 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 A-A 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 A-A method only. If the difference between the two calculations is meaningful, this demonstrates that the A-A 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 A-A 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 A-A 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 these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

For Husteel, based on the results of the differential pricing analysis, we preliminarily find that 71.54 percent of the value of U.S. sales pass the Cohen's *d* test,²⁰ confirming the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that the A-A method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the A-A method and an alternative comparison method based on applying the A-T method to all U.S. sales. Thus, for the preliminary results, we are applying the A-T method to all U.S. sales to calculate the weighted-average dumping margin for Husteel.

VII. DATE OF SALE

We normally use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale, but may use a date other than the invoice date if we are satisfied that a different date better reflects the date on which the material terms of sale are established.²¹

²⁰ See the preliminary analysis memorandum for Husteel dated concurrently with this Preliminary Decision Memorandum at 2 (Husteel Preliminary Analysis Memo).

²¹ See 19 CFR 351.401(i).

For its comparison market sales, Husteel has reported the shipment invoice as the date of sale, as it issues the invoice at the time of shipment.²² For its U.S. sales, Husteel reported the earlier of the date of shipment from Korea or the date of its U.S. affiliate Husteel USA's invoice to the unaffiliated U.S. customer as the date of sale.²³ Husteel explained that the price and quantity are subject to change until invoicing and shipment of the merchandise.²⁴ Therefore, we are relying on the sale dates reported by Husteel for both the comparison and U.S. market sales.

VIII. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products covered by the "Scope of the Order" section above, produced and sold by Husteel in the comparison market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales of subject merchandise. We compared U.S. sales to sales made in the home market on the basis of the comparison product which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. In order of importance, these physical characteristics are: 1) grade; 2) nominal pipe size; 3) wall thickness; 4) surface finish; and 5) end-finish.

IX. CONSTRUCTED EXPORT PRICE

Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States to an unaffiliated purchaser in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)" of section 772 of the Act.

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

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

²² See Husteel's AQR at 16; Husteel's BQR at 18.

²³ See Husteel's AQR at 17; Husteel's CQR at 15.

²⁴ See Husteel's AQR at 17.

X. NORMAL VALUE

A. Comparison Market Viability

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

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

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

During the POR, Husteel reported that it neither made sales of the foreign like product to affiliated customers in the comparison market, as defined in section 771(33) of the Act, nor purchased raw material inputs from affiliated parties.²⁵ Therefore, we have not conducted the arm's-length test.²⁶

C. Level of Trade/CEP Offset

To the extent practicable, we determine NV based on sales at the same level of trade (LOT) as the U.S. sales.²⁷ Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).²⁸ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.²⁹ In order to determine whether the comparison market sales are at different stages in the marketing process than 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.

²⁵ See Husteel's AQR at 10 (unaffiliated purchases of raw material inputs) and 12 (sales to unaffiliated customers in the home market).

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

²⁷ See section 773(a)(1)(B)(i) of the Act and 19 CFR 351.412.

²⁸ See 19 CFR 351.412(c)(2).

²⁹ See 19 CFR 351.412(c)(2) and *Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*).

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),³⁰ 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.³¹

When we are unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, we may compare the U.S. sale to sales at a different LOT in the comparison market. When this occurs and the difference in LOT is demonstrated to affect price comparability based on a pattern of consistent price differences between sales at different LOTs in the market in which NV is determined, 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.³²

In this administrative review, we obtained information from Husteel regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by Husteel for each channel of distribution.³³ Husteel reported two types of customers in the comparison market: distributors and end-users.³⁴ The selling activities associated with the two types of customers did not differ.³⁵ Therefore, we consider the two reported channels of distribution to reflect one LOT. In the U.S. market, Husteel reported CEP sales to distributors only; therefore, we considered the CEP sales to reflect only one LOT. Husteel reported that, after adjusting for functions performed in the United States, the CEP LOT would be less advanced than the home market LOT.³⁶

We found that there were significant differences between the selling activities associated with the CEP LOT and those associated with the home market LOT. Specifically, Husteel provides inventory maintenance, general promotion and marketing, among other services, in the home market, but it does not provide these services in the U.S. market.³⁷ However, because Husteel did not make any home market sales of subject or non-subject merchandise during the POR at a LOT similar to the CEP level of trade, pursuant to section 773(a)(1)(B)(i) of the Act, we could not make a LOT adjustment. Further, because we determined that the home market LOT was at a more advanced stage of distribution than the CEP, we made a CEP offset adjustment to NV, in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).³⁸

³⁰ Where NV is based on constructed value, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for constructed value, where possible. See 19 CFR 351.312(c)(i).

³¹ See *Micron Tech. Inc. v. United States*, 243 F.3d 1301, 1214-16 (Fed. Cir. 2001).

³² See, *e.g.*, *OJ from Brazil* at Comment 7.

³³ See Husteel's AQR at 11-13, and Exhibit A10 (Selling Functions Chart).

³⁴ *Id.*, at 12.

³⁵ *Id.*, at Exhibit A-10.

³⁶ *Id.*, at 15.

³⁷ *Id.*, at Exhibit A-10.

³⁸ See Husteel Preliminary Analysis Memo at 4.

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), Public Law No. 114-27, which made numerous amendments to the AD and countervailing duty law, including amendments to section 773(b)(2)(A) of the Act.³⁹ 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 to the Act, except for amendments to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission.⁴⁰ 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 cost information from respondent companies in all antidumping proceedings.⁴¹ Because these amendments apply to this review, the Department requested this information from Husteel.⁴² Husteel submitted a timely response.⁴³ We examined Husteel'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 Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated cost of production (COP) based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses.⁴⁴ Therefore, we followed our normal methodology of calculating an annual weighted-average cost. We relied on the COP data submitted by Husteel in its questionnaire response.⁴⁵

2. Test of Comparison Market Sales Prices

As required under sections 773(b)(1) and (2) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, billing adjustments, direct and indirect selling expenses, and packing expenses.

³⁹ See TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015).

⁴⁰ 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).

⁴¹ *Id.*, at 46794-95.

⁴² See the antidumping duty questionnaire from the Department to Husteel, dated April 7, 2016.

⁴³ See Husteel's QR B-D.

⁴⁴ See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

⁴⁵ See Husteel Preliminary Analysis Memo at 1.

3. Results of the COP Test

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

Our cost test for Husteel indicated that, for comparison market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we have disregarded these below-cost sales and used in our analysis the remaining above-cost sales to determine NV.

E. Calculation of Normal Value Based on Comparison Market Prices

In accordance with section 773(a) of the Act, we calculated NV based on sales of packed merchandise to unaffiliated customers. For those comparison products for which there were an appropriate number of sales at prices above the COP, we based NV on comparison market prices. We adjusted the starting price for foreign inland freight pursuant to section 773(a)(6)(B)(ii) of the Act.

We made adjustments for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and for circumstances of sale (imputed credit expenses and other selling expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410. We also made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing associated with those physical differences for the foreign like products and the subject merchandise.⁴⁶

⁴⁶ See 19 CFR 351.411(b).

XI. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the Enforcement and Compliance's website at <http://enforcement.trade.gov/exchange/index.html>.

XII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

12/5/2016

X



Signed by: PAUL PIQUADO

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

December 5, 2016

(Date)