



A-580-878  
Administrative Review  
07/01/2017 – 06/30/2018  
**Public Document**  
E&C/OVII: LW/EB

September 6, 2019

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

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

**SUBJECT:** Decision Memorandum for Preliminary Results of Antidumping  
Duty Administrative Review and Preliminary Determination of No  
Shipments: Certain Corrosion-Resistant Steel Products from the  
Republic of Korea, 2017-2018

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## I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea). The review covers sixteen companies, of which we selected Hyundai Steel Company (Hyundai) and Dongkuk Steel Mill Co., Ltd. (Dongkuk) as the mandatory respondents. The period of review (POR) is July 1, 2017, through June 30, 2018. We preliminarily find that sales of subject merchandise were not made at prices below normal value. The estimated weight-average dumping margins are shown in the “Preliminary Results of the Review” section of the accompanying *Federal Register* notice.

## II. BACKGROUND

On July 25, 2016, Commerce published in the *Federal Register* the AD order on CORE from Korea.<sup>1</sup> On July 3, 2018, we published a notice of opportunity to request an administrative review of the *Order*.<sup>2</sup>

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<sup>1</sup> See *Certain Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016) (*Order*), and *Certain Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Notice of Correction to the Antidumping Duty Orders*, 81 FR 58475 (August 25, 2016).

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



Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), from July 26, 2018 through July 31, 2018, Dongbu Steel, Co., Ltd. (Dongbu), Dongbu Incheon Steel, Co., Ltd. (Dongbu Incheon), Dongkuk, and Hyundai each requested a review of themselves.<sup>3</sup> On July 31, 2018, ArcelorMittal USA LLC, AK Steel Corporation, California Steel Industries, Inc., Steel Dynamics Inc., Nucor Corporation, and United States Steel Corporation (collectively, petitioners) requested a review of sixteen companies.<sup>4</sup> On September 10, 2018, we published the notice of initiation for this review.<sup>5</sup>

On October 2 and 10, 2018, Samsung C&T Corporation (Samsung C&T), Hyosung Corporation (Hyosung), and Hyosung TNC each certified that it had no exports, sales, or entries of subject merchandise to the United States during the POR.<sup>6</sup>

On October 2, 2018, we placed U.S. Customs and Border Protection (CBP) entry data on the record.<sup>7</sup> On October 9, 2018, the petitioners, Dongkuk, and Hyundai each submitted comments relating to the CBP data.<sup>8</sup> On December 19, 2018, we selected Dongkuk and Hyundai as mandatory respondents.<sup>9</sup> Between December 19, 2018, and July 23, 2019, we issued the initial questionnaire,<sup>10</sup> and multiple supplemental questionnaires, to Dongkuk<sup>11</sup> and Hyundai.<sup>12</sup>

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<sup>3</sup> See Dongbu's Letter, "Corrosion-Resistant Steel Products from Korea, Case No. A-580-878: Request for Administrative Review," dated July 26, 2018; *see also* Dongbu Incheon's Letter, "Corrosion-Resistant Steel Products from Korea, Case No. A-580-878: Request for Administrative Review," dated July 27, 2018; Dongkuk's Letter, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Request for Administrative Review for the Period July 1, 2017-June 30, 2018," dated July 30, 2018; and Hyundai's Letter, "Corrosion-Resistant Steel Products (CORE) from the Republic of Korea: Administrative Review Request," dated July 31, 2018.

<sup>4</sup> See Petitioners' Letter, "Corrosion-Resistant Steel Products from the Republic of Korea - Petitioners' Request for Administrative Review," dated July 31, 2018.

<sup>5</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 45596 (September 10, 2018).

<sup>6</sup> See Samsung C&T's Letter, "Antidumping Duty Administrative Review of Corrosion-Resistant Steel Products (CORE) from the Republic of Korea: Notice of No Sales," dated October 2, 2018; *see also* Hyosung TNC's Letter, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: No Shipment Letter," dated October 10, 2018.

<sup>7</sup> See Memorandum, "Corrosion-Resistant Steel Products from the Republic of Korea: Antidumping Duty Administrative Review; 2017-2018 - Release of U.S. Customs Entry Data for Respondent Selection," dated October 2, 2018 (CBP Data).

<sup>8</sup> See Petitioners' Letter, "Corrosion-Resistant Steel Flat Products from the Republic of Korea – Petitioner's Comments on Customs and Border Protection Data," dated October 9, 2018; *see also* Dongkuk's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea: Respondent Selection Comments," dated October 9, 2018; and Hyundai's Letter, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Respondent Selection Comments," dated October 9, 2018.

<sup>9</sup> See Memorandum, "Respondent Selection for the Antidumping Duty Administrative Review of Certain Corrosion-Resistant Steel Products from the Republic of Korea," dated December 19, 2018 (Respondent Selection Memo).

<sup>10</sup> See Commerce's Letter, "Antidumping Duty Questionnaire," dated December 19, 2018.

<sup>11</sup> See Commerce's Letters, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Section A Supplemental Questionnaire," dated May 8, 2018; "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Supplemental Section B-D Questionnaire," dated June 27, 2019.

<sup>12</sup> See Commerce's Letters, "Antidumping Duty Review of Certain Corrosion-Resistant Steel Products (CORE) from the Republic of Korea (Korea): First Supplemental Questionnaire to Section A of Initial Questionnaire," dated May 8, 2019; "Antidumping Duty Review of Certain Corrosion-Resistant Steel Products (CORE) from the Republic of Korea (Korea): First Supplemental Questionnaire to Sections B to C of Initial Questionnaire," dated May 29, 2019; and "Antidumping Duty Review of Certain Corrosion-Resistant Steel Products (CORE) from the

On January 28, 2019, 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.<sup>13</sup> On April 30, 2019, Commerce postponed the preliminary results of this review until September 6, 2019.<sup>14</sup>

From February 19, 2019, through August 20, 2019, Dongkuk filed responses to Commerce's questionnaires,<sup>15</sup> the petitioners commented on Dongkuk's responses,<sup>16</sup> Dongkuk rebutted the petitioners' comments,<sup>17</sup> and the petitioners filed pre-preliminary comments regarding Dongkuk.<sup>18</sup>

Hyundai submitted timely responses to section A of the initial questionnaire on February 21, 2019,<sup>19</sup> and to the remaining sections of the initial questionnaire on March 21, 2019.<sup>20</sup> In response to Commerce's supplemental questionnaires, Hyundai timely filed its supplemental

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Republic of Korea (Korea): First Supplemental Questionnaire to Section D of the Initial Questionnaire," dated July 23, 2019; and Commerce's Letter, "Antidumping Duty Review of Certain Corrosion-Resistant Steel Products (CORE) from the Republic of Korea (Korea): First Supplemental Questionnaire to Section E of the Initial Questionnaire," dated July 23, 2019.

<sup>13</sup> 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.

<sup>14</sup> See Memorandum, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Extension of Deadline for Preliminary Results of Antidumping Administrative Review," dated April 30, 2019.

<sup>15</sup> See Dongkuk's February 19, 2019 Section A Questionnaire Response (Dongkuk's February 19, 2019 AQR); Dongkuk's March 19, 2019 Sections B, C and D Questionnaire Response (Dongkuk's March 19, 2019 BQR, Dongkuk's March 19, 2019 CQR, and Dongkuk's March 19, 2019 DQR); Dongkuk's June 6, 2019 Supplemental Questionnaire Response (Dongkuk's June 6, 2019 SQR); Dongkuk's June 13, 2019 Supplemental Questionnaire Response to Question 26 (Dongkuk's June 13, 2019 SQR Q26); and Dongkuk's July 29, 2019 Supplemental Questionnaire Response (Dongkuk's July 29, 2019 SQR).

<sup>16</sup> See Petitioners' Letter, "2<sup>nd</sup> Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - New Factual Information to Rebut, Clarify, and Correct Dongkuk," dated March 5, 2019; *see also* Petitioners' Letters, "2<sup>nd</sup> Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Petitioner's Comments on the Section A Response of Dongkuk Steel Mill Co., Ltd.," dated March 19, 2019; "2<sup>nd</sup> Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Petitioner's Comments on the Section B-D Responses of Dongkuk Steel Mill Co., Ltd.," dated April 10, 2018; and Petitioners' Letter, "2<sup>nd</sup> Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Submission of New Factual Information Pertaining to Dongkuk Steel Mill Co., Ltd.'s Supplemental Section A Questionnaire Response," dated June 24, 2019.

<sup>17</sup> See Dongkuk's Letter, "Certain Corrosion Resistant Steel Products from the Republic of Korea: New Factual Information to Rebut, Clarify, or Correct Factual Information Submitted in ArcelorMittal USA LLC's New Factual Information," dated March 12, 2019; Dongkuk's Letter, "New Factual Information to Rebut, Clarify, or Correct Factual Information Submitted in ArcelorMittal USA LLC's New Factual Information," dated April 24, 2019.

<sup>18</sup> See Petitioners' Letter, "2<sup>nd</sup> Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Petitioner's Pre-Preliminary Comments on Dongkuk," dated August 20, 2019.

<sup>19</sup> See Hyundai's February 21, 2019 Section A Questionnaire Response (Hyundai's February 21, 2019 AQR).

<sup>20</sup> See Hyundai's March 21, 2019 Sections B-E Questionnaire Response (Hyundai's March 21, 2019 B-EQR).

responses to sections A through E on June 6, 2019,<sup>21</sup> June 24, 2019,<sup>22</sup> and August 6, 2019,<sup>23</sup> respectively.

On February 1, 2019, Hyundai filed its request with Commerce for an alternate calculation methodology for certain U.S. sales that were further manufactured into formed auto parts, after-service automobile parts (AS Parts), and finished automobiles prior to sale to the first unaffiliated U.S. customer.<sup>24</sup> On May 29, 2019, Commerce informed Hyundai that it has preliminarily determined that Hyundai has demonstrated, in accordance with 19 CFR 351.402(c), that the value added in the United States is equal to or greater than 65 percent of the imported coil with respect to AS Parts and finished automobiles.<sup>25</sup> In addition, Commerce preliminarily determined that the inclusion of formed parts in the overall quantity of CORE would have a miniscule impact on the overall margin calculations for Hyundai, while the reporting of those sales would impose a burden on Commerce.<sup>26</sup> Accordingly, Commerce preliminarily exempted Hyundai from reporting U.S. sales of AS Parts, finished automobiles, and formed parts.<sup>27</sup>

On March 1, 2019, the petitioners filed comments on Hyundai's section A response,<sup>28</sup> and on April 12, 2019, submitted new factual information (NFI) pertaining to Hyundai's sections B through E responses.<sup>29</sup> The petitioners filed further comments on Hyundai's initial and supplemental questionnaire responses on July 24, 2019.<sup>30</sup> Hyundai responded to the petitioners' comments on April 18, 2019,<sup>31</sup> and on August 7, 2019.<sup>32</sup>

On August 7, 2019, ArcelorMittal USA LLC, one of the petitioners, submitted a particular market situation (PMS) allegation and supporting factual information.<sup>33</sup>

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<sup>21</sup> See Hyundai's June 6, 2019 Supplemental Questionnaire Response (Hyundai's June 6, 2019 SQR).

<sup>22</sup> See Hyundai's June 24, 2019 Supplemental Questionnaire Response (Hyundai's June 24, 2019 SQR).

<sup>23</sup> See Hyundai's August 6, 2019 Supplemental Questionnaire Responses (Hyundai's August 6, 2019 SQR).

<sup>24</sup> See Hyundai's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea: Request for Alternate Calculation Methodology for Certain Value-Added U.S. Sales," dated February 1, 2019 (Hyundai's Exclusion Request).

<sup>25</sup> See Commerce's Letter, "Antidumping Duty Review of Certain Corrosion-Resistant Steel Products (CORE) from the Republic of Korea (Korea): 2017-2018: Hyundai Steel Company's Exclusion Request," dated May 29, 2019 (Commerce Response HYS Exclusion Request).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> See Petitioners' Letter, "2<sup>nd</sup> Administrative Review of Certain Corrosion-Resistant ("CORE") Steel Products from the Republic of Korea – Petitioners' Comments on Hyundai Steel's Section A Questionnaire Response," dated March 1, 2019.

<sup>29</sup> See Petitioners' Letter, "2<sup>nd</sup> Administrative Review of Certain Corrosion-Resistant ("CORE") Steel Products from the Republic of Korea – Petitioners' Submission of Additional New Factual Information Pertaining to Hyundai Steel's Sections B, C, D and E Questionnaire Responses," dated April 11, 2019 (Petitioners April 11, 2019 Comments).

<sup>30</sup> See Petitioners' Letter, "Administrative Review of Corrosion-Resistant Steel Products from South Korea – Petitioners' Comments Pertaining to the Issue of Written Agreements Underlying Hyundai Steel's Sections A, B, C, D and E Questionnaire Responses and Supplemental Responses," dated July 24, 2019.

<sup>31</sup> See Hyundai's Letter, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Response to Petitioner's April 11, 2019 Submission," dated April 18, 2019.

<sup>32</sup> See Hyundai's Letter, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Hyundai Steel's Rebuttal to Petitioner's July 24 Letter," dated August 7, 2019.

<sup>33</sup> See Petitioners' Letter, "Corrosion-Resistant Steel from the Republic of Korea - Petitioner's Particular Market Situation Allegation," dated August 7, 2019 (PMS Allegation).

### **III. SCOPE OF THE ORDER**

The products covered by this order are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. A full description of the scope of the order is contained in the Attachment to this memorandum.

### **IV. COMPANIES NOT SELECTED FOR INDIVIDUAL EXAMINATION**

This review covers twelve companies that were not selected for individual examination: (1) Anjeon Tech Co., Ltd., (2) Benion Corp., (3) Dongbu Steel, Co., Ltd., (4) Dongbu Incheon Steel Co., Ltd., (5) GS Global Corp., (6) Kima Steel Corporation Ltd., (7) Mitsubishi Corp. (Korea) Ltd., (8) POSCO, (9) POSCO Coated & Color Steel Co., Ltd., (10) POSCO Daewoo Corporation, (11) SeAH Coated Metal Corporation, and (12) Young Steel Co., Ltd.

The statute and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be applied to companies not selected for individual 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 less-than-fair-value investigation, for guidance when calculating the weighted-average dumping margin for companies which were not selected for individual examination 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}." However, section 735(c)(5)(B) of the Act states that if the weighted-average dumping margins for all individually examined exporters or producers are zero or de minimis or based entirely on facts available, then Commerce may use "any reasonable method" to establish the all-others rate, including averaging the weighted-average dumping margins for the individually examined companies.

Consistent with section 735(c)(5)(B) of the Act, we have determined that a reasonable method for determining the weighted-average dumping margin for each of the non-selected companies is to use the weighted-average dumping margin calculated for the mandatory respondents in this administrative review. Although the weighted-average dumping margin calculated for the mandatory respondents are zeroes, these are the only rates calculated in this review and, thus, Commerce has determined the weighted-average dumping margin for the non-examined companies to be zero.<sup>34</sup>

### **V. PRELIMINARY DETERMINATION OF NO SHIPMENTS**

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<sup>34</sup> See *Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 23017 (May 21, 2019).

As noted above, Samsung C&T, Hyosung, and Hyosung TNC each certified that it had no exports, sales, or entries of subject merchandise to the United States during the POR. Consistent with our practice, we issued “No Shipment Inquiries” to CBP and received no information that contradicted the respective claims of no shipments.<sup>35</sup>

Thus, we preliminarily determine that these three companies had no shipments during the POR. Also, consistent with our practice, we will not rescind the review with respect to these three companies, but rather, will complete the review and issue an instruction to CBP based on the final results.<sup>36</sup>

## VI. AFFILIATION AND COLLAPSING

### A. Legal Standard

#### *Affiliated Entities*

Section 771(33) of the Act defines the term affiliated persons (affiliates) to include: (A) members of a family; (B) an officer or director of an organization and that organization; (C) partners; (D) employers and employees; (E) any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and that organization; (F) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (G) any person who controls any other person and that other person. For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

Section 351.102(b)(3) of Commerce’s regulations states that in determining whether control over another person exists, within the meaning of section 771(33) of the Act, Commerce will consider the following factors, among others: (1) corporate or family groupings; (2) franchise or joint venture agreements; (3) debt financing; and (4) close supplier relationships. Commerce will not find that control exists on the basis of these factors unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product. Commerce will consider the temporal aspect of a relationship in determining whether control exists; normally, temporary circumstances will not suffice as

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<sup>35</sup> See Memoranda, “Corrosion-Resistant Steel Products from the Republic of Korea (A-580-878): No shipment inquiry with respect to the company below during the period 07/01/2017 through 06/30/2018,” dated October 24, 2018 (Samsung C&T Corporation); and “Corrosion-Resistant Steel Products from the Republic of Korea (A-580-878): No shipment inquiry for the period 07/01/2017 – 06/30/2018,” dated October 24, 2018.

<sup>36</sup> See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003); see also *Carbon and Certain Alloy Steel Wire Rod from Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 56800 at 56801 (November 14, 2018); *Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012-2013*, 79 FR 15951 at 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306 (August 28, 2014).

evidence of control. Further, with respect to close supplier relationships, Commerce has determined that the threshold issue is whether either the buyer or seller has, in fact, become reliant on the other.<sup>37</sup> Only if such reliance exists does Commerce then determine whether one of the parties is in a position to exercise restraint or direction over the other.<sup>38</sup>

### *Collapsing Affiliated Entities*

According to 19 CFR 351.401(f)(1), Commerce will treat two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and Commerce concludes that there is a significant potential for manipulation of price or production.

According to 19 CFR 351.401(f)(2), in identifying a significant potential for the manipulation of price or production, the factors Commerce may consider include: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

#### B. Dongkuk and Intergis Co., Ltd. (Intergis)

Dongkuk purchased inland freight to warehouse (INLFTWH), inland freight to customers (INLFTCH), inland freight to ports of exportation (DINLFTPU), brokerage and handling in Korea (DBROKU), and international freight (INTNFRU) exclusively from its affiliated freight services provider, Intergis.<sup>39</sup> (Dongkuk owns 48.34 percent shares of Intergis,<sup>40</sup> and this level of shareholding makes the two companies affiliated within the meaning of section 771(33)(E) of the Act.) The petitioners argued that Dongkuk's freight transactions with Integris did not occur at an arm's-length basis.<sup>41</sup>

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<sup>37</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1 (1994) (SAA) at 838; see also *TIJID Inc. v. U.S.*, 366 F. Supp. 2d 1286, 1293-1300 (CIT 2005); *Stainless Steel Wire Rod from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 59739 at 59739-59740 (October 11, 2006), unchanged in *Stainless Steel Wire Rod from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 72 FR 6528 (February 12, 2007); and *Welded ASTM A-312 Stainless Steel Pipe from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 742 (January 7, 2016), unchanged in *Welded ASTM A-312 Stainless Steel Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 46647 (July 18, 2016).

<sup>38</sup> See, e.g., *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews*, 62 FR 18404 at 18414-18417 (April 15, 1997).

<sup>39</sup> See Dongkuk's March 19, 2019 BQR at B-33 and B-35; see also Dongkuk's March 19, 2019 CQR at C-31, C-32-33 (DBROKU includes loading, wharfage and inspection services, among which only inspection services were purchased from unaffiliated provider).

<sup>40</sup> See Dongkuk's February 19, 2019 AQR at A-8 to A-9.

<sup>41</sup> See Petitioners' Pre-Prelim Comments Dongkuk; see also Petitioners' Letter, "2<sup>nd</sup> Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Petitioner's Comments on the Section A Response of Dongkuk Steel Mill Co., Ltd.," dated March 19, 2019 at 16; and Petitioners' Letter, "2<sup>nd</sup> Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Petitioner's Comments on the Sections B-D

Pursuant to section 773(f)(2) of the Act, “{a} transaction directly or indirectly between affiliated parties may be disregarded if, in the case of any element of value required to be considered, the amount representing the element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration.” In determining whether to use transactions between affiliated parties, Commerce’s practice is to compare prices of transactions the respondent paid to affiliated suppliers (*i.e.*, transfer price) to: (1) prices of transactions the respondent paid to unaffiliated suppliers for the similar service (*i.e.*, arm’s-length test);<sup>42</sup> or (2) price of transactions the affiliated suppliers paid to unaffiliated contractors for the same service (*i.e.*, acquisition cost) plus the affiliated suppliers’ SG&A expenses.<sup>43</sup> In instances where the affiliated supplier functions as a middleman between the respondent and the unaffiliated provider, Commerce uses the affiliate’s company-wide SG&A expense rate as a component in its calculations rather than the SG&A expense rate of the division responsible for such transactions.<sup>44</sup>

As Dongkuk did not purchase the same transportation services from unaffiliated suppliers, we have no unaffiliated purchase prices to conduct the arm’s-length test. However, Intergris purchased the transportation services that it provided to Dongkuk from unaffiliated third-party providers. Dongkuk provided Intergris’ acquisition costs for those services.

With respect to DINLFTPU, the petitioners argued that Dongkuk only paid a small portion of what Intergris paid to subcontractors and, thus, this transaction was not at arm’s-length.<sup>45</sup> In its Section C and supplemental responses, Dongkuk explained that it prefers to utilize the Busan Port, because it is closer to its production facilities, but that one of the vessel companies contracted by Intergris prefers to use Ulsan Port to accommodate its schedule. On those occasions, the vessel company pays the additional amount to Intergris so that Dongkuk does not incur additional freight expense when it agrees to use the more remote port (*i.e.*, Ulsan Port).

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Responses of Dongkuk Steel Mill Co., Ltd.,” dated April 10, 2019 at 6.

<sup>42</sup> Commerce adopted a 98-102 percent band test in 2002, which modified the arm’s length test described in the *Preamble*. Pursuant to the test, for such sales to be “in the ordinary course of trade,” the weighted-average prices of transactions between affiliates must be between 98 percent and 102 percent of the weighted-average prices of transactions between unaffiliated parties (98-102 percent band test). Otherwise, transactions between affiliates are generally considered outside the ordinary course of trade. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002); *see also Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27355 (May 19, 1997) (*Preamble*).

<sup>43</sup> *See Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 81 FR 35303 (June 2, 2016) (*CORE Korea AD Inv. Final*), and accompanying Issues and Decision Memorandum (IDM) at Comment 8 (citing *Certain Oil Country Tubular Goods from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 79 FR 41983 (July 18, 2014), and accompanying IDM at Comment 9).

<sup>44</sup> *See CORE Korea AD Inv. Final*, IDM at Comment 8 (citing *Notice of Final Determination of Sales at Less Than Fair Value: Large Residential Washers from the Republic of Korea*, 77 FR 75988 (December 26, 2012), and accompanying IDM at Comment 1).

<sup>45</sup> *See* Petitioners’ Letter, “2<sup>nd</sup> Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Petitioner’s Comments on the Section B-D Responses of Dongkuk Steel Mill Co., Ltd.,” dated April 10, 2019 at 6.



Dongkuk demonstrated that Intergis received payments from Dongkuk and the vessel company.<sup>46</sup> We preliminarily find that Intergis provided the freight not solely based on Dongkuk's payment, but on the vessel company's payments, which collectively cover Intergis' acquisition, cost plus SG&A.

We also tested the transfer prices against Intergis' acquisition costs plus SG&A expenses, and found that transfer prices for INLFTWH and INLFTCH also covered Intergis' full costs, but that the transfer prices for DBROKU and INTNFRU did not. As a result, we made upward adjustments to Dongkuk's reported DBROKU and INTNFRU expenses.<sup>47</sup>

### C. Dongkuk and Dongkuk Industries Co., Ltd. (DKI)

Dongkuk reported DKI as a possibly-affiliated company, and the petitioners argued that Dongkuk and DKI are affiliated.<sup>48</sup> In reviews of other orders, Commerce has previously found that Dongkuk and DKI are affiliated based on similar facts.<sup>49</sup>

#### *Affiliation Analysis*

Dongkuk's Chairman and Vice Chairman are brothers.<sup>50</sup> Dongkuk's Chairman and Vice Chairman collectively own 23.16 percent of Dongkuk's shares.<sup>51</sup> DKI's Chairman is an uncle of Dongkuk's Chairman and Vice Chairman.<sup>52</sup> DKI's Chairman, Vice Chairman, and Vice President collectively own 35.75 percent of DKI's shares.<sup>53</sup> Together, the Chang family group owns the largest number of shares of Dongkuk and DKI.<sup>54</sup>

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<sup>46</sup> See Dongkuk's March 19, 2019 CQR at C-31 and Appendix C-11; and Dongkuk's July 29, 2019 SQR at 9 and Appendix SC-4.

<sup>47</sup> See Memorandum, "Antidumping Duty Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea: Preliminary Margin Calculation for Dongkuk Steel Mill Co., Ltd.," dated September 6, 2019 (Dongkuk Preliminary Calculation Memorandum).

<sup>48</sup> See Dongkuk's February 19, 2019 AQR at A-3; and Petitioners' Letter, 2<sup>nd</sup> Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Petitioner's Comments on the Section A Response of Dongkuk Steel Mill Co., Ltd.," dated March 19, 2019 at 8.

<sup>49</sup> See, e.g., *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 83 FR 65348 (December 20, 2018) (*CTL Plate Korea AR 17-18 Prelim*), and accompanying Preliminary Decision Memorandum (PDM) at 12; unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 25751 (June 4, 2019).

<sup>50</sup> Sae-Joo Chang is Dongkuk's Chairman and Sae-Wook Chang is Dongkuk's Vice-Chairman. See Dongkuk's February 19, 2019 AQR at Appendix A-5 (CEO Message 10-11); see also *CTL Plate Korea AR 17-18 Prelim PDM* at 12.

<sup>51</sup> See Dongkuk's February 19, 2019 AQR at Attachment A-1 (Notes to the Consolidated Financial Statement, General Information); see also *CTL Plate Korea AR 17-18 Prelim PDM* at 12.

<sup>52</sup> Sang-Kuhn Chang is DKI's Chairman. See Dongkuk's February 19, 2019 AQR at A-3; see also *CTL Plate Korea AR 17-18 Prelim PDM* at 12.

<sup>53</sup> DKI's Vice Chairman is Sae-Hee Chang and DKI's Vice President is He-Won Chang. They are the children of DKI's Chairman, Sang-Kuhn Chang. See Dongkuk's June 6, 2019 SQR at Appendices SA-31 and SA-63 (DKI Consolidated Financial Statements, Note, General Matters); see also *CTL Plate Korea AR 17-18 Prelim PDM* at 12.

<sup>54</sup> See Dongkuk's February 19, 2019 AQR at Attachment A-1; see also Dongkuk's June 6, 2019 SQR at Appendices SA-31 and SA-63.

Members of a family are affiliates pursuant to section 771(33)(A) of the Act and 19 CFR 351.102(b)(3). The definition of family includes uncle-nephew relationships under section 771(33)(A) of the Act.<sup>55</sup> Two or more persons directly or indirectly controlling, controlled by, or under common control with any person are affiliates under section 771(33)(F) of the Act and 19 CFR 351.102(b)(3). Further, 19 CFR 351.102(b)(3) states that in considering whether there is control, Commerce will consider family groupings.

Therefore, we preliminarily find that DKI's Chairman and Dongkuk's Chairman and Vice Chairman are affiliated under section 771(33)(A) of the Act and 19 CFR 351.102(b)(3), because of their uncle-nephew relationships. We also preliminarily find that Dongkuk and DKI are affiliated under section 771(33)(F) of the Act and 19 CFR 351.102(b)(3) because Dongkuk and DKI are under common control of the Chang family group.

### *Collapsing Analysis*

As explained above, pursuant to 19 CFR 351.401(f)(1), affiliated parties will be treated as a single entity, or collapsed, where: (1) "those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities;" and (2) Commerce concludes that "there is a significant potential for the manipulation of price or production."

#### *i. Similarity of Production Facilities and Substantial Retooling*

Dongkuk is the producer of the CORE under review. It also sells CORE in the home market and the United States. According to DKI's audited financial statements, DKI produces cold-rolled steel, and its affiliates are in the business of wind power generation and color steel plate manufacturing.<sup>56</sup> On that basis, we preliminarily find that the record provides no indication that Dongkuk and DKI have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities.

#### *ii. Significant Potential for Manipulation of Price or Production*

The second prong of the collapsing analysis requires that Commerce evaluate the potential for manipulation of price or production between affiliates before treating them as a single entity. Neither Commerce's practice nor the Act requires that all of the factors listed in 19 CFR 351.401(f)(2) be present in order to find potential for manipulation of price or production. In making a decision to consider two or more entities as a single entity for antidumping purposes, Commerce considers the totality of the circumstances of the situation, and may place more reliance on some factors than others depending on the fact-specific circumstances of the case.

In determining whether there is a significant potential for the manipulation of price or production, we analyzed each of the factors set forth in 19 CFR 351.401(f)(2). The record shows

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<sup>55</sup> See *Ferro Union, Inc. v. United States*, 44 F. Supp. 2d 1310, 1325-26 (CIT 1999); see also *Dongkuk Steel Mill Co. v. United States*, 29 CIT 724 (June 22, 2005).

<sup>56</sup> See Dongkuk's June 6, 2019 SQR at Appendix SA-63 at Note 10(1), and Appendices SA-64, SA-65, and SA-66.

that during the POR: (1) Dongkuk had no ownership in DKI including affiliates and vice versa;<sup>57</sup> (2) Dongkuk and DKI had no overlap in management;<sup>58</sup> and (3) there is no information indicating that Dongkuk and DKI shared sales information, facilities or employees, that either company was involved in each other's production or pricing decisions, or that there were significant transactions between them. Hence, we preliminarily find that a significant potential for manipulation of price or production does not exist.

In accordance with 19 CFR 351.401(f), as the record provides no indication that the production facilities of Dongkuk and DKI are similar, a significant potential for manipulation of price or production did not exist. Therefore, we preliminarily find no basis to treat Dongkuk and DKI as a single entity for antidumping purposes.

#### D. Dongkuk and POSCO

The petitioners argued that Dongkuk and POSCO might be affiliated through the latter's shareholding in Dongkuk and DKI, a joint venture, and/or a close supplier relationship.<sup>59</sup>

The record shows that POSCO owns 1.87 percent of Dongkuk and 4.82 percent of DKI, while it had no ownership in these companies' subsidiaries.<sup>60</sup> Although Dongkuk and DKI are affiliated, we have not treated the two companies as a single entity. As such, there is no basis to combine POSCO's ownership in these two companies. Accordingly, we preliminarily find that POSCO's ownership in Dongkuk does not rise to the level of affiliation within the meaning of section 771(33)(E) of the Act.

Dongkuk, POSCO, and VALE S.A. (VALE) have a joint venture in Brazil named Companhia Siderurgica do Pecem (CSP), of which Dongkuk, POSCO, and VALE own 30 percent, 20 percent, and 50 percent, respectively.<sup>61</sup> CSP's financial statements indicate that it sells slabs, byproducts, energy, and other products.<sup>62</sup> Dongkuk's SAP records show that it purchased steel slabs from CSP for producing cut-to-length carbon-quality steel plate products during the POR.<sup>63</sup> As the record shows that this joint venture has no potential to impact decisions concerning the production, pricing, or cost of subject merchandise or foreign like product, we preliminarily find that control does not exist between Dongkuk and POSCO on the basis of the CSP joint venture, in accordance with 19 CFR 351.102(b)(3).

Next, with respect to the alleged close supplier relationship, we typically analyze, as a threshold matter, whether the buyer or seller has, in fact, become reliant on the other, and analyze whether

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<sup>57</sup> *Id.* at 18, and Appendices SA-27, SA-28 and SA-30.

<sup>58</sup> *Id.* at 19, and Appendix SA-31.

<sup>59</sup> See Petitioners' Letter, "2<sup>nd</sup> Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Petitioner's Comments on the Section A Response of Dongkuk Steel Mill Co., Ltd.," dated March 19, 2019 at 8.

<sup>60</sup> See Dongkuk's June 6, 2019 SQR at Appendices SA-33 and SA-61 (POSCO Separate Financial Statements December 2017 at 41).

<sup>61</sup> *Id.* at 6-8, and Appendices SA-6, SA-7 and SA-8.

<sup>62</sup> *Id.* at 8-9, and Appendices SA-9, SA-10, SA-11 and SA-12.

<sup>63</sup> *Id.* at 9-10, and Appendices SA-13 and SA-14.

one of the parties is in a position to exercise restraint or direction over the other only after that threshold is met.<sup>64</sup> Dongkuk reported that it and POSCO have a supply agreement covering the second half of the POR, but did not have such an agreement in the four years prior to the POR.<sup>65</sup> The supply agreement in effect does not appear to be an exclusive supply arrangement.<sup>66</sup> Further, neither company had loans or loan guarantees to each other that were outstanding during the POR.<sup>67</sup> In addition, neither company provided education and training, nor technical assistance, nor management, nor other services to each other during the POR.<sup>68</sup> Due to the business proprietary nature of information relating to this agreement, a more detailed discussion of this matter can be found in the Dongkuk Preliminary Calculation Memorandum.<sup>69</sup>

The supply agreement is an insufficient basis to find that Dongkuk and POSCO rely on each other, much less that one is in a position to exercise restraint or direction over the other. Even if a supplier sells 100 percent of its merchandise to a customer, if it is free to sell to other customers and there is no record evidence of restraint or direction, a close supplier relationship does not exist. Accordingly, we preliminarily find that Dongkuk and POSCO did not have a close supplier relationship and, therefore, were not affiliated through control, in accordance with 19 CFR 351.102(b)(3).

#### E. Hyundai and its Certain Processors/Customers in the United States

The petitioners allege that Hyundai is affiliated with certain U.S. customers by virtue of close supplier relationships.<sup>70</sup> In the final results of the 2016-2017 review of this order, Commerce found that Hyundai and its U.S. customers were not affiliated within the meaning of section 771(33) of the Act.<sup>71</sup> Commerce found that section 771(33)(G) of the Act provides, *inter alia*, that parties will be considered affiliated when one controls the other. Section 771(33) of the Act further provides that “a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.” Commerce’s regulations at 19 CFR 351.102(b)(3) state that, in finding affiliation based on control, Commerce will consider, among other factors: (i) corporate or family groupings; (ii) franchise or joint venture agreements; (iii) debt financing, and (iv) close supplier relationships.

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<sup>64</sup> See, e.g., *Grain-Oriented Electrical Steel from the Czech Republic: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 58324 (September 29, 2014), and accompanying issues and decision memorandum at 7-8; see also *Welded ASTM A-312 Stainless Steel Pipe from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 742 (January 7, 2016), and accompanying Decision Memorandum at 7, unchanged in *Welded ASTM A-312 Stainless Steel Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 46647 (July 18, 2016).

<sup>65</sup> See Dongkuk’s June 6, 2019 SQR at 24.

<sup>66</sup> *Id.* at 24 and Appendix SA-37.

<sup>67</sup> See Dongkuk’s June 6, 2019 SQR at 25 and Appendix SA-39.

<sup>68</sup> *Id.* at 26 and Appendix SA-40.

<sup>69</sup> See Dongkuk Preliminary Calculation Memorandum.

<sup>70</sup> See Petitioners April 11, 2019 Comments at 13-17.

<sup>71</sup> See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 10784 (March 22, 2019) (*Final Results CORE Korea 2016-2017*), and accompanying IDM, at Comment 11.

With respect to close supplier relationships, Commerce has determined that the threshold issue is whether either the buyer or seller has, in fact, become reliant on the other.<sup>72</sup> A “close supplier relationship” is established when a party demonstrates that the relationship is significant and could not be easily replaced.<sup>73</sup> Only if Commerce determines that there is reliance does it evaluate whether one of the parties is in a position to exercise restraint or direction over the other.<sup>74</sup> Commerce will not, however, find affiliation on the basis of this factor unless the relationship has the potential to affect decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.<sup>75</sup>

Pursuant to section 771(33) of the Act, we reviewed the record evidence regarding Hyundai’s relationships with certain U.S. customers. We analyzed the information provided in Hyundai’s questionnaire response, and the additional information the petitioners placed on the record of this review<sup>76</sup> and found that there is no evidence that Hyundai has extra-commercial involvement with its customers resulting in reliance and control. Therefore, there is insufficient evidence to demonstrate reliance for purposes of finding affiliation through control under section 771(33)(G) of the Act.

The evidence placed on the record of this segment of the proceeding by the petitioners has limited new information compared to the prior proceeding.<sup>77</sup> The petitioners stress two points in their comments: (1) that precedent demonstrates that the level of interdependence does not have to be absolute to establish reliance and exclusivity, as was the case in the *Final Results OCTG from Korea 2014-2015*;<sup>78</sup> and, (2) that Hyundai is involved in both the production and sales of the alleged captive processors/customers.

The petitioners contend that in *Final Results OCTG from Korea 2014-2015*, Commerce found affiliation between Nexteel and POSCO Daewoo through a close supplier relationship.<sup>79</sup> In that review Nexteel’s steel sales to POSCO Daewoo amounted to 45 percent of its U.S. sales. In contrast, the petitioners contend that Hyundai’s sales to “captive” U.S. processors account for the vast majority of its reported U.S. sales.<sup>80</sup> We note, however, that Commerce granted Hyundai an exclusion under the “Special Rule”<sup>81</sup> from reporting U.S. sales of CORE that were further

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<sup>72</sup> See, e.g., SAA at 838.

<sup>73</sup> See, e.g., *Final Results of Antidumping Duty Administrative Reviews of Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea*, 62 FR 18404, 18417 (April 15, 1997).

<sup>74</sup> See, e.g., *Multilayered Wood Flooring from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011), and accompanying IDM at Comment 21; and *TIJID, Inc. v. United States*, 366 F. Supp. 2d 1286, 1298-1300 (CIT 2005) (*TIJID*).

<sup>75</sup> See 19 CFR 351.102(b)(3).

<sup>76</sup> See Petitioners April 11, 2019 Comments at 13-17 and Attachments and Appendices.

<sup>77</sup> *Id.* With their comments, the petitioners also placed the record of the 2016-2017 review on this subject on the record of this review.

<sup>78</sup> *Id.* at 17 (citing *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) (*Final Results OCTG Korea 2014-2015 Review*)).

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* at 13.

<sup>81</sup> Section 351.402(c)(2) of Commerce’s regulations provides that Commerce “estimate” the value added in the United States, and if the added value exceeds 65 percent of the value of the imported merchandise, Commerce will

manufactured by U.S. affiliates into finished automobiles and after service auto parts.<sup>82</sup> These excluded sales account for a large portion of Hyundai's sales of CORE. Accordingly, those sales reported in Hyundai's U.S. sales database represent a small fraction of its actual sales of subject merchandise to the United States during the POR, unlike the situation in *Final Results OCTG from Korea 2014-2015*. Therefore, we preliminarily determine that there is no basis to find Hyundai and these U.S. processors affiliated through a close supplier relationship.

Regarding Hyundai's alleged involvement in both the production and sales of the alleged captive processors/customers operations, Commerce determined in the prior review that while Hyundai and its customers cooperate closely, Commerce did not consider this cooperation to be out of the ordinary for the industry, nor demonstrate reliance for purposes of finding affiliation through control under section 771(33)(G) of the Act. In this review, the petitioners did not bring forth any new information demonstrating a dual-sided relationship of involvement in both the production and sales process, as in *Final Results OCTG from Korea 2014-2015*.<sup>83</sup> Therefore, we continue to preliminarily find that there is insufficient evidence to demonstrate reliance for purposes of finding affiliation through control under section 771(33)(G) of the Act.

## VII. PARTICULAR MARKET SITUATION

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a PMS for the purposes of constructed value (CV) under section 773(e) of the Act.<sup>84</sup> 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 cost of production in the ordinary course of trade, {Commerce} may use another calculation methodology under this subtitle or any other calculation methodology." When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. As noted above, on August 7, 2019, we received a PMS allegation from the petitioners that, because a PMS exists in Korea, Commerce must use an alternative calculation methodology in place of the respondents' reported production costs.<sup>85</sup> Since this allegation was filed only weeks before these preliminary results, we have not made a determination regarding whether a PMS exists. We intend to consider this allegation further after the preliminary results.

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"normally determine" that the prerequisite for applying the Special Rule, as defined by section 772(e) of the Act, has been satisfied.

<sup>82</sup> See Commerce Response HYS Exclusion Request.

<sup>83</sup> See *Final Results OCTG from Korea 2014-2015*; and *Final Results CORE Korea 2016-2017*, IDM at Comment 12.

<sup>84</sup> See Trade Preferences Extension Act of 2015, Public Law 114-27, 129 Stat. 362 (2015) (TPEA).

<sup>85</sup> See PMS Allegation.

## VIII. COMPARISONS TO NORMAL VALUE

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Dongkuk's and Hyundai's sales of subject merchandise were made at less than normal value (NV), we compared the export price (EP) or constructed export price (CEP), as appropriate, to the NV as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum.

### A. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in the home market in the ordinary course of trade during the POR that fit the description in the "Scope of the Order" to be foreign like products for purposes of determining appropriate NVs for comparisons to EP or CEP.

If there were contemporaneous home market sales of foreign like product identical to subject merchandise, then we calculated NV based on the monthly weighted-average home market prices of all such sales.<sup>86</sup> If there were no contemporaneous home market sales of identical merchandise, then we identified home market sales of the most similar merchandise that were contemporaneous with the U.S. sales in accordance with 19 CFR 351.414(e), and calculated NV based on the monthly weighted-average home market prices of all such sales. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the home market, we calculated NV based on CV.

In making product comparisons, we matched foreign like product to the subject merchandise based on prime versus non-prime merchandise, and the physical characteristics in the following order of importance: type, reduction process, clad material/coating metal, metallic coating weight, metallic coating process, quality, yield strength, nominal thickness, nominal width, and form.<sup>87</sup>

Neither Dongkuk nor Hyundai reported sales of non-prime subject merchandise, while both sold non-prime foreign like product.<sup>88</sup> In addition, Dongkuk had sales of overruns in the home market.<sup>89</sup> Hyundai reported that in cases where the production exceeded the original order, and this overproduction was not sold to the original or another customer, the product gets downgraded to Grade "2" with other products that do not meet the original order's specification, but can be sold for other usages.<sup>90</sup> Once the product is downgraded to Grade 2, these two categories are not segregated.<sup>91</sup>

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<sup>86</sup> See 19 CFR 351.414(b)(3)(e).

<sup>87</sup> See Dongkuk's March 19, 2019 BQR at B-12; *see also* Dongkuk's March 19, 2019 CQR at C-9; Hyundai's March 21, 2019 BQR at B11-B18; and Hyundai's March 21, 2019 CQR at C20-C26.

<sup>88</sup> See Dongkuk's March 19, 2019 BQR at B-11; *see also* Dongkuk's March 19, 2019 CQR at C-8; Hyundai's March 21, 2019 BQR at B10; and Hyundai's March 21, 2019 CQR at C20.

<sup>89</sup> See Dongkuk's March 19, 2019 BQR at B-11; *see also* Memorandum, "Certain Corrosion-Resistant Steel from the Republic of Korea: Overruns Analysis for Dongkuk Steel Mill Co., Ltd.," dated September 6, 2019.

<sup>90</sup> See Hyundai's March 21, 2019 B-EQR at B-10.

<sup>91</sup> See Hyundai's June 6, 2019 SQR at 5-6.

## B. 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 (or CEPs) (*i.e.*, the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In less-than-fair-value 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 less-than-fair-value investigations.<sup>92</sup>

In recent investigations, Commerce applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>93</sup> 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 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 average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported (consolidated) customer codes. Regions are defined using the reported destination code (*i.e.*, zip, state) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales,

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<sup>92</sup> 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 IDM at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 1322 (CIT 2014), *aff'd*, 862 F.3d 1337 (Fed. Cir. 2017); and *JBF RAK LLC v. United States*, 790 F.3d 1358, 1363–65 (Fed. Cir. 2015) ("the 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).

<sup>93</sup> See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair*, 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).



other than purchaser, region and time period, that Commerce uses in making comparisons between EP (or CEPs) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the 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.

### C. Results of the Differential Pricing Analysis

#### *Dongkuk*

For Dongkuk, based on the results of the differential pricing analysis, Commerce preliminarily finds that 62.59 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>94</sup> 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 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. Thus, for this preliminary determination, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Dongkuk.

#### *Hyundai*

For Hyundai, based on the results of the differential pricing analysis, Commerce preliminarily finds that 27.41 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>95</sup> and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Hyundai.

## IX. DATE OF SALE

Section 351.401(i) of Commerce's regulations states that, normally, we will use invoice date as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. Furthermore, if the shipment date precedes the invoice date, then Commerce will use the shipment date as the date of sale. The regulation provides that we may use a date other

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<sup>94</sup> See Dongkuk Preliminary Calculation Memorandum.

<sup>95</sup> See Memorandum, "Antidumping Duty Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea: Preliminary Margin Calculation for Hyundai Steel Company," dated September 6, 2019 (Hyundai Preliminary Calculation Memorandum).

than the invoice date if Commerce is satisfied that a different date better reflects the date on which the material terms of sale are established.<sup>96</sup>

### *Dongkuk*

For both home market and U.S. sales, Dongkuk reported the date of sale as the date of shipment from its Busan factory or warehouse (inventory out).<sup>97</sup> Our review of the record shows that the shipment date is the same as the invoice date for home market sales, and that the shipment date precedes the invoice date for U.S. sales.<sup>98</sup> Therefore, pursuant to 19 CFR 351.401(i), we are using shipment date as the date of sale for both home market and U.S. sales.

### *Hyundai*

For home market sales, Hyundai reported the date of sale as the earlier of the date of shipment from Hyundai's factory or warehouse to the customer, or the date on which Hyundai issued its commercial invoice, as quantities can change in the home market until shipment from the factory. For accounting purposes, Hyundai recognizes a sale at the time of shipment, but sometimes, when a customer asks to delay the shipment until later, Hyundai issues the tax invoice at the time of sale and the ownership of the merchandise is transferred to that customer. Hyundai reported those pending shipment sales in its home market sales database. Our review of information on the record shows that Hyundai reported the earlier of shipment date or invoice date.<sup>99</sup> Therefore, pursuant to 19 CFR 351.401(i) we are preliminarily using the earlier of shipment date or invoice date, as reported by Hyundai, as the date of sale in the home market.

For sales to the United States through its affiliate, Hyundai Steel America Inc. (HSA), to an unaffiliated processor/customer, Hyundai reported the earlier of shipment date or invoice date, as issued by HSA, as the date of sale.<sup>100</sup> For its U.S. sales through another affiliated processor in the United States to unaffiliated parties, Hyundai likewise reported the earlier of shipment date or the date of invoice issued by that affiliated processor as the date of sale.<sup>101</sup> Our review of information on the record shows that in the U.S. market, HSA sometimes issues the invoice after it ships the merchandise to its unaffiliated customer. Therefore, pursuant to 19 CFR 351.401(i), we are preliminarily using the earlier of shipment date or invoice date as the date of sale in the U.S. market.

## **X. EXPORT PRICE AND CONSTRUCTED 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).” Section 772(b) of

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<sup>96</sup> See 19 CFR 351.401(i).

<sup>97</sup> See Dongkuk's February 19, 2019 AQR at A-25.

<sup>98</sup> *Id.* at A-25 and Appendices A-20 and A-21; *see also* Dongkuk's July 29, 2019 SQR at Appendices SB-8 and SC-2.

<sup>99</sup> See Hyundai's February 21, 2019 AQR at 27; *see also* Hyundai's March 21, 2019 B-EQR at B-22.

<sup>100</sup> See Hyundai's February 21, 2019 AQR at 27.

<sup>101</sup> *Id.* at 28-29.

the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” As explained below, we based the U.S. price on EP and CEP for Dongkuk and on CEP for Hyundai.

### *Dongkuk*

We calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold prior to importation by the exporter or producer outside the United States to unaffiliated purchasers in the United States and its unincorporated territory.<sup>102</sup> In accordance with section 772(c) of the Act, we made adjustments, where appropriate, for price adjustments, discounts, Korean movement expenses (*i.e.*, Korean warehousing expenses, Korean inland freight, Korean brokerage and handling), international and U.S. movement expenses (*i.e.*, international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight, U.S. warehousing, and U.S. duties).<sup>103</sup>

We calculated CEP in accordance with section 772(b) of the Act, because the subject merchandise was sold by Dongkuk’s U.S. affiliate, Dongkuk International Inc. (DKA), to unaffiliated purchasers in the United States.<sup>104</sup> In accordance with section 772(c) and (d) of the Act, we made adjustments, where appropriate, for price adjustments, discounts, Korean movement expenses (*i.e.*, Korean warehousing expenses, Korean inland freight, Korean brokerage and handling), international and U.S. movement expenses (*i.e.*, international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight, U.S. warehousing, and U.S. duties), direct and indirect selling expenses associated with economic activities occurring in the United States (*i.e.*, imputed credit expenses, bank charges, and other direct selling expenses), and profits allocated to expenses deducted under section 772(d)(1) of the Act. We calculated the CEP profit ratio, in accordance with section 772(f) of the Act.<sup>105</sup>

### *Hyundai*

Hyundai reported that it made CEP sales to the United States through two channels of distribution.<sup>106</sup> In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. Hyundai reported that it sold all of its subject merchandise directly through its affiliated reseller/processor HSA, and that HSA sold the subject merchandise both in coil form

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<sup>102</sup> See Dongkuk’s February 19, 2019 AQR at A-18.

<sup>103</sup> See Dongkuk Preliminary Calculation Memorandum.

<sup>104</sup> See Dongkuk February 19, 2019 AQR at A-18 to A-19.

<sup>105</sup> See Dongkuk Preliminary Calculation Memorandum.

<sup>106</sup> See Hyundai’s February 21, 2019 AQR at 25-29 and Exhibits A-11 and A-13.

and as further manufactured product.<sup>107</sup> In addition, HSA sold further manufactured product to affiliated processors/manufacturers that further manufactured and sold the product to the first unaffiliated customer in the United States.<sup>108</sup>

We calculated the CEP based on a packed price to customers in the United States. We made deductions from the starting price (adjusted for billing adjustments) for any movement expenses (*i.e.*, foreign inland freight, foreign warehousing, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. duty), in accordance with section 772(c)(2)(A) of the Act.<sup>109</sup>

In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (imputed credit expenses, bank charges, and foreign and U.S. inventory carrying costs) and indirect selling expenses.<sup>110</sup> We also made an adjustment for profit allocated to these selling expenses, in accordance with section 772(d)(3) of the Act. In addition, we made an adjustment to price for the cost of any further manufacturing or assembly for sales used in the calculations, in accordance with section 772(d)(2) of the Act. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Hyundai and its U.S. affiliate(s) on their sales of the subject merchandise in the United States and the profit associated with those sales.<sup>111</sup>

## **XI. NORMAL VALUE**

### **A. Home Market Viability**

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

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

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<sup>107</sup> *Id.* at 28-29.

<sup>108</sup> *Id.* at 28-29.

<sup>109</sup> See Hyundai's March 21, 2019 B-EQR at C-39-51.

<sup>110</sup> *Id.* at C-53-61.

<sup>111</sup> *Id.* at C-61-63.

## B. 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 level of trade (LOT) as the U.S. sales. According to 19 CFR 351.412(c)(2), sales are made at different LOTs if they are made at different marketing stages (or their equivalent), and substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>112</sup> In order to determine whether the home market sales are at different marketing stages than the U.S. sales, we examine the distribution chain in each market, including selling functions and customer categories, and the level of selling activities for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs, we consider the starting price before adjustments for EP and home market sales,<sup>113</sup> and the starting price as adjusted under section 772(d) of the Act for CEP sales.<sup>114</sup>

When Commerce is unable to match a U.S. sale to sales in the home 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 home market. In comparing EP or CEP sales at a different LOT in the home market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of CEP, but the data available do not provide a basis to determine whether the difference in LOTs is demonstrated to affect price comparability (*i.e.*, no LOT adjustment is possible), Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>115</sup>

In this administrative review, we obtained information from each respondent regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.<sup>116</sup> Our LOT findings are summarized below.

### *Dongkuk*

On the record of this review, in addition to a chart of Selling Functions by Category, Dongkuk also provided supporting documentation for 30 claimed selling activities, and quantitative analysis demonstrating how the expenses assigned to home market and U.S. sales impact price comparability.<sup>117</sup>

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<sup>112</sup> See *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administration Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ Brazil*), and accompanying IDM at Comment 7.

<sup>113</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive SG&A expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

<sup>114</sup> See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>115</sup> See *OJ Brazil* IDM at Comment 7.

<sup>116</sup> See Dongkuk's June 13, 2019 SQR Q26.

<sup>117</sup> *Id.*

Dongkuk made home market sales through two channels of distribution.<sup>118</sup> In both channels, Dongkuk performed five selling functions: sales support, training services, technical support, logistical services, and sales related administrative activities at the same/similar level of intensity.<sup>119</sup> Dongkuk uses unaffiliated companies to further process merchandise sold to unaffiliated end-users in channel 2.<sup>120</sup> Because Dongkuk performed the most selling functions at the same relative level of intensity in each channel of distribution, we determine that all home market sales are at the same LOT.<sup>121</sup>

Dongkuk made U.S. sales through two channels of distribution: EP sales (channel 1) and CEP sales (channel 2).<sup>122</sup> In connection with those sales, Dongkuk performed three selling functions: technical support, logistical services, and sales related administrative activities at a similar level of intensity.<sup>123</sup> Because Dongkuk performed the same selling functions at a similar level of intensity for all of its U.S. sales, we determine that all U.S. sales are at the same LOT.<sup>124</sup>

We compared the selling activities at the U.S. LOT with the selling activities at the home market LOT and found, after deducting selling functions corresponding to economic activities in the United States, *i.e.*, those performed by DKA, that these LOTs in the U.S. and home markets were substantially dissimilar. Information on the record indicates that Dongkuk provided more selling functions (*i.e.*, sales support and training services), more selling activities within a selling function (*i.e.*, frequent outside activities (visiting) and early payment discounts within sales related administrative activities function), and higher level of intensity (*i.e.*, interactive technical supports within technical support function) for its home market sales than it does for its sales to DKA.

Dongkuk also: (1) provided supporting documentation for its claimed activities; (2) indicated how often it performed each of the specific activities; (3) provided quantitative analysis showing how the expenses assigned to home market and U.S. sales impact price comparability; and (4) demonstrated how indirect selling expenses varied for home market sales and sales to DKA.<sup>125</sup> Therefore, we preliminarily determine Dongkuk's home-market sales to be at a different LOT, and at a more advanced stage of distribution than the single U.S. LOT.

Because there is only one LOT in the home market, we were unable to calculate an LOT adjustment based on Dongkuk's home market sales of the foreign like product, and we have no other information that provides an appropriate basis for determining a LOT adjustment. Consequently, we have preliminarily granted a CEP offset to Dongkuk pursuant to section 773(a)(7)(B) of the Act.

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<sup>118</sup> See Dongkuk's February 19, 2019 AQR at A-18 and Appendix A-16,

<sup>119</sup> See Dongkuk's June 13, 2019 SQR Q26 at 2 and Appendix SA-80.

<sup>120</sup> See Dongkuk's February 19, 2019 AQR at A-18.

<sup>121</sup> See Dongkuk's June 13, 2019 SQR Q26 at 2 and Appendix SA-80.

<sup>122</sup> See Dongkuk's February 19, 2019 AQR at A-18.

<sup>123</sup> See Dongkuk's June 13, 2019 SQR Q26 at 2 and Appendix SA-80.

<sup>124</sup> *Id.* at 2 and Appendix SA-80.

<sup>125</sup> *Id.* at 3.

## *Hyundai*

In the home market, Hyundai reported that it made sales through one channel of distribution (*i.e.*, direct shipments to end-users or distributors).<sup>126</sup> Hyundai reported that it performed the following selling functions for sales to all home market customers: sales forecasting; strategic/economic planning; personnel training/exchange; engineering services, advertising; packing; inventory maintenance; order input/processing; direct sales personnel; sales/marketing support; market research; technical assistance; warranty services; freight and delivery arrangements; and post-sale warehousing.<sup>127</sup>

Selling activities can be generally grouped into four selling function categories for analysis: (1) sales and marketing; (2) freight and delivery services; (3) inventory maintenance and warehousing; and (4) warranty and technical support. Based on these selling function categories, we find that Hyundai performed sales and marketing, freight and delivery services, and warranty and technical support for its reported sales to affiliated and unaffiliated customers in the home market. Because Hyundai performed the same selling functions at the same relative level of intensity for all of its home market sales, we determine that all home market sales are at the same LOT.

With respect to the U.S. market, Hyundai reported that it made sales through two channels of distribution: (1) CEP sales through HSA to unaffiliated processors (U.S. Channel 1); and (2) CEP sales through its other affiliated processor (U.S. Channel 2).<sup>128</sup> Within U.S. Channel 1, Hyundai reported that HSA sells to unaffiliated end-users and to affiliated processors that sell to unaffiliated end-users (U.S. Channel 2).<sup>129</sup>

Hyundai reported that it performed the following selling functions for its sales to the United States in both U.S. Channel 1 and U.S. Channel 2: sales forecasting; strategic/economic planning; personnel training/exchange; advertising; packing; inventory maintenance; order input/processing; direct sales personnel; sales/marketing support; market research; technical assistance; warranty services; and freight and delivery arrangements.<sup>130</sup>

Based on the selling function categories noted above, we find that Hyundai performed the same selling function categories for both U.S. channels of distribution: (1) sales and marketing; (2) freight and delivery services; (3) inventory management for U.S. sales; and (4) warranty and technical support. While Hyundai provided the same selling functions categories in both U.S. Channel 1 and U.S. Channel 2, the intensity at which the individual selling functions were performed were identical in all 13.<sup>131</sup> Because Hyundai performed the identical selling functions at similar levels of intensity in both U.S. channels of distribution, we determine that Hyundai sells at one LOT in the United States.

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<sup>126</sup> See Hyundai's March 21, 2019 B-EQR at B-20; and Hyundai's February 21, 2019 AQR at 27-28 and Exhibits A-12 and A-13.

<sup>127</sup> See Hyundai's February 21, 2019 AQR at 27-28 and Exhibits A-12 and A-13.

<sup>128</sup> *Id.* at Exhibit A-11(1).

<sup>129</sup> *Id.*

<sup>130</sup> *Id.* at Exhibit A-13.

<sup>131</sup> *Id.* at 27-28 and Exhibit A-13.



We compared the selling activities at the U.S. LOT with the selling activities at the home market LOT and found, after deducting selling functions corresponding to economic activities in the United States, *i.e.*, those performed by Hyundai's U.S. affiliates, that the levels of trade in the U.S. and home markets were substantially dissimilar. Information on the record indicated that Hyundai performed thirteen out of fifteen of the same selling functions for its U.S. sales as it provides for its home market sales. The two selling functions that Hyundai performs in the home market only are engineering services and post-sale warehousing. However, of the selling functions Hyundai performs in both the home market and the United States, only two are performed at the same level of intensity in the U.S. and home market LOTs. Hyundai performs the remaining selling functions in the home market at a higher level of intensity than it does for sales to the United States. The difference in intensity is significant enough to determine that the selling functions performed by Hyundai in the home market are at a more advanced stage of distribution than those performed for its U.S. customers in that channel of trade.

Because there is only one LOT in the home market, we were unable to calculate an LOT adjustment based on Hyundai's home market sales of the foreign like product, and we have no other information that provides an appropriate basis for determining a LOT adjustment. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that a CEP offset is warranted for Hyundai, pursuant to section 773(a)(7)(B) of the Act.

#### C. Affiliated-Party Transactions and Arm's-Length Test

Pursuant to 19 CFR 351.403(c) and (d), and consistent with Commerce's practice,<sup>132</sup> if an exporter or producer sold foreign like product to an affiliated party as defined in section 771(33) of the Act, Commerce may calculate NV based on that sale only if it is made at arm's-length, where the price is, on average, within a range of 98 to 102 percent of the price at which the same exporter or producer sold the same or comparable merchandise at same level of trade to unaffiliated parties.

In this review, each respondent sold foreign like product to affiliated customers in the home market as defined in section 771(33) of the Act.<sup>133</sup> Consequently, we conducted the arm's-length test on these sales, and excluded sales that failed the test from the normal value calculation because we considered the failed-test sales to be outside the ordinary course of trade.<sup>134</sup>

#### D. Cost of Production Analysis

In accordance with section 773(b)(2)(A) of the Act, we requested cost information from all respondents in this review to determine if there were reasonable grounds to believe or suspect that sales of foreign like product had been made at prices less than the cost of production (COP) of the product.<sup>135</sup>

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<sup>132</sup> See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 and 102 percent in order for sales to be considered in the ordinary course of trade and used in the NV calculation).

<sup>133</sup> See Dongkuk's March 19, 2019 BQR at B-21; *see also* Hyundai's March 21, 2019 B-EQR at B20 and Exhibit B-5.

<sup>134</sup> See section 771(15) of the Act and 19 CFR 351.102(b).

<sup>135</sup> See Dongkuk's March 19, 2019 DQR; *see also* Hyundai's March 21, 2019 B-EQR at B20 and section D.

## 1. Calculation of COP

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

We relied on the data submitted by Dongkuk except for its purchases of hot-rolled coil from affiliates.<sup>136</sup>

The physical characteristics identified in this case are finish type, reduction process, coating metal, coating weight, coating process, quality, yield strength, nominal thickness, nominal weight, and form. We find that Hyundai's reported per-unit costs exhibited significant variations that were unrelated to the physical characteristics of the products under review. Such findings are not unusual in cases because Commerce is directed to use, as a starting point for reporting information, a respondent's normal books and records.<sup>137</sup> To mitigate these distortive cost fluctuations, Commerce revised Hyundai's reported per-unit costs by weight-averaging direct material costs among products of the same quality and yield strength. In addition, we have weight-averaged the reported other direct material costs between products coating type, coating material, and metallic coating weight. We have further weight-averaged the reported direct labor cost, and variable and fixed overhead costs between products with the same coating type, reduction process, and metallic coating process. We then recalculated the general and administrative expenses and the financial expenses by applying the corresponding rate to the revised costs. This ensures that the product-specific costs we use for the sales-below-cost test, CV, and the difference-in-merchandise (DIFMER) adjustment accurately reflect the physical characteristics of the products whose sales prices are used in Commerce's dumping calculations.<sup>138</sup>

In instances where an input is not a major input, section 773(f)(2) of the Act directs Commerce to determine whether the transactions between affiliates fairly reflect the amount usually reflected in sales of the merchandise under consideration in the market under consideration. Hyundai provided market prices for both inputs, which were compared to the transfer prices. We compared the average per metric ton (MT) price of scrap Hyundai purchased from unaffiliated suppliers to the average per MT price of scrap Hyundai purchased from its affiliated suppliers and determined that Hyundai purchased scrap below fair market value from its affiliated suppliers.<sup>139</sup> Therefore, we have adjusted Hyundai's purchases of steel scrap from affiliates to reflect a market price. For those segments of freight expenses, where there was no market price available, Hyundai provided the affiliated providers cost plus selling and general expenses demonstrating that the affiliate transactions were at arm's length.<sup>140</sup>

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<sup>136</sup> See Dongkuk Preliminary Calculation Memorandum.

<sup>137</sup> See section 773(f)(1)(A) of the Act; *see also* *Final Results CORE Korea 2016-2017*, IDM at Comment 9.

<sup>138</sup> See Hyundai Preliminary Calculation Memorandum.

<sup>139</sup> *Id.* at Attachment IV.

<sup>140</sup> See Hyundai's June 24, 2019 SQR at S1-B10-14 and Exhibit S1-B21.2.

## 2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs to the home market prices of the foreign like product to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were net of billing adjustments, movement charges, direct and indirect selling expenses, and packing expenses, where appropriate.<sup>141</sup>

## 3. Results of the COP Test

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

We found that, for each respondent, more than 20 percent of sales of certain home market products during the POR were at prices less than the COP and, in addition, such sales did not permit for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.<sup>142</sup>

### E. Calculation of NV Based on Home Market Prices

We calculated NV based on prices to unaffiliated customers. We made deductions from the starting price for certain movement expenses, *i.e.*, inland freight, and for certain direct selling expenses, *i.e.*, credit expenses, pursuant to section 773(a)(6)(B)(ii) of the Act.<sup>143</sup>

For comparisons to CEP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses, *i.e.*, imputed credit. We made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

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<sup>141</sup> See Dongkuk Preliminary Calculation Memorandum; *see also* Hyundai Preliminary Calculation Memorandum.

<sup>142</sup> See Dongkuk Preliminary Calculation Memorandum; *see also* Hyundai Preliminary Calculation Memorandum.

<sup>143</sup> See Dongkuk Preliminary Calculation Memorandum; *see also* Hyundai Preliminary Calculation Memorandum.

When comparing U.S. sales with home market sales of similar, but not identical, merchandise, we also adjusted for 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 of the foreign like product and the subject merchandise.<sup>144</sup>

#### F. Calculation of NV based on CV

Section 773(a)(4) of the Act provides that where NV cannot be based on home market sales, NV may be based 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 SG&A expenses, profit, and U.S. packing costs. For each mandatory respondent, we calculated the cost of materials and fabrication based on the methodology described in the “Cost of Production Analysis” section. We based SG&A and profit for each respondent on the actual amounts incurred and realized in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market, in accordance with section 773(e)(2)(A) of the Act. We made adjustments to CV for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(iii) and (a)(8) of the Act and 19 CFR 351.410.

## **XII. 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 date of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance web site at <http://enforcement.trade.gov/exchange/index.html>.

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<sup>144</sup> See Dongkuk Preliminary Calculation Memorandum; *see also* Hyundai Preliminary Calculation Memorandum.

### XIII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree

Disagree

9/6/2019

X



—Signed by: JEFFREY KESSLER—

Jeffrey I. Kessler

Assistant Secretary

for Enforcement and Compliance

## Attachment

### SCOPE OF THE ORDER

The products covered by this order are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this order are products 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 listed 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
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), 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

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this order unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this order:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (terne plate), or both chromium and chromium oxides (tin free steel), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.

The products subject to the order may also enter under the following HTSUS item

numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.