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January 9, 2020

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 the Preliminary Results of
Antidumping Duty Administrative Review: Circular Welded Non-
Alloy Steel Pipe from the Republic of Korea: 2017-2018

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea) covering the period of review (POR) November 1, 2017, through October 31, 2018. We selected two companies for individual examination in this administrative review: Husteel Co., Ltd. (Husteel) and Nexteel Co., Ltd. (Nexteel). We preliminarily determine that Husteel and Nexteel made sales of the subject merchandise at prices below normal value (NV).

II. BACKGROUND

On November 2, 1992, we published in the *Federal Register* an AD order on CWP from Korea.¹ On February 6, 2019, Commerce initiated this administrative review.² On March 1, 2019, we released entry data we obtained from U.S. Customs and Border Protection (CBP) for comment by interested parties regarding our selection of the respondents for this review.³ On March 25, 2019, we selected Husteel and Nexteel as mandatory respondents for individual examination in this review.⁴

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

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 2159 (February 6, 2019).

³ See Memorandum, "Release of U.S. Customs and Border Protection Data," dated March 1, 2019.

⁴ See Memorandum, "Antidumping Duty Administrative Review: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Respondent Selection Memorandum," dated March 25, 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, resulting in a revised deadline for these preliminary results.⁵ Additionally, Commerce extended the deadline for the preliminary results until January 9, 2020.⁶

On April 9, 2019, Commerce issued the AD questionnaire to Husteel and Nexteel.⁷ Husteel and Nexteel submitted timely questionnaire responses.⁸ Between October and December 2019, Commerce issued supplemental questionnaires to Husteel⁹ and Nexteel¹⁰ and received timely responses.¹¹

III. SCOPE OF ORDER

The merchandise subject to the order is circular welded non-alloy steel pipe and tube, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in the order.

⁵ 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.

⁶ See Memorandum, “Circular Welded Non-Alloy Steel Pipe from Republic of Korea: Extension of Deadline for Preliminary Results of 2017-2018 Antidumping Administrative Review,” dated August 27, 2019.

⁷ See Commerce’s Letters to Husteel and Nexteel, dated April 9, 2019.

⁸ See Husteel’s Letters, “Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A-580-809: Section A Questionnaire Response,” dated May 15, 2019 (Husteel AQR); “Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A-580-809: Sections B-C Questionnaire Response,” dated June 6, 2019 (Husteel BCQR); and “Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A-580-809: Section D Questionnaire Response,” dated June 11, 2019 (Husteel DQR); *see also* Nexteel’s Letters, “Circular Welded Non-Allow Steel Pipe from Korea: Nexteel’s Section A Questionnaire Response,” dated May 14, 2019 (Nexteel AQR); and, “Circular Welded Non-Allow Steel Pipe from Korea: Nexteel’s Sections B-D Questionnaire Response,” dated June 6, 2019 (Nexteel BCDQR).

⁹ See Commerce’s Letter to Husteel, dated October 15, 2019.

¹⁰ See Commerce’s Letters to Nexteel, dated October 15, 2019, October 31, 2019, and December 3, 2019.

¹¹ See Husteel’s Letter, “Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Case No. A-580-809: Supplemental Sections A-D Questionnaire Response,” dated November 1, 2019; *see also* Nexteel’s Letters, “Circular Welded Non-Alloy Steel Pipe from Korea: Nexteel’s Sections B-D Supplemental Questionnaire Response,” dated November 1, 2019; “Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Nexteel’s Section D Supplemental Questionnaire Response,” dated November 13, 2019; and “Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Nexteel’s Supplemental Questionnaire Response,” dated December 10, 2019.

All carbon-steel pipes and tubes within the physical description outlined above are included within the scope of the order except line pipe, oil-country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit.¹²

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

IV. RATE FOR THE RESPONDENTS NOT SELECTED FOR INDIVIDUAL EXAMINATION

Twenty-three companies were not selected for individual examination in this review. Generally, Commerce looks to section 735(c)(5) of the Tariff Act of 1930, as amended (the Act), which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for the respondents not selected for individual examination in an administrative review. Section 735(c)(5)(A) of the Act instructs that we are not to calculate an all-others rate using any zero or *de minimis* margins or any margins based on total facts available. Accordingly, our usual practice has been to average the rates for the selected companies excluding zero, *de minimis*, and rates based entirely on facts available.¹³

In these preliminary results, we found non-*de minimis* weighted-average margins for Husteel and Nexteel. We cannot apply our normal methodology of calculating a weighted-average margin using the actual net U.S. sales values and dumping margins for Husteel and Nexteel because doing so could indirectly disclose business-proprietary information to both of these companies. Alternatively, we have previously applied the simple average of the dumping margins we determined for the selected companies.¹⁴ In order to strike a balance between our duty to safeguard parties' business proprietary information and our attempt to adhere to the guidance set forth in section 735(c)(5)(A) of the Act, we calculated a weighted-average margin for non-selected respondents using the publicly available, ranged total U.S. sales values of the selected respondents, compared the resulting public, weighted-average margin to the simple average of the antidumping duty margins, and used the amount which is closer to the actual weighted-average margin of the selected respondents as the margin for the non-selected respondents.¹⁵

¹² See *Final Negative Determination of Scope Inquiry on Certain Circular Welded Non-Alloy Steel Pipe and Tube from Brazil, the Republic of Korea, Mexico, and Venezuela*, 61 FR 11608 (March 21, 1996). In accordance with this determination, pipe certified to the API 5L line-pipe specification and pipe certified to both the API 5L line-pipe specifications and the less-stringent ASTM A-53 standard-pipe specifications, which falls within the physical parameters as outlined above, and entered as line pipe of a kind used for oil and gas pipelines, is outside of the scope of the AD order.

¹³ See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

¹⁴ See, e.g., *Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008).

¹⁵ See *Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative*

Accordingly, for the preliminary results of this review, we are assigning the public weighted-average margin of these two companies' dumping margins.¹⁶

V. DISCUSSION OF THE METHODOLOGY

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

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether the respondents' sales of the subject merchandise from Korea in the United States were made at less than NV, Commerce 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. 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 export prices (EPs) or CEPs (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern 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.¹⁷

In recent investigations and the last completed administrative review of this order, Commerce applied a "differential pricing" analysis for determining whether application of the A-T method is appropriate in a particular situation, pursuant to section 777A(d)(1)(B) of the Act and 19 CFR

Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

¹⁶ See Memorandum, "Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Calculation of the Margin for Respondents Not Selected for Individual Examination," dated concurrently with this memorandum.

¹⁷ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012) and accompanying Issues and Decision Memorandum at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

351.414(c)(1) and 19 CFR 351.414(c)(1).¹⁸ Commerce finds that the differential pricing analysis used in recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in 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 A-A method in calculating weighted-average dumping margins for the respondents.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-A method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip codes) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP or CEP and NV for the individual dumping margins.

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

¹⁸ See, *e.g.*, *Truck and Bus Tires from the People's Republic of China: Preliminary Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances, and Postponement of Final Determination*, 81 FR 61186 (September 6, 2016), and accompanying Preliminary Decision Memorandum at 22, unchanged in *Truck and Bus Tires from the People's Republic of China: Final Affirmative Determinations of Sales at Less Than Fair Value and Critical Circumstances*, 82 FR 8599 (January 27, 2017); *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews and Rescission of Administrative Review, in Part; 2014-2015*, 81 FR 12870 (March 11, 2016) (*2014-15 Prelim*); and Preliminary Decision Memorandum at 6, unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2014-2015*, 81 FR 62712 (September 12, 2016) (*2014-15 Final*).

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 accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the A-A method can appropriately account for such differences. In considering this question, 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 A-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if (1) there is a 25 percent relative change in the weighted-average dumping margins between the A-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or (2) the resulting weighted-average dumping margins between the A-A method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

Husteel

For Husteel, based on the results of the differential pricing analysis, we preliminarily find that 64.30 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁹ confirming the existence of a

¹⁹ See Memorandum, "Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Preliminary Analysis Memorandum for Husteel Co., Ltd.," dated concurrently with this memorandum (Husteel Preliminary Analysis Memo).

pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method and when 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 these preliminary results, Commerce is applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Husteel.

Nesteel

For Nesteel, based on the results of the differential pricing analysis, Commerce preliminarily finds that 64.02 percent of the value of U.S. sales pass the Cohen's *d* test,²⁰ confirming the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Nesteel.

C. Date of Sale

Section 351.401(i) of Commerce's regulations states that, "in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business." The regulation provides further that Commerce may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.²¹ Commerce has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.²²

²⁰ See Memorandum, "Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Preliminary Analysis Memorandum for Nesteel Co., Ltd.," dated concurrently with this memorandum (Nesteel Preliminary Analysis Memo).

²¹ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) (*Allied Tube*).

²² See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

Husteel

For its comparison market sales, Husteel has reported the shipment date as the date of sale, because Husteel establishes the material terms of sale at the time of shipment.²³ For its U.S. CEP sales, Husteel reported as the date of sale the earlier of the date of shipment from Korea or the date of its U.S. affiliate Husteel USA Inc. (Husteel USA)'s invoice to the unaffiliated U.S. customer.²⁴ Therefore, consistent with our practice, we are relying on the sale dates reported by Husteel for both the comparison and U.S. market sales.²⁵

Nexteel

For its comparison market sales, Nexteel reported that there are no changes to the material terms of sale following shipment. For U.S. sales, both the quantity and the terms are no longer subject to change once the merchandise is shipped, or the invoice has been issued.²⁶ Therefore, consistent with our practice, we are relying on the earlier of shipment date or invoice date for both home market sales and U.S. sales.

D. Product Comparisons

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

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

²³ See Husteel AQR at A-16.

²⁴ *Id.*

²⁵ This is consistent with our practice with respect to Husteel in prior reviews. See, e.g., *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 57583 (December 6, 2017) (*CWP AR15-16*) and accompanying Issues and Decision Memorandum at 6-7 unchanged in the final results of review; 82 FR 26910, June 12, 2017.

²⁶ See Nexteel BCDQR at C-18.

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

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

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

VII. NORMAL VALUE

A. Particular Market Situation (PMS) Allegation

1. Background

In the previous administrative review of CWP from Korea, Commerce found that a particular market situation existed in Korea which distorted the COP of CWP, based on our considerations of cumulative effects of: (1) Korean subsidies on hot-rolled coil (HRC), the primary input for CWP; (2) Korean imports of HRC from the People's Republic of China (China); (3) alleged strategic alliances between Korean HRC suppliers and Korean CWP producers; and (4) government involvement in the Korean electricity market.²⁷ On July 15, 2019, the petitioner submitted factual information and a letter in which it argued that Commerce should find that a particular market situation continues to exist in Korea in the instant POR.²⁸

On November 14, 2019, Commerce issued a letter inviting all other interested parties to submit factual information to rebut, clarify or correct the petitioner's factual information supporting its PMS allegation, and comments regarding the alleged particular market situation in this review.²⁹

²⁷ See *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 26401 (June 6, 2019) and accompanying Issues and Decision Memorandum at Comment 1 (*CWP AR16-17*).

²⁸ See Letter from the petitioner, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Particular Market Situation Allegation and Supporting Factual Information – Qualitative Submission," dated July 15, 2019 (PMS Allegation).

²⁹ See Commerce's Letter, "2017-2018 Administrative Review of the Antidumping Duty Order on Circular Welded Non-Alloy Steel Pipe (CWP) from the Republic of Korea: Schedule for Submission of Factual Information Relating to Particular Market Situation Allegation," dated November 14, 2019.

On December 2, 2019, Husteel, Nexteel, and Hyundai Steel Company (Hyundai Steel) (a non-selected Korean CWP producer) submitted factual information and comments concerning the particular market situation allegations.³⁰

2. *Parties' Arguments*

The petitioner argues that the PMS that Commerce has already determined to exist in Korea continues to exist. The petitioner contends that Commerce was misguided in requesting evidence relating to this POR, because a finding that a PMS exists is persistent, similar to a finding that country is a non-market economy.³¹ In support of its allegation that a PMS continues to exist, the petitioner placed on the record the PMS allegations from three recent administrative reviews related to pipe products.³² To account for the effect of steel overcapacity on the Korean steel market, the petitioner contends that Commerce should increase the respondents' reported costs for all HRC purchases, using a global excess capacity-based *regression analysis* provided on the record that quantifies the impact of global steel excess capacity on the price of HRC in Korea, and derives a corresponding percentage adjustment factor that, when applied to the respondents' costs of HRC, accounts for the distortions inherent to an overcapacity-driven PMS.³³

The respondents argue that the AD statute does not allow Commerce to make a PMS adjustment to direct material cost.³⁴ Moreover, the respondents argue that much of the information submitted by the petitioner is outside the POR.³⁵ As for the other factors involved in the PMS analysis, the respondents claim that the global overcapacity in steel production is not a particular problem for Korea and prices for HRC has recovered during the POR.³⁶ With respect to subsidies from Korean government, the respondents note that the most recently completed administrative review by Commerce of the countervailing duty order on HRC from Korea show the level of subsidies to be very low.³⁷ The respondents also argue that the allegations of strategic alliance within the Korea steel industries are outdated and not related to HRC producers and CWP producers.³⁸ Finally, the respondents contend that Commerce has consistently found that there is no government subsidization of electricity prices in Korea, and there is no basis to

³⁰ See Husteel, Nexteel, and Hyundai Steel's Letter, "Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Particular Market Situation Comments and Rebuttal Factual Information," dated December 2, 2019 (Respondents PMS Comments); see also Husteel's Letter, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A-580-809: Particular Market Situation Allegation Rebuttal Comments," dated December 2, 2019 (Husteel PMS Comments); Nexteel's Letter, "Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Nexteel's PMS Rebuttal Factual Information and Comments," dated December 2, 2019; and Hyundai Steel's Letter, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Submission of Rebuttal Factual Information Concerning PMS Allegation," dated December 2, 2019.

³¹ See PMS Allegation at 2-5.

³² *Id.* at 5-27.

³³ See Petitioner's Letter, "Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Particular Market Situation Allegation and Supporting Factual Information – Quantitative Submission," dated July 15, 2019 (Regression Analysis).

³⁴ See Respondents PMS Comments at 5-8.

³⁵ *Id.* at 15-18.

³⁶ *Id.* at 19-40.

³⁷ *Id.* at 40.

³⁸ *Id.* at 41-42.

argue any distortion of electricity prices that contribute to a PMS.³⁹ With respect to the Regression Analysis submitted by the petitioner, the respondents argue the methodology submitted is flawed, such that key variables like energy prices were not included and the broader category of HRC at the 4 digit level of HTS data (rather than the more specific 6 digits) was used, and should be rejected.⁴⁰

3. Analysis

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), Public Law No. 114-27. Section 504 of the TPEA added the concept of “particular market situation” to the definition of the term “ordinary course of trade,” found at section 771(15) of the Act. This expanded Commerce’s consideration of the existence of a particular market situation not only in the circumstances of determining normal value under section 773(a)(1)(A), but also for purposes of constructed value (CV) under section 773(e), and through these provisions for purposes of the COP under section 773(b)(3). Section 773(e) 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, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.”

In this review, the petitioner alleged that a particular market situation continues to exist in Korea which distorts the CWP costs of production based on the following four factors: (1) subsidization of Korean hot-rolled steel products by the Korean government; (2) the distortive pricing of unfairly traded Chinese HRC; (3) strategic alliances between Korean HRC suppliers and Korean CWP producers; and (4) distortive government control over electricity prices in Korea. Section 773(e) does not specify whether to consider these allegations individually or collectively. In *OCTG AR14-15*, the domestic industry alleged that a particular market situation existed in Korea based on the same four factors alleged in this review, and upon analyzing the four allegations as a whole, Commerce found that a particular market situation existed in Korea during that review period.⁴¹ Subsequent to that finding, Commerce has repeatedly determined that a PMS continues to exist because the record evidence has demonstrated that the circumstances present in *OCTG AR14-15* have remained largely unchanged in the periods under investigation or review in other proceedings, including in the previous administrative review in this proceeding.⁴² The record evidence in this review supports a finding that the circumstances

³⁹ *Id.* at 42-44.

⁴⁰ *Id.* at 45-48. Respondents also make certain arguments specific to the POR, including that the data is skewed because 2008 and 2009 were years of financial turmoil, and that petitioner’s model is based on 2017 data while the POR in this case is mostly in 2018.

⁴¹ See *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 18105 (April 17, 2017) (*OCTG AR14-15*) and accompanying Issues and Decision Memorandum at Comment 3.

⁴² See, e.g., *CWP AR15-16* IDM at Comment 1; *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 83 FR 17146 (April 18, 2018) (*OCTG AR15-16*) and accompanying IDM at Comment 1, *Certain Oil Country Tubular Goods From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*; 83 FR 51442 (October 11, 2018) (*OCTG AR16-17*) and accompanying Preliminary Determination Memorandum at 16-23, unchanged in *Certain Oil Country Tubular Goods From the Republic of Korea: Final Results of*

present in *OCTG ARI4-15* have remained largely unchanged and, thus, a preliminary finding that a particular market situation exists in Korea which distorts the cost of production of CWP. This particular market situation results from the collective impact of Korean HRC subsidies, Korean imports of HRC from China, strategic alliances, and government involvement in the Korean electricity market.

In this administrative review, we considered the four components of the petitioner's particular market situation allegation as a whole, based on their cumulative effect on the Korean market for the inputs to produce CWP. Based on the totality of the conditions in the Korean market, Commerce preliminarily finds that the allegation represent facets of a single particular market situation. The information on the record shows the Korean government provides subsidies for the production of hot-rolled steel, which includes HRC to produce CWP.⁴³ Additionally, HRC, as an input of CWP, constitutes a substantial proportion of the cost of CWP production; thus, distortions in the HRC market have a significant impact on production costs for CWP.⁴⁴

With respect to the petitioner's contention that certain Korean HRC suppliers and Korean CWP producers attempt to compete by engaging in strategic alliances, Commerce agrees that the record evidence demonstrates that such strategic alliances exist in Korea.⁴⁵ Although the record does not contain specific evidence showing that strategic alliances were directly created between HRC suppliers and CWP producers in the current POR, we nonetheless find that these strategic alliances between certain Korean HRC suppliers and Korean pipe producers in the past are relevant as an element of our analysis, in that they may have created distortions in the prices of HRC in the past, and may continue to affect HRC pricing in a distortive manner during this POR and in the future.

With respect to the allegation of distortion present in the electricity market, consistent with the SAA, a particular market situation may exist where there is government control over prices to such an extent that home market prices cannot be considered to be competitively set. Commerce has previously found that electricity in Korea functions as a tool of the government's industrial policy.⁴⁶ Furthermore, the largest electricity supplier, KEPCO, is a government-controlled entity. To be clear, our determination of a particular market situation in this review is not based solely upon any support from the government of Korea for electricity. To the contrary, as we

Antidumping Duty Administrative Review; 2016-2017, 84 FR 24085 (May 24, 2019), *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017*, 84 FR 24471 (May 28, 2019), and accompanying IDM at Comment 1, and *Large Diameter Welded Pipe from the Republic of Korea: Final Determination of Sales at Less than Fair Value and Postponement of Final Determination*, 84 FR 6374 (February 27, 2019), and accompanying IDM at Comment 1.

⁴³ See *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 81 FR 53439 (August 12, 2016), as amended in *Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders*, 81 FR 67960 (October 3, 2016), and *Countervailing Duty Order on Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Amended Final Results of the First Administrative Review*, 84 FR 35604 (July 24, 2019).

⁴⁴ See Nexteel BCDQR at Exhibit D-3 and Husteel DQR at D-9.

⁴⁵ See PMS Allegation at Exhibits 7 and 8.

⁴⁶ See *OCTG 14-15* IDM at Comment 3.

stated above, each of these allegations is a contributing factor that, taken together, lead Commerce to conclude that a particular market situation exists in Korea.

Finally, there is no evidence on the record that Chinese overcapacity in steel production, a well-documented and global problem which has been recognized and addressed across Commerce's proceedings, including in *OCTG AR14-15*, has ceased.⁴⁷ We do not disagree with the respondents that the record reflects that some steel manufacturers in Korea have realized a profit over the POR, and we also do not disagree that the prices, overall, of imported steel into Korea have increased as well. However, because a significant volume of Chinese steel products continue to be imported into Korea, and the prices these imports have an effect on the domestic price of HRC in Korea, we find that this, along with the assistance provided by the Korean government to assisting the domestic steel producers, distorts the Korean market prices of HRC, and in turn distorts the costs of Korean CWP production.⁴⁸

All of the above factors suggest that the production costs of CWP, including the acquisition prices of HRC in Korea, are distorted, and this demonstrates that the costs of HRC to Korean CWP producers are not in the ordinary course of trade. Thus, we preliminarily find that various market forces result in distortions which impact the cost of production for CWP from Korea and that the evidence on the record supports a finding that a particular market situation exists during the POR of this administrative review.

Having preliminarily determined that a PMS exists for the respondents' production costs for CWP, we then examined whether there was sufficient record evidence to quantify the impact of the PMS in order to potentially employ an alternative calculation methodology, as contemplated by section 504 of the TPEA. In this administrative review, we preliminarily determine to apply an upward adjustment to Husteel's and Nexteel's reported costs for their HRC inputs on the basis that a PMS exists. In addition, we have determined that there is sufficient evidence to quantify the impact of this PMS.

Our adjustment for these preliminary results is derived from the Regression Analysis submitted by the petitioner. We preliminarily find that the adjustment factor resulting from the Regression Analysis, with certain adjustments adopted by Commerce, appropriately quantifies the impact of the PMS concerning the distortion in cost of HRC that we find to have existed in Korea during the POR.⁴⁹ Specifically, Commerce finds that use of the regression coefficient for uneconomic capacity as the basis for the PMS adjustment is directly related to the principal cause for a cost-based PMS in the Korean HRC market. The adjustment proposed by the petitioner is based on calculating a counterfactual HRC import AUV, which is dependent upon changes in uneconomic capacity as well as the other independent variables which are not directly related to the alleged cost-based PMS. Therefore, in order to isolate the factors contributing to the cost-based PMS in the Korean HRC market, and in order to capture the *ceteris paribus* effect (*i.e.*, holding all other factors constant) for global uneconomic capacity in the steel industry on HRC AUVs in Korea, Commerce has relied on the regression coefficient associated with uneconomic capacity to

⁴⁷ See *OCTG AR14-15 IDM* at Comment 3.

⁴⁸ See PMS Allegation at Exhibit 15.

⁴⁹ See Husteel Preliminary Calculation Memo; *see also* Nexteel Preliminary Calculation Memo.

quantify the PMS adjustment to the respondents' reported HRC costs. Additionally, Commerce recognizes that global capacity utilization rates have been no greater than 80 percent since 2007⁵⁰, and that all the steel production and capacity data included in the model are from a period where the prevailing capacity utilization rate was substantially lower than the level assumed by the petitioner as being "healthy." Commerce has in the past also endorsed an 80 percent capacity utilization rate as being sufficient for profitable operations of the steel industry and has used the 80 percent target in its Section 232 Investigations.⁵¹ Therefore, for these preliminary results, Commerce has lowered the target capacity utilization rate to a more realistic level, 80 percent, which more accurately reflects a historic capacity utilization rate for the preceding ten years.⁵² It is our preliminary determination that the Regression Analysis and the adjustments adopted by Commerce sufficiently quantifies the impact of the PMS on the material cost of HRC, and derives a corresponding adjustment factor that, when applied to the costs of HRC, accounts for the distortions induced by the observed PMS. While we acknowledge the respondents' concern with the Regression Analysis, Commerce believe that the modified results include a reasonable number of independent variables that account for all relevant categories of factors. We note that the record does not contain sufficient information nor have the respondents provided alternative regression models controlling for energy prices or based on more detailed six-digit level HTS data. With respect to arguments regarding the POR, we note that because the relationship between uneconomic activity and import AUVs (or domestic prices) is constant over time, inclusion or exclusion of data for 2008-2009 (or from 2018) will not change the overall nature of the relationship, and the adjustment will capture the effect of overcapacity on import AUVs (or domestic prices). Therefore, Commerce finds the methodology described above is acceptable for the purpose of quantifying a PMS adjustment for these preliminary results.

B. Comparison Market Viability

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

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

⁵⁰ See PMS Allegation at Exhibit 15, containing Steel Market Developments-Q4 2018, OECD (2019).

⁵¹ *Id.* at Exhibit 2, containing "The Effect of Imports of Steel on the National Security - An Investigation Conducted Under Section 232 of the Trade Expansion Act of 1962, As Amended," U.S. Department of Commerce, Bureau of Industry and Security Office of Technology Evaluation (January 11, 2018).

⁵² *Id.* at Exhibit 15, containing Steel Market Developments-Q4 2018, OECD (2019).

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

During the POR, both Husteel and Nexteel reported that they neither made sales of the foreign like product to affiliated customers in the comparison market, as defined in section 771(33) of the Act, nor purchased raw material inputs from affiliated parties.⁵³ Therefore, we have not conducted the arm's-length test with respect to Husteel and Nexteel.⁵⁴

D. Level of Trade/CEP Offset

To the extent practicable, we determine NV based on sales of the foreign like product at the same level of trade (LOT) as the EP or CEP sales.⁵⁵ Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁵⁶ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁵⁷ In order to determine whether the home market sales were at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.* the chain of distribution), including selling functions, class of consumer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOT for EP or comparison market sales (*i.e.*, NV based on either home market or third country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.

When we are unable to match NV at the same LOT as the EP or CEP, we may compare U.S. sales to comparison market sales at a different LOT. When this occurs and the difference in LOT is demonstrated to affect price comparability based on a pattern of consistent price differences between sales at a different LOT in the NV market under consideration, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP only, if the NV is established at a LOT which constitutes a more advanced stage of distribution than the LOT of the CEP, but there is no basis for determining whether the difference in the LOT between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), we grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.

Husteel

We examined the information obtained from Husteel regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities

⁵³ See Husteel AQR at 2 (sales to unaffiliated customers in the home market) and 10 (unaffiliated purchases of raw material inputs); see also Nexteel AQR at Exhibit A-1 and Nexteel BCDQR at D-7.

⁵⁴ See, e.g., *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*; 2011-2012, 78 FR 78336 (December 26, 2013) and accompanying Preliminary Decision Memorandum at 10.

⁵⁵ See section 773(a)(1)(B)(i) of the Act and 19 CFR 351.412.

⁵⁶ See 19 CFR 351.412(c)(2).

⁵⁷ *Id.*

performed by Husteel for each channel of distribution.⁵⁸ Husteel reported that it has one channel of trade for all home-market sales and all its CEP sales.⁵⁹ Husteel reported that, after adjusting for functions performed in the United States, the CEP LOT would be less advanced than the home market LOT.⁶⁰

We compared the selling activities at the CEP 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 Husteel's U.S. affiliate, that these levels were dissimilar. Husteel's CEP sales involve no or lower levels of certain selling functions, *e.g.*, negotiating price, meeting with customers, personnel management and trading.⁶¹ Therefore, we preliminarily determine that the home-market sales are at a different LOT and at a more advanced stage of distribution than the CEP LOT.

We found that there were significant differences between the selling activities associated with the CEP LOT and those associated with the home market LOT. However, because Husteel did not make any home market sales of subject or non-subject merchandise during the POR at a LOT similar to the CEP level of trade, pursuant to section 773(a)(1)(B)(i) of the Act, we are unable to make an LOT adjustment. Accordingly, for Husteel's CEP sales, we made a CEP-offset adjustment in accordance with section 773(a)(7)(B) of the Act. The CEP offset adjustment to NV is subject to the offset cap, which is calculated as the sum of home market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP.

Nesteel

We examined the differences in selling functions reported in Nesteel's responses to our requests for information. In the home market, Nesteel reported that it only sells subject merchandise to unaffiliated customers, including both end-users and distributors.⁶² The selling activities associated with the two types of customers did not differ; therefore, we consider all home-market sales to constitute one LOT. In the U.S. market, Nesteel reported EP sales to unaffiliated customers in the United States, as well as unaffiliated trading companies in Korea which in turn export the subject merchandise to the United States.⁶³ The selling activities associated with the two types of customers did not differ; therefore, we preliminarily consider all U.S. sales to constitute one LOT. We compared the selling activities at the EP LOT with the selling activities at the home market LOT and found, after deducting selling functions corresponding to economic activities in the United States, that these levels were substantially dissimilar. Nesteel reported that EP sales involve no or lower levels of (1) sales forecasting and strategic/economic planning/market research, (2) advertising/sales marketing support, (3) personnel training/exchange, (4) technical assistance, (5) freight and delivery arrangement, and (6) order input processing.⁶⁴ Additionally, Nesteel provided support for its claims that its home market

⁵⁸ See Husteel AQR at A-12-16, and Exhibit A-10 (Selling Functions Chart and Documents).

⁵⁹ *Id.* at A-13.

⁶⁰ *Id.* at A-15.

⁶¹ See Husteel AQR at Exhibit A-10.

⁶² See Nesteel AQR at A-11.

⁶³ *Id.* at A-10.

⁶⁴ *Id.* at Exhibit A-7-A.

selling activities were more advanced in the home market in the four core selling functions evaluated by Commerce: (1) sales and marketing support; (2) freight and delivery; (3) inventory maintenance; and (4) and technical support.⁶⁵ Therefore, we preliminarily determine the home market sales are at a more advanced stage of distribution than the EP LOT.

Because there is only one LOT in the home market, we were unable to calculate a LOT adjustment based on Nexteel home market sales of the domestic like product, and we have no other information that provides an appropriate basis for determining a LOT adjustment. Moreover, because the EP LOT did not exist in the home market, there is no basis for a LOT adjustment.

E. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested cost information from Husteel and Nexteel and they submitted timely responses.⁶⁶ We examined the respondents' cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

1. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative and financial expenses, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by Husteel and Nexteel in their questionnaire responses for the COP calculation.

2. Test of Comparison Market Sales Prices

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

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the

⁶⁵ *Id.*

⁶⁶ See Husteel DQR and Nexteel BCDQR.

Act and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

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

F. Calculation of Normal Value Based on Comparison Market Prices

For those comparison products for which there were sales at prices above the COP for the respondents, we based NV on home market prices. We calculated NV based on prices to unaffiliated customers in Korea.⁶⁷ We adjusted the starting price for foreign inland freight pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in circumstances of sale (for imputed credit expenses, warranty expenses, and other selling expenses) in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the subject merchandise.⁶⁸

VIII. CURRENCY CONVERSION

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

⁶⁷ See *supra* "Affiliated Party Transactions and Arm's-Length Test" section.

⁶⁸ See 19 CFR 351.411(b).

IX. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

1/9/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance