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MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the 2016-
2017 Administrative Review of the Antidumping Duty Order on
Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes
from the Republic of Korea

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on heavy walled rectangular welded carbon steel pipes and tubes (HWR pipes and tubes) from the Republic of Korea (Korea). The period of review (POR) is March 1, 2016, through August 31, 2017. The review covers 14 producers and/or exporters of the subject merchandise. Commerce selected two respondents for individual examination, Dong-A Steel Company (DOSCO) and HiSteel Co., Ltd. (HiSteel). We preliminarily determine that sales of the subject merchandise have been made at prices below normal value (NV). We also preliminarily determine that SeAH Steel Corporation (SeAH) had no shipments during the POR.

II. BACKGROUND

In September 2016, Commerce published in the *Federal Register* an AD order on HWR pipes and tubes from Korea.¹ Subsequently, on September 1, 2017, Commerce published in the

¹ See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey: Antidumping Duty Orders*, 81 FR 62865, 62866 (September 13, 2016).

Federal Register a notice of opportunity to request an administrative review of the AD order on HWR pipes and tubes from Korea for the period March 1, 2016, through August 31, 2017.²

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), in September 2017, Commerce received requests to conduct an administrative review of the AD order on HWR pipes and tubes from Korea from certain domestic producers (collectively, the petitioners)³ for 14 Korean producers/exporters. Commerce also received requests to conduct an administrative review from DOSCO and HiSteel. On November 13, 2017, based on these timely requests, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the AD order on HWR pipes and tubes from Korea.⁴

In the *Initiation Notice*, Commerce indicated that, in the event that we limited the respondents selected for individual examination in accordance with section 777A(c)(2) of the Act, we would select mandatory respondents for individual examination based upon U.S. Customs and Border Protection (CBP) entry data.⁵ In January 2018, after considering the large number of potential producers/exporters involved in this administrative review, and the resources available to Commerce, we determined that it was not practicable to examine all exporters/producers of subject merchandise for which a review was requested.⁶ As a result, pursuant to section 777A(c)(2)(B) of the Act, we determined that we could reasonably individually examine the two largest producers/exporters accounting for the largest volume of HWR pipes and tubes from Korea during the POR (*i.e.*, DOSCO and HiSteel). Accordingly, we issued the AD questionnaire to these companies.

In February 2018, we received timely responses from DOSCO and HiSteel to section A (*i.e.*, the section relating to general information) of the questionnaire, and in March 2018, we received responses from these companies to the remaining sections of the questionnaire (*i.e.*, sections B, C, and D, the sections covering comparison market sales, U.S. sales, and cost of production (COP)/constructed value (CV), respectively). From May through August 2018, we issued supplemental sections A through D questionnaires to DOSCO and HiSteel. We received responses to these supplemental questionnaires during the same time period.

On May 10, 2018, Commerce extended the deadline for the preliminary results of this review until October 3, 2018.⁷

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 41595 (September 1, 2017).

³ These companies are Independence Tube Corporation and Southland Tube, Incorporated, Nucor companies; Atlas Tube, a division of Zekelman Industries; and Searing Industries.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 52268 (November 13, 2017) (*Initiation Notice*).

⁵ See *Initiation Notice*, 82 FR at 52268.

⁶ See Memorandum, "Selection of Respondents for Individual Review," dated January 12, 2018.

⁷ See Memorandum, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated May 10, 2018. In this memorandum, we noted that Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through January 22, 2018. See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. As a result, the revised deadline for

In August 2018, the petitioners submitted an allegation and supporting factual information that a particular market situation (PMS) exists in Korea.⁸ In September 2018, Commerce established a deadline for the submission of factual information rebutting, clarifying, or correcting the petitioners' allegation.⁹ Although DOSCO and HiSteel submitted such rebuttal factual information in October 2018,¹⁰ there was insufficient time to consider these comments prior to these preliminary results. Therefore, we intend to consider this information in our final results.

III. SCOPE OF THE ORDER

The merchandise subject to the order is certain heavy walled rectangular welded steel pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. The merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A-500, grade B specifications, or comparable domestic or foreign specifications. Included products are those in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.0 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

the preliminary results became October 3, 2018.

⁸ See Petitioners' Letter re: Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Particular Market Situation Allegation and Supporting Information, dated August 31, 2018 (Petitioners' PMS Allegation).

⁹ See Memorandum, "2016-2017 Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Deadline for Submission of Factual Information Relating to Particular Market Situation Allegation," dated September 20, 2018. See also Memorandum, "Clarification of Deadline to Submit Factual Information Relating to the Allegation of a Particular Market Situation in the Administrative Review of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea," dated September 26, 2018.

¹⁰ See DOSCO's Letter re: Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Rebuttal Factual Information Related to Alleged Particular Market Situation, dated October 2, 2018; and HiSteel's Letter re: Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Carbon Steel Pipes and Tubes from Korea – Response to the Department's September 20 Request for Comments on Particular Market Situation Allegations, dated October 2, 2018.

The product is currently classified under following Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.61.1000. Subject merchandise may also be classified under 7306.61.3000. Although the HTSUS numbers and ASTM specification are provided for convenience and for customs purposes, the written product description remains dispositive.

IV. COMPANIES NOT SELECTED FOR INDIVIDUAL EXAMINATION

Commerce did not select the following companies for individual examination: Ahshin Pipe & Tube Company, Bookook Steel Co., Ltd., Dongbu Steel Co., Ltd., Husteel Co., Ltd., Hyundai Steel Pipe Company, Hyundai Steel Co., Miju Steel Manufacturing Co., Ltd., NEXTEEL Co., Ltd., Sam Kang Industries Co., Ltd., Kukje Steel Co., Ltd., and Yujin Steel Industry Co. Ltd. None of these companies: (1) were selected as a mandatory respondent; (2) were the subject of a withdrawal of request for review; (3) requested to participate as a voluntary respondent; or (4) submitted a claim of no shipments. As such, these companies remain non-selected respondents.

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}."

In this review, we have preliminarily calculated a weighted-average dumping margin for these companies using the calculated rates of the mandatory respondents, DOSCO and HiSteel, which are not zero, *de minimis*, or determined entirely on the basis of facts available.¹¹

V. DISCUSSION OF THE METHODOLOGY

Date of Sale

Section 351.401(i) of Commerce's regulations states that, "[i]n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business." The regulation provides further that Commerce may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.¹² Commerce has a long-standing practice of

¹¹ See section 735(c)(5)(A) of the Act.

¹² 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)).

finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.¹³

Regarding home market sales, DOSCO and HiSteel reported the earlier of invoice date or factory shipment date as the date of sale for all home market sales.¹⁴ For U.S. sales, DOSCO reported the factory shipment date as the date of sale for CEP sales and the earlier of invoice date or factory shipment date as the date of sale for EP sales; HiSteel reported shipment date as the date of sale.¹⁵ We preliminarily followed Commerce's long-standing practice of basing the date of sale for all of DOSCO's and HiSteel's home market and U.S. sales on the earlier of the invoice date or the shipment date.¹⁶

Normal Value Comparisons

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

A) Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EP or CEP (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value (LTFV) investigations, Commerce 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. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in LTFV investigations.¹⁷

¹³ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004) (*Shrimp from Thailand*), and accompanying Issues and Decision Memorandum (IDM) at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.

¹⁴ See DOSCO's March 12, 2018 Sections B-D Questionnaire Response (DOSCO's March 12, 2018 BCDQR), at B-16 and HiSteel's March 9, 2018 Sections B and C Questionnaire Response (HiSteel's March 9, 2018 BCQR), at 11.

¹⁵ *Id.* at C-16-C-17 and 47, respectively.

¹⁶ See e.g., *Shrimp from Thailand* IDM at Comment 10, and *Steel Beams from Germany* IDM at Comment 2.

¹⁷ 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 (IDM) at Comment 1; see also *JBF RAK LLC v. United States*, 790 F.3d 1358, 1363-65 (Fed. Cir. 2015) ("{t}he fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties") (citations omitted).

In recent investigations, Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-average method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁸ Commerce 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 administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average 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 prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all U.S. 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 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 consolidated customer codes reported by the respondent. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR based upon the U.S. 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 Commerce 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

¹⁸ 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).

difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

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

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce 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 these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B) Results of the Differential Pricing Analysis

DOSCO

For DOSCO, based on the results of the differential pricing analysis, Commerce preliminarily finds that 79.31 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales.²⁰ Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for DOSCO.

HiSteel

For HiSteel, based on the results of the differential pricing analysis, Commerce preliminarily finds that 56.13 percent of the value of U.S. sales pass the Cohen's *d* test,²¹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce 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 margin 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.²² Thus, for these preliminary results, Commerce 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 sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for HiSteel.

C. Product Comparisons

In accordance with section 771(16)(A) of the Act, we considered all products produced by the respondents covered by the description in the "Scope of the Order" section, above, and sold in the home market during the POR to be foreign like products for purposes of determining NV for the merchandise sold in the United States. Pursuant to 19 CFR 351.414(f), we compared the respondents' U.S. sales of HWR pipes and tubes to their sales of HWR pipes and tubes made in the home market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale.

¹⁹ See Memorandum, "Calculations for Dong-A Steel Company (DOSCO) for the Preliminary Results," dated October 3, 2018 (DOSCO Preliminary Calculation Memo) at 2-3.

²⁰ *Id.*

²¹ See Memorandum, "Calculations for HiSteel Co., Ltd. for the Preliminary Results," dated October 3, 2018 (HiSteel Preliminary Calculation Memo) at 2.

²² *Id.*

Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared U.S. sales to sales of the most similar foreign-like product or CV, as appropriate. In making the product comparisons, we matched foreign like products based on the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are as follows: steel input type, quality, metallic coating, painted, perimeter, wall thickness, scarfing, and shape.

D. Export Price/Constructed Export Price

For all sales made by HiSteel and certain sales made by DOSCO, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was first sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts on the record.

We used CEP methodology for the remainder of DOSCO's sales, in accordance with section 772(b) of the Act, because the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer and EP methodology was not otherwise indicated.

DOSCO

We based EP on packed prices to unaffiliated purchasers who shipped the merchandise to the United States. We made deductions from the starting price for movement expenses (*e.g.*, foreign inland freight and foreign brokerage and handling expenses), in accordance with section 772(c)(2)(A) of the Act. Regarding foreign inland freight, DOSCO used an affiliated company to arrange certain deliveries of its merchandise to the port of exportation during the POR. Normally Commerce considers prices charged by unaffiliated companies to be at arms-length and here because this freight company charged the same prices to DOSCO when it was affiliated and when the affiliation ended, we find that the prices during the time they were affiliated were at arm's-length.²³ Therefore, we accepted the expenses as reported.

We calculated CEP based on packed prices to the first unaffiliated purchaser in the United States. We made deductions from the starting price for billing adjustments, where appropriate, in accordance with 19 CFR 351.401(c). We also made deductions from the starting price, where appropriate, for foreign inland freight, foreign brokerage and handling expenses, international freight, marine insurance, U.S. brokerage and handling expenses, U.S. customs duties (including harbor maintenance fees), U.S. inland freight from port to warehouse, and U.S. warehousing expenses, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (commissions, bank charges, other direct selling expenses, and imputed credit

²³ See DOSCO's March 12, 2018 BCDQR at B-29, C-29, and Exhibit C-7.

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

HiSteel

We based EP on packed prices to unaffiliated purchasers in the United States or to unaffiliated purchasers who shipped the merchandise to the United States. We made deductions from the starting price for movement expenses (*e.g.*, foreign inland freight, foreign brokerage and handling expenses, international freight, marine insurance, U.S. customs duties (including harbor maintenance fees), and U.S. inland freight from port to warehouse), in accordance with section 772(c)(2)(A) of the Act.

E. Normal Value

Particular Market Situation

Background

On August 31, 2018, the petitioners alleged that Commerce should find that a PMS exists in Korea which distorts the cost of production of HWR, and submitted factual information in support of this allegation.²⁴ The petitioners attributed the PMS to four factors: (1) Korean subsidies on hot-rolled coil (HRC), the primary input for HWR; (2) the distortive pricing of unfairly traded HRC from China; (3) strategic alliances between Korean HRC suppliers and Korea HWR producers; and (4) distortive government control over electricity prices in Korea.²⁵ The petitioners argued that Commerce should make cost adjustments as it has done in recent administrative reviews of oil country tubular goods (OCTG), circular welded pipe (CWP), and welded line pipe (WLP) from Korea, as well as in the antidumping duty investigation of large diameter welded pipe (LDWP) from Korea.²⁶

²⁴ See Petitioners' PMS Allegation.

²⁵ *Id.*

²⁶ See *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*; 2014-2015, 82 FR 18105 (April 17, 2017), and accompanying IDM at Comment 3, unchanged in *Certain Oil Country Tubular Goods from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review*; 2014-2015, 82 FR 31750 (July 10, 2017); *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments*; 2015-2016, 83 FR 17146 (April 18, 2018), and accompanying IDM at Comment 1 (collectively *OCTG*); *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*; 2015-2016, 83 FR 27541 (June 13, 2018) (*CWP*), and accompanying IDM at Comments 1 and 2; *Welded Line Pipe from Korea: Preliminary Results of Antidumping Duty Administrative Review*; 2015-2016, 83 FR 1023 (January 9, 2018) and accompanying PDM at 14, unchanged in *Welded Line Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*; 2015-2016, 83 FR 33919 (July 18, 2018) (*Welded Line Pipe 2015-2016 Final*) (collectively *WLP*); and *Large Diameter Welded Pipe from the Republic of Korea: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination*, 83 FR 43651 (August 27, 2018) and accompanying PDM at 13.

On October 2, 2018, DOSCO and HiSteel submitted new factual information in response to the petitioners' allegation. As noted above, because this information was received too close to the date of these preliminary results, we were unable to consider them in this determination. However, we intend to consider the information in the final results.

The Petitioners' Allegation

The petitioners assert that a PMS exists in Korea based on both the individual and collective effects of Korean imports of HRC from China, strategic alliances, subsidies to Korean HRC producers, and distortive government control over electricity prices in Korea, as Commerce has found in recent AD proceedings involving Korea. The petitioners submit that Commerce's determinations in those cases are relevant to this administrative review because of the substantial similarities in the inputs and production processes used to produce the products at issue during the POR, and the overlap in respondents, suppliers, equipment, and mills during that period.²⁷ Further, the petitioners claim that the PMS in Korea has worsened since Commerce's PMS determinations in the aforementioned cases due to the continued flood of unfairly traded steel imports from China into the Korean market and weak demand in the Korean shipbuilding industry, which has placed downward pressure on Korean steel prices.²⁸ According to the petitioners, the sharp decline in the Korean shipbuilding industry has pushed large volumes of steel into the Korean pipe industry which, in turn, is exporting large volumes of unfairly traded hot-rolled steel pipe to the United States.²⁹

Moreover, the petitioners allege that Korean pipe producers engage in strategic alliances due to historic price collusion among Korean pipe manufacturers.³⁰ As support, the petitioners submitted a December 2017 report from the Korean Fair Trade Commission (KFTC), which found a price-fixing scheme among six Korean steel pipe producers, including HiSteel, from January 2003 to December 2013.³¹ According to the petitioners, producers arranged which companies won certain bids, the prices of the bids, and the quantity of steel pipe offered to one customer (the Korean Gas Corporation).³² The petitioners add that it is reasonable to assume that similar practices continued into the POR due to a pattern of collusion among Korean pipe producers, and cite to KFTC decisions issued in 1997 and 1998 as support.³³ Accordingly, the petitioners submit that Commerce should consider this additional evidence as further support for a finding that strategic alliances in the Korean market contribute to a PMS affecting the COP of HWR in Korea.

The petitioners argue that Commerce should make separate adjustments to account for each of the four factors resulting in the alleged PMS. Specifically, to combat Korean subsidies on HRC, the petitioners assert that Commerce should, as it has done in the previous Korean cases

²⁷ See Petitioners' PMS Allegation at 8-15.

²⁸ *Id.* at 28-40.

²⁹ *Id.* at 28-29.

³⁰ *Id.* at 49-52.

³¹ *Id.* at Exhibit 99.

³² *Id.* at page 51 and Exhibit 99.

³³ *Id.* at Exhibits 102 and 103.

involving PMS, make a cost adjustment to Korean-origin HRC inputs based on the subsidy rates in *Hot-Rolled Steel—Korea (CVD)*.³⁴ Further, to address distortions to COP caused by a global oversupply of HRC, the petitioners argue that Commerce should either: (1) replace the reported import prices for HRC with the domestic HRC prices, as adjusted using the subsidy rates in *Hot-Rolled Steel—Korea (CVD)*, (2) increase the respondents' reported costs for all HRC purchases, from both Korean and non-Korean suppliers, using a provided regression analysis, or 3) make the adjustment using the subsidy rates determined in a recent CVD final determination by the European Union on hot-rolled flat products from China or, alternatively, the CVD rates found in Commerce's recent final determination on cold-rolled steel flat products from China.³⁵ Additionally, the petitioners argue that, to account for the effect of overcapacity in China on the price of Japanese HRC imports into Korea, Commerce should make an adjustment to HRC purchased from Japanese suppliers.³⁶ Finally, the petitioners assert that Commerce should also consider making a separate adjustment based on data regarding Mexican imports of HRC, as was done in Commerce's recent anti-circumvention proceeding on cold-rolled steel flat products from China.³⁷ Further, the petitioners assert that Commerce should account for the distortion created by strategic alliances between Korean pipe producers and HRC suppliers by increasing the costs of HRC purchased from allied suppliers. The petitioners further allege that the increase in costs of HRC should equal the percentage that prices of non-allied line pipe producers exceed prices of allied line pipe producers.³⁸ Additionally, the petitioners argue that Commerce should adjust the respondents' reported energy costs to account for the market distortion created by the Korean government's involvement in the Korean electricity market by using industrial sector electricity rates from New Zealand or Italy.³⁹

Analysis

Section 504 of the Trade Preferences Extension Act of 2015 (TPEA)⁴⁰ added the concept of the term "particular market situation" to the definition of "ordinary course of trade," under section 771(15) of the Act, and for purposes of CV under section 773(e) of the Act. Through section

³⁴ *Id.* at 9 and 24-27, citing *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 81 FR 53439 (August 12, 2016) and accompanying IDM (*Hot-Rolled Steel—Korea (CVD)*).

³⁵ *Id.* at 40-45, citing *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Partial Affirmative Critical Circumstances Determination*, 81 FR 32729 (May 24, 2016) and accompanying IDM).

³⁶ *Id.* at 45, citing *Certain Hot-Rolled Steel Flat Products from Japan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 53409 (August 12, 2016) and accompanying IDM (*Hot-Rolled Steel—Japan (AD)*). The petitioners propose options that include the AD margins calculated in *Hot-Rolled Steel—Japan (AD)* and the CVD rates from *Hot-Rolled Steel—Korea (CVD)* to derive an adjustment factor.

³⁷ *Id.* at 45, citing *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Preliminary Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 82 FR 58178 (December 11, 2017) and accompanying PDM, unchanged in *Certain Cold-Rolled Steel Flat Products from the People's Republic of China: Affirmative Final Determination of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 23891 (May 23, 2018) and accompanying IDM.

³⁸ *Id.* at 49-52.

³⁹ *Id.* at 52-57.

⁴⁰ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

773(e), “particular market situation” also applies to COP under section 773(b)(3) of the Act. Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the COP in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.”

In this administrative review, the petitioners alleged that a PMS exists in Korea which distorts the cost of production for HWR pipes and tubes based on the following four factors: (1) subsidization of Korean hot-rolled steel products by the Korean government; (2) the distortive pricing of unfairly traded HRC from China; (3) strategic alliances between Korean HRC suppliers and Korean HWR pipes and tubes producers; and (4) distortive government control over electricity prices in Korea. Section 504 of the TPEA does not specify whether to consider these allegations individually or based on a totality of the circumstances. The petitioners, in the previously cited Korean cases, alleged that a PMS existed in Korea based on virtually the same four factors alleged here. In those cases, Commerce analyzed the four factors, based on a totality of the circumstances, and determined that a PMS existed in Korea.

Consistent with our determinations in the aforementioned cases, and based on the record evidence in this proceeding, we preliminarily find that a PMS exists in Korea, which distorts the COP of HWR pipes and tubes. This PMS results from the collective impact of the four factors described above.

Having preliminarily determined that a PMS exists for the respondents’ production costs for HWR pipes and tubes, we then examined whether there was sufficient record evidence to quantify the impact of the PMS in order to potentially employ an alternative calculation methodology, as contemplated by section 504 of the TPEA. In the cited Korean cases the only adjustment Commerce made concerns the alleged subsidized HRC inputs. With respect to the allegations concerning global overcapacity, strategic alliances, and government involvement in the Korean electricity market, we have so far been unable to quantify the effects of these factors on the COP of the products at issue. Although the petitioners propose various methodologies to do so in this case, including a regression analysis to address the impact of Chinese global overcapacity, there was insufficient time before this preliminary determination in which to analyze them.

In this administrative review, we preliminarily determine to apply an upward adjustment to DOSCO’s and HiSteel’s reported costs for their HRC inputs on the basis that a PMS exists. Our adjustment for this preliminary determination is derived from the Korean government’s subsidization of HRC. For all HRC inputs purchased during the POR by DOSCO and HiSteel, we are making an adjustment based on the subsidy rates found in *Hot-Rolled Steel—Korea CVD Order*.⁴¹ Commerce has quantified these adjustments as the net domestic subsidization rate (*i.e.*, the CVD rate, excluding all export subsidies).⁴² In our view, these rates appropriately quantify

⁴¹ See *Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders*, 81 FR 67960 (October 3, 2016) (*Hot-Rolled Steel—Korea CVD Order*).

⁴² See DOSCO Preliminary Cost Calculation Memo and HiSteel Preliminary Cost Calculation Memo.

the impact of the Korean government's assistance in the production of HRC products, which is integral to the PMS that we have preliminarily found to exist.

We will seek additional information regarding the proposed regression analysis and the impact of Chinese overcapacity, and we will continue to develop the concepts and types of analysis that are necessary to address allegations of PMS under section 773(e) of the Act.

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 five percent or more of the aggregate volume of U.S. sales), we compared the volume of DOSCO's and HiSteel's respective home market sales of the foreign like product to the volume of their U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), the aggregate volume of home market sales of the foreign like product for each of the respondents was sufficient to permit a proper comparison with U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for DOSCO and HiSteel, in accordance with section 773(a)(1)(B)(i) of the Act.⁴³

Affiliated-Party Transactions and Arm's-Length Test

During the POR, HiSteel made sales of the foreign like product in the home market to affiliated parties, as defined in section 771(33) of the Act. Consequently, we tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). To test whether the sales to affiliates were made at arm's-length prices, where appropriate, we compared the unit prices of sales to affiliated and unaffiliated customers net of all billing adjustments, discounts, movement charges, direct selling expenses, and packing expenses. Pursuant to 19 CFR 351.403(c), and in accordance with Commerce's practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade (LOT), we determined that the sales made to the affiliated party were at arm's length.⁴⁴ Sales to affiliated customers in the

⁴³ We note that the petitioners filed a timely allegation that DOSCO's and HiSteel's home markets may not be viable. *See* Petitioners' Letter re: Heavy-Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Market Viability Allegations as to DOSCO and HiSteel, dated February 22, 2018. The basis of the allegation was the possible future filing of a PMS allegation. We find that at this time there lacks sufficient record support to conclude there is a link between the home market viability issue addressed in Petitioners' February 22, 2018 submission and the particular market situation alleged in Petitioners' August 31, 2018 submission. Commerce will continue to evaluate this issue.

⁴⁴ *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 and 102 percent in order for sales to be considered in the ordinary course of trade and used in the NV calculation).

home market that were not made at arm's-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.⁴⁵

Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same LOT as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁴⁶ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁴⁷ In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),⁴⁸ 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.⁴⁹

When Commerce 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, Commerce 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 an 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 was possible), Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁵⁰

In this administrative review, we obtained information from DOSCO and HiSteel regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution.⁵¹ Our LOT findings are summarized below.

⁴⁵ See section 771(15) of the Act and 19 CFR 351.102(b)(35).

⁴⁶ See 19 CFR 351.412(c)(2).

⁴⁷ *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) (*OJ from Brazil*), and accompanying IDM at Comment 7.

⁴⁸ 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).

⁴⁹ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

⁵⁰ See, *e.g.*, *OJ from Brazil* IDM, at Comment 7.

⁵¹ See DOSCO's February 12, 2018 Section A Questionnaire Response (DOSCO's February 12, 2018 AQR), at A-15 – A-19 and Exhibit A-7; and DOSCO's June 7, 2018 Supplemental Sections A and B Questionnaire Response (DOSCO's June 7, 2018 SABQR); HiSteel's February 12, 2018 Section A Questionnaire Response (HiSteel's February 12, 2018 AQR), at 16-19, and Appendix A-4.

DOSCO

In the home market, DOSCO reported that it made sales through one channel of distribution (*i.e.*, direct sales to distributors and end users).⁵² According to DOSCO, it performed the following selling functions for sales to all home market customers: order input/processing; employment of direct sales personnel; sales/marketing support; market research; sales forecasting; strategic/economic planning; personnel training/exchange; advertising; sales promotion; packing; inventory maintenance; and handling of freight and delivery arrangements.⁵³

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

With respect to the U.S. market, DOSCO reported that it made sales through two channels of distribution (*i.e.*, sales to its U.S. affiliate, DOSCO America, and direct sales to a Korean trading company).⁵⁴ DOSCO reported that it performed the following selling functions in Korea for both its CEP and EP sales: order input/processing; employment of direct sales personnel; packing; and handling of freight and delivery arrangements.⁵⁵ Based on these selling function categories, we find that DOSCO performed sales and marketing and freight and delivery services for all of its U.S. sales. Because the selling functions performed by DOSCO in Korea for U.S. sales do not differ significantly between channels, we also determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT. In its responses, DOSCO claimed that it performed additional sales activities (*e.g.*, annual sales forecasting, annual strategic/economic planning, training of new employees, using stock ledgers and brochures to advertise and promote sales, monitoring raw material prices and exchange rate trends, and making order sheets), in the home market to support domestic sales and that these additional selling activities constitute a higher LOT than the U.S. LOT.⁵⁶ While we acknowledge that the selling functions performed for home market customers may have entailed additional activities, we disagree that these activities were substantial or so significant that they constitute a different marketing stage.

In its original response, DOSCO provided a list of supporting documents (and samples of the documents) related to specific activities that it performed as part of these additional selling

⁵² See DOSCO's Sections B-D Response, at B-16.

⁵³ See DOSCO's February 12, 2018 AQR at Exhibit A-7a; and DOSCO's June 7, 2018 SABQR.

⁵⁴ See DOSCO's February 12, 2018 AQR at Exhibit A-7a; and DOSCO's March 12, 2018 BCDQR at C-15.

⁵⁵ See DOSCO's February 12, 2018 AQR at Exhibit A-7a.

⁵⁶ See DOSCO's February 12, 2018 AQR at A-17-A-19 and Exhibit A-7b; and DOSCO's June 7, 2018 SABQR.

functions.⁵⁷ We requested that DOSCO indicate how often it performed each of these activities and provide documentation supporting the level of intensity at which it performed the activities in Korea related to its home market sales.⁵⁸ In response, DOSCO provided an updated chart that listed the documents that DOSCO uses to support specific selling activities and how frequently it performed the activity.⁵⁹

With respect to the specific activities highlighted by DOSCO, we disagree that the record demonstrates significant differences between markets. In particular, DOSCO's sales forecasting and strategic/economic planning activities consist of the preparation of an annual business plan and sales forecasting report, neither of which pertained exclusively to the home market (*e.g.*, they included general planning information such as basic high-level annual sales strategies).⁶⁰ Further, DOSCO's review of its inventory (including the use of stock ledgers)⁶¹ and its creation of home market order sheets appear to be basic administrative functions which involved little actual selling activity.⁶² Similarly, DOSCO's home market "advertising" during the POR consisted of providing an existing product brochure to home market customers,⁶³ while its "market research" activities involved: 1) undocumented online monitoring of trends in raw material prices and exchange rates (both of which appear to be equally relevant to U.S. sales)⁶⁴; and 2) preparing reports not limited to home market sales of HWR pipes and tubes.⁶⁵ Finally, DOSCO's personnel training consisted of providing a single course to two new salespeople on topics unrelated to sales.⁶⁶

Consequently, when DOSCO's selling activities are viewed as a whole, we find that the differences between those activities performed for home market and U.S. sales do not rise to the level of a "substantial difference in selling activities," or that DOSCO's U.S. and home market sales were at different stages of marketing (or their equivalent). The record shows that DOSCO's additional home market selling functions did not result in sales at a different marketing stage, as required by Commerce's regulations. Therefore, we preliminarily determine that sales to the home market during the POR were made at the same LOT as sales to the United

⁵⁷ See DOSCO's February 12, 2018 AQR at Exhibit A-7b. According to DOSCO, these specific activities are annual sales forecasting, annual strategic/economic planning, training of new employees, using stock ledgers and brochures to advertise and promote sales, monitoring raw material prices and exchange rate trends, making order sheets, and preparing market research reports on a spot basis.

⁵⁸ See Commerce's May 10, 2018 supplemental questionnaire, at Section E.

⁵⁹ See DOSCO's June 7, 2018 SABQR at 6, 9, and Exhibits SAB2-4 – SAB2-7. In this submission, DOSCO also provided a few additional sample documents that were not included in the previous submission along with copies of previously submitted sample documents.

⁶⁰ See DOSCO's February 12, 2018 AQR at Exhibit A-7b; and DOSCO's June 7, 2018 SABQR at 7-8 and Exhibit SAB2-2.

⁶¹ See DOSCO's February 12, 2018 AQR at Exhibit A-7b; and DOSCO's June 7, 2018 SABQR at 12.

⁶² See DOSCO's February 12, 2018 AQR at A-20-A-21; and DOSCO's June 7, 2018 SABQR at 13.

⁶³ See DOSCO's June 7, 2018 SABQR at 8, and 10-11.

⁶⁴ See DOSCO's June 7, 2018 SABQR at 8-9, 14, and Exhibit SAB2-6.

⁶⁵ See DOSCO's February 12, 2018 AQR at Exhibit A-7b; and DOSCO's June 7, 2018 SABQR at 6, 8-9, and Exhibit SAB2-6.

⁶⁶ See DOSCO's February 12, 2018 AQR at Exhibit A-7b; and DOSCO's June 7, 2018 SABQR at 14 and Exhibit SAB2-5.

States. Because DOSCO's home market LOT is not at a more advanced stage of distribution than DOSCO's U.S. LOT, a CEP offset is not warranted.⁶⁷

HiSteel

In the home market, HiSteel reported that it made sales through one channel of distribution (*i.e.*, direct sales to distributors and end users).⁶⁸ According to HiSteel, it performed the following selling functions for sales to all home market customers: order input/processing; market research; sales forecasting; strategic planning; personnel training; sales promotion; packing; inventory maintenance; and handling of freight and delivery arrangements.⁶⁹

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

With respect to the U.S. market, HiSteel reported that it made sales through two channels of distribution (*i.e.*, to U.S. distributors and to Korean trading companies).⁷⁰ HiSteel reported that it performed the following selling functions in Korea for sales to all U.S. customers: order input/processing; market research; sales forecasting; strategic planning; personnel training; sales promotion; packing; inventory maintenance; and handling of freight and delivery arrangements.⁷¹ Accordingly, based on the selling function categories noted above, we find that HiSteel performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for all of its reported U.S. sales. Because HiSteel performed the same selling functions at the same relative level of intensity for all of its U.S. sales, we determine that all U.S. sales are at the same LOT.

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

Cost of Production Analysis

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 Commerce to request constructed value and COP information from respondent companies in all AD proceedings.⁷²

⁶⁷ See, *e.g.*, *Sucocitrino Cutrale Ltda. v. United States*, 2012 WL 2317764 (CIT June 1, 2012) at *6.

⁶⁸ See HiSteel's February 12, 2018 AQR at 16 and HiSteel's March 9, 2018 BCQR, at 10 and Appendix B-2.

⁶⁹ See HiSteel's February 12, 2018 AQR at Appendix A-4.

⁷⁰ See HiSteel's February 12, 2018 AQR at 16 and HiSteel's March 9, 2018 Sections B and C Questionnaire Response (HiSteel's March 9, 2018 BCQR), at 46 and Appendix C-2.

⁷¹ See HiSteel's February 12, 2018 AQR at Appendix A-4.

⁷² See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade*

Accordingly, Commerce requested this information from DOSCO and HiSteel.

1. Cost Averaging Methodology

Commerce's normal practice is to calculate an annual weighted-average cost for the POR. However, we recognize that possible distortions may result if we use our normal annual-average cost method during a time of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case specific record evidence by examining two primary criteria: (1) the change in the cost of manufacturing (COM) recognized by the respondent during the POR must be deemed significant, and (2) the record evidence must indicate that sales during the shorter cost-averaging periods could reasonably be linked with the COP or CV during the same shorter cost-averaging periods.⁷³

a. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high- and low-quarter COM) during a period of 12 months for determining that the changes in COM are significant enough to warrant a departure from our standard annual-average cost approach.⁷⁴ In the instant case, record evidence shows that DOSCO and HiSteel experienced significant cost changes (*i.e.*, changes that exceeded 37.5 percent over the 18 month period (25 percent/12 * 18)) between the high and low quarterly COM during the POR.⁷⁵ This change in COM is attributable primarily to the price volatility for the primary input used in the production of HWR pipes and tubes.⁷⁶

b. Linkage Between Sales and Cost Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR.⁷⁷ Absent a surcharge or other pricing mechanism, Commerce may alternatively look for evidence of a pattern showing that changes in selling prices reasonably correlate to changes in unit costs.⁷⁸ To determine whether a reasonable correlation existed between the sales prices and underlying costs during the POR, we compared weighted-average quarterly prices to

Preferences Extension Act of 2015, 80 FR 46793, 46794-95 (August 6, 2015).

⁷³ See *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (*SSSSC Mexico Final*) and accompanying Issues and Decision Memorandum (IDM) at Comment 6 and *Stainless-Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) (*SSPC Belgium Final*) and accompanying IDM at Comment 4.

⁷⁴ See *SSPC Belgium Final* and accompanying IDM at Comment 4.

⁷⁵ See DOSCO's May 15, 2018 SDR at Exhibit SD2-2 and SD2-3; see also HiSteel's June 5, 2018 Supplemental Questionnaire Response at Appendices SD-3-A and SD-3-B and HiSteel's July 19, 2018 Supplemental Questionnaire Response at Appendix S2D-3.

⁷⁶ See DOSCO's May 15, 2018 SDR at Exhibit SD2-2 and SD2-3; see also HiSteel's March 9, 2018 Original Questionnaire Response at Appendix D-3-A.

⁷⁷ See *SSSSC Mexico Final* and accompanying IDM at Comment 6 and *SSPC Belgium Final* and accompanying IDM at Comment 4.

⁷⁸ See *SSPC Belgium Final* IDM at Comment 4.

the corresponding quarterly COM for the control numbers with the highest volume of sales in the comparison market. Our comparison revealed that sales and costs for DOSCO and HiSteel showed reasonable correlation.⁷⁹

After reviewing this information and determining that changes in selling prices correlate reasonably to changes in unit costs, we preliminarily determine that there is linkage between DOSCO's and HiSteel's changing sales prices and costs during the POR.⁸⁰ Thus, we preliminarily determine that a shorter cost period approach, based on a quarterly-average COP, is appropriate for DOSCO and HiSteel because we found significant cost changes in COM as well as reasonable linkage between costs and sales prices.

2. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and interest expenses.⁸¹ As explained above, we examined the cost data and preliminarily determined that our quarterly cost methodology is warranted.⁸² Therefore, the COP is based on a quarterly average COP rather than an annual average COP. See the "Cost Averaging Methodology" section, above.

We relied on the COP data submitted by DOSCO except as follows:⁸³

- We revised DOSCO's scrap offset to limit the offset to the amount of scrap generated during the production of HWR pipes and tubes.
- Commerce adjusted DOSCO's reported hot-rolled coil costs to reflect the particular market situation (PMS).
- We revised DOSCO's G&A expenses to exclude gains and losses associated with long-term investments.
- We revised the reported financial expense ratio by excluding sales of by-products from the cost of goods sold denominator used in calculating the financial expense ratio.

⁷⁹ See Memorandum from Kalsang Dorjee, Staff Accountant, to Neal M. Halper, Director of Office of Accounting, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – DOSCO dated October 3, 2018 (DOSCO Preliminary Cost Calculation Memorandum), and Memorandum from Kristin Case, Senior Accountant, to Neal M. Halper, Director of Office of Accounting, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – HiSteel dated October 3, 2018 (HiSteel Preliminary Cost Calculation Memorandum).

⁸⁰ *Id.*; see also *SSSSC Mexico Final* and accompanying IDM at Comment 6 and *SSPC Belgium Final* and accompanying IDM at Comment 4.

⁸¹ See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

⁸² See DOSCO Preliminary Cost Calculation Memorandum and HiSteel Preliminary Cost Calculation Memorandum.

⁸³ See DOSCO Preliminary Cost Calculation Memorandum.

We relied on the COP data submitted by HiSteel except as follows:⁸⁴

- Commerce adjusted HiSteel's reported hot-rolled coil costs to reflect the PMS.

3. Test of Comparison Market Sales Prices

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

4. 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 a respondent's home market sales of a given product are at prices less than the COP, we do not disregard any of 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 accordance with section 773(b)(2)(B) 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.

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

Calculation of Normal Value Based on Comparison Market Prices

DOSCO

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, in accordance with 19 CFR

⁸⁴ See HiSteel Preliminary Cost Calculation Memorandum.

351.401(c). We also made a deduction from the starting price for inland freight under section 773(a)(6)(B)(ii) of the Act.

Regarding inland freight, DOSCO used an affiliated company to arrange certain deliveries of its merchandise to the port of exportation during the POR. As noted above, normally Commerce considers prices charged by unaffiliated companies to be at arms-length and here because this freight company charged the same prices to DOSCO when it was affiliated and when the affiliation ended, we find that the prices during the time they were affiliated were at arm's-length.⁸⁵ Therefore, we accepted the expenses as reported.

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales (*i.e.*, credit expenses) and added U.S. direct selling expenses (*i.e.*, credit expenses). For comparisons to CEP sales, we deducted home market credit expenses, pursuant to 773(a)(6)(C) of the Act.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.⁸⁶ For comparisons to both EP and CEP sales, we also deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

HiSteel

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

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales (*i.e.*, credit expenses) and added U.S. direct selling expenses (*i.e.*, credit expenses and bank charges). We recalculated HiSteel's home market credit expenses to be based on gross unit prices net of early payment discounts.⁸⁷

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR

⁸⁵ See DOSCO's March 12, 2018 Sections B-D Questionnaire Response (DOSCO's March 12, 2018 BCDQR) at B-29, C-29, and Exhibit C-7.

⁸⁶ See 19 CFR 351.411(b).

⁸⁷ For further discussion, see the HiSteel Preliminary Calculation Memo.

351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.⁸⁸ We also deducted comparison market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison market sales, NV may be based on CV. Accordingly, for those HWR pipe and tube products for which we could not determine the NV based on comparison market sales because, as noted in the “Results of the COP Test” section above, all sales of the comparable products failed the COP test, we based NV on CV.

Sections 773(e)(1) and (2)(A) of the Act provide that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative (SG&A) expenses, profit, and U.S. packing costs. For DOSCO, we calculated the cost of materials and fabrication based on the methodology described in the “Cost of Production Analysis” section, above. We based SG&A and profit for DOSCO on the actual amounts incurred and realized by it in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act.

For comparisons to DOSCO’s EP sales, we made circumstances-of-sale adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S. direct selling expenses, to CV, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to DOSCO’s CEP sales, we deducted from CV direct selling expenses incurred on its comparison market sales, in accordance with section 773(a)(7)(ii)(B) of the Act.

V. CURRENCY CONVERSION

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

⁸⁸ *Id.*

VI. RECOMMENDATION


We recommend applying the above methodology for these preliminary results.



Agree

Disagree

10/3/2018

X 

Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance