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June 11, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of the 2017-2018
Antidumping Duty Administrative Review: Certain Steel Nails
from the Republic of Korea

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain steel nails (steel nails) from the Republic of Korea (Korea), in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is July 1, 2017 through June 30, 2018. The review covers four mandatory respondents: Daejin Steel Company (Daejin), Je-il Wire Production Co., Ltd. (Je-il), Koram Inc. (Koram), and Korea Wire Co., Ltd. (Kowire). We preliminarily determine that all four mandatory respondents made sales of subject merchandise at prices less than normal value (NV) during the POR.

II. BACKGROUND

On July 13, 2015, Commerce published in the *Federal Register* an AD order on steel nails from Korea.¹ On July 3, 2018, we published in the *Federal Register* a notice of opportunity to request an administrative review of the AD order on steel nails from Korea.² On July 13 and July 31,

¹ See *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 80 FR 39994 (July 13, 2015).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 31121 (July 3, 2018).

2018, Koram,³ Daejin,⁴ and Kowire⁵ each requested an administrative review, and the petitioner⁶ requested an administrative review of 154 producers and/or exporters, including Daejin, Je-il, Koram, and Kowire. On September 10, 2018, we initiated an administrative review of the AD order with respect to each of the companies identified by the petitioner.⁷

On September 24, 2018, the petitioner withdrew its administrative review request with respect to 150 of the 154 companies identified as producers/exporters in the petitioner's July 31, 2017 letter.⁸ The petitioner maintained its request with respect to Daejin, Je-il, Koram, and Kowire. On October 15, 2018, Commerce issued the AD questionnaire to the four mandatory respondents.⁹ From December 2018 through May 2019, we issued supplemental questionnaires to the four mandatory respondents and received timely responses from each of the companies.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.¹⁰ If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline became the next business day. The revised deadline for the preliminary determination decision was May 13, 2019. On April 30, 2019 we extended the deadline for the preliminary results in this review to no later than June 11, 2019.¹¹

III. SCOPE OF THE ORDER

The merchandise covered by this order is certain steel nails having a nominal shaft length not exceeding 12 inches.¹² Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any

³ See Letter from Koram, "Certain Steel Nails from Korea: Request for Administrative Review," dated July 13, 2018.

⁴ See Letter from Daejin, "Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Korea – Request for Review," dated July 31, 2018.

⁵ See Letter from Kowire, "Steel Nails from the Republic of Korea – Request for Administrative Review," dated July 31, 2018.

⁶ See Letter from the petitioner, "Certain Steel Nails from Korea: Request for Administrative Reviews," dated July 31, 2018. The petitioner, Mid Continent Steel & Wire, Inc., (the petitioner) a domestic producer of steel nails.

⁷ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 45596 (September 10, 2018) (*Initiation Notice*).

⁸ See Letter from the petitioner, "Certain Steel Nails from Korea: Withdrawal of Requests for Administrative Reviews," dated September 24, 2018 (Petitioner's Partial Withdrawal of Request for Reviews).

⁹ See Memorandum, "2017-2018 Antidumping Duty Administrative Review of Certain Steel Nails from the Republic of Korea: Issuance of Questionnaire," dated October 15, 2018.

¹⁰ See Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

¹¹ See Memorandum, "Antidumping Duty Administrative Review of Certain Steel Nails from Korea: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated April 30, 2019.

¹² The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope of the order are nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25. If packaged in combination with one or more non-subject articles, nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

Also excluded from the scope are nails with a nominal shaft length of one inch or less that are (a) a component of an unassembled article, (b) the total number of nails is sixty (60) or less, and (c) the imported unassembled article falls into one of the following eight groupings: 1) builders' joinery and carpentry of wood that are classifiable as windows, French-windows and their frames; 2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; 3) swivel seats with variable height adjustment; 4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); 5) seats of cane, osier, bamboo or similar materials; 6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); 7) furniture (other than seats) of wood (with the exception of i) medical, surgical, dental or veterinary furniture; and ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or 8) furniture (other than seats) of materials other than wood, metal, or plastics (*e.g.*, furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

Also excluded from the scope of the order are nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision). Also excluded from the scope of the order are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.

Also excluded from the scope of the order are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of the order are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of the order are thumb tacks, which are currently classified under HTSUS subheading 7317.00.10.00.

Nails subject to the order are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Nails subject to the order also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

IV. RESCISSION OF REVIEW, IN PART

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. We initiated the instant review on September 10, 2018.¹³ The petitioner withdrew its request for an administrative review of all identified producers and exporters except for Daejin, Je-il, Koram, and Kowire on September 24, 2018,¹⁴ which is within the 90-day period. Because the petitioner's withdrawal of its request for review was timely, and because no other party requested a review of the remaining 150 companies, we are rescinding this review, in part, with respect to these companies. For a list of the companies for which we are rescinding this review, *see* Appendix II to the accompanying *Federal Register* notice.

V. DISCUSSION OF THE METHODOLOGY

We are conducting this administrative review of the order in accordance with section 751(a) of the Act and 19 CFR 351.213.

A. Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether the respondents' sales of subject merchandise to unaffiliated U.S. customers were made at less than NV, Commerce compared the export price (EP) to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

¹³ *See Initiation Notice.*

¹⁴ *See Petitioner's Partial Withdrawal of Request for Reviews.*

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (*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, we examine whether to compare weighted-average NVs with the EPs 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 Commerce's examination of this question in the context of administrative reviews, we nevertheless find that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.¹⁵

In numerous investigations and the last completed administrative review of this order, Commerce applied a "differential pricing" analysis for determining whether application of the A-A method is appropriate, pursuant to section 777A(d)(1)(B) of the Act and 19 CFR 351.414(c)(1).¹⁶ We find that the differential pricing analysis used in recent investigations may be instructive for purposes of considering 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 we use the A-A method in calculating weighted-average dumping margins for respondents.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs 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

¹⁵ 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 *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

¹⁶ See, e.g., *Truck and Bus Tires from the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances, and Postponement of Final Determination*, 81 FR 61186 (September 6, 2016) and accompanying Preliminary Decision Memorandum (PDM) at 22, unchanged in *Truck and Bus Tires from the People's Republic of China: Final Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances*, 82 FR 8599 (January 27, 2017); *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 10670 (March 12, 2018) and accompanying PDM at 3-6, unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 32629 (July 13, 2018).

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 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, Commerce examines whether using only the A-A method can appropriately account for such differences. In considering this question, we test whether using an alternative comparison method, based on the results of the Cohen’s *d* and ratio test 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, then 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.¹⁷

2. Results of the Differential Pricing Analysis

For Daejin, based on the results of the differential pricing analysis, we preliminarily find that 78.18 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁸ and confirm 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 by 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 Daejin.

For Je-il, based on the results of the differential pricing analysis, we preliminarily find that 71.74 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁹ and confirm 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 when calculated using an alternative comparison method based on applying the A-T method to those U.S. sales which passed the Cohen's *d* test and the A-A method to those sales which did not pass the Cohen's *d* test. 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 Je-il.

For Koram, based on the results of the differential pricing analysis, we preliminarily find that 55.04 percent of the value of U.S. sales pass the Cohen's *d* test,²⁰ and confirm the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that there is not a meaningful difference between the weighted-average dumping margins calculated using the A-A method and the weighted average dumping margin

¹⁷ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 16-1789 (Fed. Cir. July 12, 2017) recently affirmed much of our differential pricing methodology. We ask that interested parties present arguments only on issues that have not already been decided by the CAFC.

¹⁸ See Memorandum, "Certain Steel Nails from the Republic of Korea: Preliminary Results Analysis Memorandum for Daejin Steel Company," dated concurrently with this memorandum (Daejin Preliminary Analysis Memorandum).

¹⁹ Memorandum, "Certain Steel Nails from the Republic of Korea: Preliminary Results Analysis Memorandum for Je-il Wire Production Co., Ltd.," dated concurrently with this memorandum (Je-il Preliminary Analysis Memorandum).

²⁰ See Memorandum, "Certain Steel Nails from the Republic of Korea: Preliminary Results Analysis Memorandum for Koram Inc.," dated concurrently with this memorandum (Koram Preliminary Analysis Memorandum).

calculated using an alternative comparison method based on applying the A-T method to those U.S. sales which passed the Cohen's *d* test and the A-A method to those sales which did not pass the Cohen's *d* test. Thus, for the preliminary results, we are applying the A-A method to all U.S. sales to calculate the weighted-average dumping margin for Koram.

For Kowire, based on the results of the differential pricing analysis, we preliminarily find that 84.19 percent of the value of U.S. sales pass the Cohen's *d* test,²¹ and confirm 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 by 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 Kowire.

B. 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 the mandatory respondents in the comparison market during the POR to be foreign like products for the purposes of determining appropriate product comparisons to U.S. sales of subject merchandise. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(A) of the Act, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Where there were no sales of identical or similar merchandise, we made product comparisons using constructed value (CV) as discussed in the "Calculation of Normal Value Based on Constructed Value" section below.²²

C. 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.²³ Commerce has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.²⁴

²¹ See Kowire Preliminary Analysis Memorandum.

²² See section 773(a)(4) of the Act.

²³ 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)).

²⁴ 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) and accompanying IDM at Comment 10; *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) and accompanying IDM at Comment 2.

For the comparison market and U.S. market, all four mandatory respondents reported the date when the material terms are established, which is the earlier of the shipment date or the invoice date in accordance with our practice.²⁵ Therefore, consistent with our practice,²⁶ we preliminarily determine that the earliest date, either the invoice date or the shipment date, is the most appropriate selection for the date of sale for sales in both the comparison and U.S. markets.

D. Level of Trade

To the extent practicable, we determine NV based on sales of the foreign like product at the same level of trade (LOT) as the EP 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 home market sales were at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, 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 LOT for EP or comparison market sales (*i.e.*, NV based on either home market or third country prices),³⁰ we consider the starting prices before any adjustments.

When we are unable to match NV at the same LOT as the EP, we may compare U.S. sale prices to comparison market sale prices at a different LOT. When this occurs and the difference in LOT is demonstrated to affect price comparability based on a pattern of consistent price differences between sale prices at a different LOT in the NV market under consideration, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

²⁵ See Letter from Daejin, “Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Korea – Response to the Department’s October 15 Questionnaire,” dated November 13, 2018 (Daejin AQR) at 15; see also Letter from Je-il, “Certain Steel Nails from the Republic of Korea: Sections B and C Response,” dated December 7, 2018 (Je-il BCQR) at B-19 and C-17; Letter from Koram, regarding “Steel Nails from the Republic of Korea, 7/1/2017–6/30/2018 Administrative Review, Case No. A-580-874: Sections B–D Initial Questionnaire Response,” dated December 7, 2018 (Koram BCDQR) at B-21 and C-25; Letter from Kowire, “Steel Nails from the Republic of Korea – Sections B, C, and D Questionnaire Responses,” dated December 7, 2018 (Kowire BCDQR) at B-18 and C-19.

²⁶ See *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 60627 (October 7, 2015) and accompanying PDM at 9, unchanged in *Narrow Woven Ribbons with Woven Selvedge from Taiwan: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 22578 (April 18, 2016).

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 *Id.*

³⁰ Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

1. Daejin

Daejin reported that it sold steel nails during the POR through one channel of distribution in each market and all sales were shipped directly to the unaffiliated customer.³¹ Daejin identified two customer categories that it sold to in the home and U.S. markets: unaffiliated distributors and end users.³² Daejin reported that it performed the following selling functions to all of its customers in the U.S. and home markets: advertising; packing; inventory maintenance; order input/processing; direct sales personnel; sales/marketing support; warranty service; and freight and delivery.³³ Daejin made no distinction in the selling functions it provided based on channel of distribution or customer categories in either the home or U.S. markets.³⁴ As such, we compared the selling functions and determined that there are no significant differences in selling and marketing practices between Daejin's home and U.S. markets, and that a single LOT exists in each market. Therefore, we matched U.S. sales at the same LOT in the comparison market and made no level-of-trade adjustment.

2. Je-il

Je-il reported that it had two home-market sales channels during the POR. Je-il reported that one channel was for the direct sales to unaffiliated customers, and the second channel was for sales to unaffiliated customers using domestic sales agents.³⁵ Similarly, Je-il reported it had two U.S. sales channels during the POR. Specifically, channel 1 was for direct sales to unaffiliated U.S. customers, and channel 2 was for sales through unaffiliated Korean trading companies for resale to the United States.³⁶ Je-il reported that it has a single LOT in the home and U.S. markets and is not requesting a LOT adjustment.³⁷ Je-il provided detailed information regarding its selling activity and level of intensity in its March 18, 2019 submission.³⁸ As such, we compared the selling functions and determined that Je-il performed substantially the same selling functions, regardless of the market.³⁹ Therefore, we matched U.S. sales at the same LOT in the home market and are not applying a LOT adjustment.

³¹ See Daejin AQR at 11; *see also* Letter from Daejin, "Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Korea – Response to the Department's October 15 Questionnaire," dated December 10, 2018 (Daejin BCDQR) at 14 and 51.

³² See Daejin AQR at 11.

³³ *Id.* at Appendix A-4.

³⁴ *Id.*; *see also* Letter from Daejin, "Second Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Korea – Response to December 11 Questionnaire," dated December 21, 2018 (Daejin SAQR) at 23; Letter from Daejin, "Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Korea – Response to March 5 Supplemental Questionnaire," dated March 22, 2019 (Daejin SADQR) at 2.

³⁵ See Letter from Je-il, "Certain Steel Nails from the Republic of Korea: Sections B and C Response," dated December 7, 2018 (Je-il BCQR) at B-19.

³⁶ *Id.* at C-19.

³⁷ See Letter from Je-il, "Certain Steel Nails from the Republic of Korea: Response to Questions 2 - 6, 8 - 19, 27 - 30, and 36 - 41 of the Section AD Supplemental Questionnaire," dated March 18, 2019 (Je-il SADQR1).

³⁸ *Id.* at 1-6.

³⁹ *Id.* at Exhibit SAD-1.

3. Koram

Koram reported that it sold steel nails during the POR through one channel of distribution in each market and all sales were shipped directly to the unaffiliated customer.⁴⁰ Koram identified two customer categories that it sold to in the home and U.S. markets: unaffiliated distributors, and unaffiliated manufacturers and distributors.⁴¹ Koram reported that it performed the following selling functions to all of its customers in the U.S. and Australian markets: sales forecasting; strategic/economic planning; personnel training/exchange; advertising; sales promotion; packing; inventory maintenance; order input/processing; direct sales personnel, sales/marketing support; market research; technical assistance; provide warranty service; provide guarantees; and provide freight and delivery.⁴² Koram paid commissions for sales in the Australian market, which it did not for the U.S. market.⁴³ Aside from this difference, Koram made no distinction in selling functions it provided based on channel of distribution or customer categories in either the home or U.S. markets.⁴⁴ As such, we compared the selling functions and determined that there are no significant differences in selling and marketing practices between Koram's home and U.S. markets, and that a single LOT exists in each market. Therefore, we matched U.S. sales at the same LOT in the comparison market and made no level-of-trade adjustment. As a result, we preliminarily determine that Koram's sales to Australia during the POR were made at the same LOT as its U.S. sales. Consequently, we matched U.S. sales to Australian market sales at the same LOT and made no LOT adjustment.

4. Kowire

Kowire reported that it sold steel nails during the POR through one channel of distribution, unaffiliated distributors, for the home and U.S. markets.⁴⁵ Additionally, Kowire indicated that it performed substantially the same selling functions, regardless of market, with only minor differences in intensity for three of the listed sales functions, namely, provision of freight and delivery, payment of commissions, and provision of warranty service.⁴⁶ As such, we compared the selling functions and we preliminarily determine that the LOT of Kowire's U.S. sales were at the same LOT as its home market sales. Therefore, we matched U.S. sales at the same LOT in the comparison market and made no LOT adjustment.

⁴⁰ See Letter from Koram, "Steel Nails from the Republic of Korea, 7/1/2017–6/30/2018 Administrative Review, Case No. A-580-874: Section A Initial Questionnaire Response," dated November 13, 2018 (Koram AQR) at 11.

⁴¹ See Koram AQR at Exhibit A-5.

⁴² See Koram BCDQR at B-29.

⁴³ See Koram AQR at Exhibit A-6.

⁴⁴ See Koram AQR at Exhibit 12.

⁴⁵ See Letter from Kowire, "Steel Nails from the Republic of Korea – KOWIRE's Section A Questionnaire Response," dated November 13, 2018 (Kowire AQR) at A-13.

⁴⁶ See Letter from Kowire, "Steel Nails from the Republic of Korea – Third Supplemental Sections A and D Questionnaire Response," dated May 13, 2019 (Kowire SADQR) at Exhibit S31-a.

E. Export Price

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)” of section 772 of the Act. In accordance with section 772(a) of the Act, we used the EP methodology for all four mandatory respondents’ sales because the companies sold subject merchandise directly to unaffiliated purchasers in the United States before the date of importation.⁴⁷ There were no constructed export price (CEP) sales, sales for which the subject merchandise was sold in the United States by U.S. sellers affiliated with the four mandatory respondents, during the POR.

For each mandatory respondent, we based EP on the prices to the first unaffiliated purchaser in the United States. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. brokerage and handling. Also, where appropriate, we made deductions from the starting price for selling expenses (*e.g.*, commissions, credit expense, and bank charges).

Commerce has not increased U.S. price to account for the duty drawback program (*i.e.*, “Simplified Fixed Drawback” scheme) used by Daejin,⁴⁸ in accordance with section 772(c)(1)(B) of the Act. Section 772(c)(1)(B) of the Act states that the price used to establish EP shall be increased by “the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.” In determining whether an adjustment for duty drawback should be made, we look for a reasonable link between the duties imposed and those rebated or exempted.⁴⁹ We do not require that the imported material be traced directly from importation through exportation. We do require, however, that the company meet our “two-pronged” test in order for this adjustment to be made to U.S. prices.⁵⁰ The first prong of the test requires that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another (or the exemption from import duties is linked to exportation); the second prong of the test requires that the company demonstrate that there were sufficient imports of materials to account for the duty drawback or exemption granted for the export of the manufactured product.⁵¹

Under the Simplified Fixed Drawback system, the amount of duty drawback Daejin received was based on a percentage of the free on board (FOB) value of exports, not on the amount of import

⁴⁷ See Daejin SAQR at 4; *see also* Je-il BCQR at C-14; Koram AQR at 11; Kowire AQR at A-1.

⁴⁸ See Daejin BCDQR at 71-72 and Appendix C-12; *see also* Daejin SBCQR at 26 and Appendix SC-8.

⁴⁹ See *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011).

⁵⁰ *Id.*

⁵¹ *Id.*; *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 7513 (February 13, 2006) and accompanying IDM at Comment 2.

duties paid by the company for raw material inputs.⁵² Therefore, the amount of the duty drawback that Daejin received, and the amount of import duties that Daejin paid, are not directly linked to, and dependent upon, one another as required by prong one of our two-prong duty drawback test. Accordingly, consistent with our recent determinations concerning this program, we have not granted Daejin's duty drawback offset.⁵³

F. Normal Value

1. 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, for Daejin, Je-il, and Kowire, we preliminarily determine that the volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of the subject merchandise.⁵⁴ Therefore, for the margin analyses for Daejin, Je-il, and Kowire, we used home market sales as the basis for NV, in accordance with section 773(a)(1)(B) of the Act.

For Koram, we preliminarily determine that Koram's aggregate volume of sales in the home market of the foreign like product was insufficient to permit a proper comparison with U.S. sales of the subject merchandise. Koram reported Australia and Canada as viable comparison

⁵² See, *e.g.*, *Ferrovanadium from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 82 FR 14874 (March 23, 2017) and accompanying IDM at Comment 2 (determining that the amount of the duty drawback that the respondent received under the fixed rate drawback system, and the amount of import duties that it pays, are not directly linked to, and dependent upon, one another, as required by prong one of Commerce's two-prong duty drawback test).

⁵³ *Id.*; see also *Certain Steel Nails from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2014-2016*, 82 FR 36749 (August 7, 2017) and accompanying PDM at 11, unchanged in *Certain Steel Nails from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014-2016*, 83 FR 4028 (January 29, 2018) and accompanying IDM; *Certain Steel Nails from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 32265 (July 12, 2018) and accompanying PDM at 12-13, unchanged in *Certain Steel Nails from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 4770 (February 19, 2019) and accompanying IDM; Daejin Preliminary Analysis Memorandum.

⁵⁴ See Daejin AQR at 3; see also Letter from Je-il, "Certain Steel Nails from the Republic of Korea: Section A Response," dated November 15, 2018 (Je-il AQR) at A-2; Kowire AQR at A2.

markets.⁵⁵ We used Australia as Koram's comparison market in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

2. Cost of Production Analysis

Section 773(b)(2)(A)(ii) of the Act requires Commerce to request cost information from respondent companies in all antidumping proceedings.⁵⁶ Therefore, Commerce requested cost information from the respondents and they submitted timely responses.⁵⁷ We examined the respondents' cost data and determined that our quarterly cost methodology was not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

(a) Calculation of Cost of Production (COP)

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) and financial expenses, in accordance with section 773(b)(3) of the Act. Except as stated below, we relied on the COP data submitted by Daejin, Je-il, Koram, and Kowire in their questionnaire responses for the COP calculation.

We calculated a scrap offset for Je-il and Kowire and granted an adjustment.⁵⁸ We also calculated a scrap offset for Daejin, however we did not grant Daejin a scrap adjustment.⁵⁹

(b) 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.

(c) Results of the Cost of Production Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's home market sales of a given model were at prices less than

⁵⁵ See Koram AQR at 2.

⁵⁶ *Id.* at 46794-95.

⁵⁷ See Daejin BCDQR; *see also* Letter from Je-il, "Certain Steel Nails from the Republic of Korea: Section D Response," dated December 10, 2018 (Je-il DQR); Koram BCDQR; Kowire BCDQR.

⁵⁸ See Je-il Preliminary Analysis Memorandum; *see also* Kowire Preliminary Analysis Memorandum.

⁵⁹ See Daejin Preliminary Analysis Memorandum.

the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

Our cost tests for all mandatory respondents indicated that more than 20 percent of sales of certain home market products were made at prices below the COP within an extended period of time and were made at prices which would not permit the recovery of all costs within a reasonable period of time.⁶⁰ Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis for each respondent and used the remaining above-cost sales to determine NV.

3. Calculation of Normal Value Based on Comparison Market Prices

For those comparison products for which there were sales at prices above the COP for the respondents, we based NV on home market prices. We calculated NV based on packed, delivered or ex-factory prices to unaffiliated customers in the comparison market. 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 circumstances of sale (for imputed credit expenses, warranty expenses, and other selling expenses) in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.⁶¹

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also adjusted 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 of the foreign like product and the subject merchandise.⁶²

4. Calculation of Normal Value Based on Constructed Value

Where we were unable to find a home-market match of identical or similar merchandise, we based NV on constructed value in accordance with section 773(a)(4) of the Act. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

In accordance with section 773(e) of the Act, we used CV as the basis for NV for the U.S. sales for which we could not find comparison market sales of similar or identical merchandise. In accordance with section 773(e) of the Act, we calculated CV based on the sum of the cost of materials and fabrication, SG&A expenses, U.S. packing expenses, and profit. For each

⁶⁰ See Daejin Preliminary Analysis Memorandum; *see also* Je-il Preliminary Analysis Memorandum; Koram Preliminary Analysis Memorandum; Kowire Preliminary Analysis Memorandum.

⁶¹ See Daejin Preliminary Analysis Memorandum; *see also* Je-il Preliminary Analysis Memorandum; Koram Preliminary Analysis Memorandum; Kowire Preliminary Analysis Memorandum.

⁶² See Daejin Preliminary Analysis Memorandum; *see also* Je-il Preliminary Analysis Memorandum; Koram Preliminary Analysis Memorandum; Kowire Preliminary Analysis Memorandum.

mandatory respondent, we calculated the COP component of constructed value as described above in the “Calculation of Cost of Production” section of this memorandum. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit for each mandatory respondent on the amounts incurred and realized for each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.⁶³

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

VII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results of review.



Agree



Disagree

6/11/2019

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

⁶³ See Daejin Preliminary Analysis Memorandum; *see also* Je-il Preliminary Analysis Memorandum; Koram Preliminary Analysis Memorandum; Kowire Preliminary Analysis Memorandum.