



A-580-878

Administrative Review

POR: 07/01/2018 – 06/30/2019

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November 17, 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 Preliminary Results and Partial
Rescission of Antidumping Duty Administrative Review: Certain
Corrosion-Resistant Steel Products from the Republic of Korea;
2018-2019

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 eleven companies, of which we selected Dongbu Steel Co., Ltd (Dongbu), and Dongkuk Steel Mill Co., Ltd. (Dongkuk), and Hyundai Steel Company (Hyundai) as the mandatory respondents. The period of review (POR) is July 1, 2018 through June 30, 2019. We preliminarily find that sales of subject merchandise were 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.¹ On July 1, 2019, we published a notice of opportunity to request an administrative review of the Order.²

¹ 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).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 31295 (July 1, 2019).



Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), on July 31, 2019, ArcelorMittal USA LLC, AK Steel corporation, California Steel Industries, Inc., Nucor Corporation, Steel Dynamics Inc., and United States Steel corporation (collectively, the petitioners) requested reviews of twenty-six companies.³

On July 30 and 31, 2019, Dongbu, Dongbu Incheon Steel Co., Ltd. (Dongbu Incheon),⁴ Dongkuk,⁵ Hyundai,⁶ POSCO Ltd. and POSCO Daewoo Corporation and POSCO International Corporation (collectively POSCO),⁷ POSCO Coated & Color Steel Co. (POSCO C&C),⁸ Hoa Sen Group (HSG),⁹ and Ton Dong A Corporation (TDA)¹⁰ each self-requested a review.

In addition, on July 31, 2019, the following parties filed requests for review: Metal One America, Inc. requested a review of Nippon Steel and Sumikin Sales Vietnam Co. (NSSVC), HSG, and TDA;¹¹ and Mitsui & Co. (U.S.A.) Inc. (Mitsui)¹² and Stemcor USA Inc. (Stemcor)¹³ each requested a review of HSG and TDA.

On September 9, 2019, we initiated the review on thirty exporters and/or producers.¹⁴ On September 18, 2019, we placed U.S. Customs and Border Protection (CBP) entry data on the record.¹⁵ On September 25, 2019, the petitioners,¹⁶ Dongkuk,¹⁷ and Hyundai¹⁸ each commented

³ See Petitioners' Letter, "Corrosion-Resistant Steel Products from the Republic of Korea – Petitioners' Request for Administrative Review," dated July 31, 2019.

⁴ See Dongbu and Dongbu Incheon's Letter, "Corrosion-Resistant Steel Products from Korea, Case No. A-580-878: Request for Administrative Review," dated July 30, 2019.

⁵ See Dongkuk's Letter, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Request for Administrative Review for the Period July 1, 2018 – June 30, 2019," dated July 30, 2019.

⁶ See Hyundai's Letter, "Corrosion-Resistant Steel Products (CORE) from the Republic of Korea: Administrative Review Request," dated July 31, 2019.

⁷ See POSCO's Letter, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Administrative Review Request," dated July 31, 2019.

⁸ See POSCO C&C's Letter, "Corrosion-Resistant Steel Products (CORE) from the Republic of Korea: Administrative Review Request," dated July 31, 2019.

⁹ See HSG and TDA's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea, A-580-878: Review Request," dated July 31, 2019.

¹⁰ See HSG and TDA's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea, A-580-878: Review Request," dated July 31, 2019.

¹¹ See Metal One America, Inc.'s Letter, "Corrosion-Resistant Steel Products from Korea: Metal One America, Inc.'s Request for Administrative Review," dated July 31, 2019.

¹² See Mitsui's Letter, "Corrosion-Resistant Steel Products from Korea: Request for Administrative Review," dated July 31, 2019.

¹³ See Stemcor's Letter, "Corrosion-Resistant Steel Products from Korea – Stemcor's Request for Administrative Review," dated July 31, 2019.

¹⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 47242 (September 9, 2019).

¹⁵ See Memorandum, "Corrosion-Resistant Steel Products from the Republic of Korea: Antidumping Duty Administrative Review; 208-2019: Release of U.S. Customs Entry Data for Respondent Selection," dated September 18, 2019 (CBP Data).

¹⁶ See Petitioners' Letter, "Corrosion-Resistant Steel Products from the Republic of Korea – Petitioners' comments on CBP Data and Respondent Selection," dated September 25, 2019.

¹⁷ See Dongkuk's Letter, "Corrosion-Resistant Steel Products from the republic of Korea: Respondent Selection Comments," dated September 25, 2019.

¹⁸ Hyundai's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea: Hyundai Steel's Respondent selection Comments," dated September 25, 2019.

on respondent selection. On September 30, 2019, Hyundai rebutted the petitioners' comments and requested to be examined as a voluntary respondent if not selected as a mandatory respondent.¹⁹

On October 9, 2019, TDA certified that it had no exports, sales or entries of CORE containing Korean substrate into the United States during the POR,²⁰ and Mitsui and Stemcor each notified Commerce that they did not import any CORE manufactured in Vietnam using Korean substrate during the period of review.²¹ On October 30, 2020, we issued a questionnaire to NSSVC, HSG, and TDA.²²

On December 6, 2019, the petitioners withdrew their review request for nineteen companies,²³ and on December 9, 2019, HSG withdrew its self-request for review.²⁴ On December 10, 2019, we selected Dongbu, Dongkuk, and Hyundai as mandatory respondents.²⁵ On December 12, 2019, Commerce issued the initial questionnaires to Dongbu, Dongkuk, and Hyundai.²⁶

Dongbu filed its initial responses from January 17, 2020 through February 13, 2020.²⁷ The petitioners: (1) commented on Dongbu's section A response on February 7, 2020;²⁸ (2) filed factual information to rebut, clarify, or correct the information contained in Dongbu's sections B through D responses on March 6, 2020;²⁹ (3) commented on Dongbu's sections B and C

¹⁹ See Hyundai's Letter, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Hyundai Steel's Rebuttal Respondent Selection Comments," dated September 30, 2019.

²⁰ See TDA's Letter, "Certain Corrosion-Resistant Steel Products from the Republic of Korea, Case No. A-580-878: No Shipment letter," dated October 9, 2019.

²¹ See Stemcor's Letter, "Corrosion-Resistant Steel Products from Korea - Stemcor's Notice of No Circumventing Shipment during the Period of Review," dated October 9, 2019; *see also* Metal One's Letter, "Corrosion-Resistant Steel Products from Korea - Metal One's Notice of No Circumventing Shipment during the Period of Review," dated October 9, 2019.

²² See Commerce's Letter, "Corrosion-Resistant Steel from the Republic of Korea - Administrative Review," dated October 30, 2020.

²³ See Petitioners' Letter, "Corrosion-Resistant Steel Products from the Republic of Korea – Petitioners' Partial Withdrawal of Request for Review," dated December 6, 2019.

²⁴ See HSG's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea, A-580-878: Withdrawal of Review Request," dated December 9, 2019.

²⁵ See Memorandum, "Respondent Selection Memorandum for Administrative Review of Antidumping Duty Order on Certain Corrosion-Resistant Steel Products from the Republic of Korea; 2018-2019," dated December 10, 2019.

²⁶ See Commerce's Letter, "Antidumping Duty Questionnaire," dated December 12, 2019 (Initial Questionnaire).

²⁷ See Dongbu's Letter, "Certain Corrosion-Resistant Steel Products from Korea, 7/1/2018-6/30/2019 Administrative Review, Case No. A-580-878: Section A Initial Questionnaire Response," dated January 17, 2020 (Dongbu January 17, 2020 AQR); *see also* Dongbu's Letter, "Certain Corrosion-Resistant Steel Products from Korea, 7/1/2018-6/30/2019 Administrative Review, Case No. A-580-878: Sections B-C Initial Questionnaire Response," dated February 11, 2020 (Dongbu February 11, 2020 BCQR); and Dongbu's Letter, "Certain Corrosion-Resistant Steel Products from Korea, 7/1/2018-6/30/2019 Administrative Review, Case No. A-580-878: Section D Initial Questionnaire Response," dated February 13, 2020 (Dongbu February 13, 2020 DQR).

²⁸ See Petitioners' Letter, "Administrative Review of Corrosion-Resistant Steel Products from South Korea - Petitioner's Comments on Dongbu's Section A Response," dated February 7, 2020.

²⁹ See Petitioners' Letter, "Administrative Review of Corrosion-Resistant Steel Products from South Korea - Petitioners' Information to Rebut, Clarify, or Correct Information Contained in Dongbu's Section BCD Questionnaire Response," dated March 6, 2020.

responses on April 22, 2020;³⁰ and (4) commented on Dongbu's section D response on April 23, 2020.³¹

On June 12, 2020, we issued to Dongbu a supplemental questionnaire,³² to which Dongbu responded from July 6, 2020 through July 24, 2020.³³ On August 10, 2020, the petitioners commented on Dongbu's first supplemental responses.³⁴ On October 6, 2020, we issued to Dongbu a second supplemental questionnaire.³⁵ On October 13, 2020, Dongbu notified us that it had difficulty in responding to the first question of the second supplemental questionnaire.³⁶ We revised the question on October 16, 2020.³⁷ On October 20, 2020, Dongbu filed the second supplemental response.³⁸ On October 23, 2020, we issued to Dongbu the third supplemental questionnaire,³⁹ to which Dongbu responded on October 29, 2020.⁴⁰ On October 28, 2020, the petitioners filed pre-preliminary comments concerning Dongbu.⁴¹

From January 13, 2020 through July 23, 2020, Dongkuk filed responses to Commerce's questionnaires. Dongkuk filed its initial responses on January 13, 2020 and on February 7, 2020.⁴² The petitioners commented on Dongkuk's initial responses on February 24, 2020 and on

³⁰ See Petitioners' Letter, "Administrative Review of Corrosion-Resistant Steel Products from South Korea - Petitioners' Comments on Sections B and C Response of Dongbu Steel," dated April 22, 2020.

³¹ See Petitioners' Letter, "Administrative Review of Corrosion-Resistant Steel Products from South Korea - Petitioners' Comments on Section D Response of Dongbu Steel," dated April 23, 2020.

³² See Commerce's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea - Supplemental Questionnaire," dated June 12, 2020.

³³ See Dongbu's Letter, "Certain Corrosion-Resistant Steel Products from Korea, 7/1/2018-6/30/2019 Administrative Review, Case No. A-580-878: Supplemental Section A Questionnaire Response," dated July 6, 2020 (Dongbu July 6, 2020 SAQR); *see also* Dongbu's Letter, "Certain Corrosion-Resistant Steel Products from Korea, 7/1/2018-6/30/2019 Administrative Review, Case No. A-580-878: Supplemental Sections B-C Questionnaire Response," dated July 13, 2020 (Dongbu July 13, 2020 SBCQR); and Dongbu's Letter, "Certain Corrosion-Resistant Steel Products from Korea, 7/1/2018-6/30/2019 Administrative Review, Case No. A-580-878: Supplemental Section D Questionnaire Response," dated July 24, 2020 (Dongbu July 24, 2020 SDQR).

³⁴ See Petitioners' Letter, "Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Petitioners' Comments on Dongbu's Section B and C Questionnaire Response," dated August 10, 2020.

³⁵ See Commerce's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea - Second Supplemental Questionnaire," dated October 6, 2020.

³⁶ See Dongbu's Letter, "Corrosion-Resistant Steel Products from Korea, Case No. A-580-878: Notification of Difficulty in Responding to Questionnaire," dated October 13, 2020.

³⁷ See Commerce's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea - Revised Question One of the Second Supplemental Questionnaire," dated October 16, 2020.

³⁸ See Dongbu's Letter, "Certain Corrosion-Resistant Steel Products from Korea, 7/1/2018-6/30/2019 Administrative Review, Case No. A-580-878: Sections B-C Second Supplemental Questionnaire Response," dated October 20, 2020 (Dongbu October 20, 2020 2nd SQR).

³⁹ See Commerce's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea - Third Supplemental Questionnaire," dated October 23, 2020.

⁴⁰ See Dongbu's Letter, "Certain Corrosion-Resistant Steel Products from Korea, 7/1/2018- 6/30/2019 Administrative Review, Case No. A-580-878: Third Supplemental Questionnaire Response," dated October 29, 2020 (Dongbu October 29, 2020 3rd SQR).

⁴¹ See Petitioners' Letter, "2018/2019 Antidumping Duty Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea - Petitioners' Comments Regarding the Department's Upcoming Preliminary Results for Dongbu," dated October 28, 2020.

⁴² See Dongkuk's Letter, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Section A Questionnaire Response," dated January 13, 2020 (Dongkuk January 13, 2020 AQR); *see also* Dongkuk's Letter,

March 30, 2020.⁴³ On June 24, 2020, we issued to Dongkuk a supplemental questionnaire,⁴⁴ to which Dongkuk responded on July 22, 2020.⁴⁵ On September 17, 2020, the petitioners commented on Dongkuk's supplemental response.⁴⁶ On October 6, 2020, we issued to Dongkuk a second supplemental questionnaire,⁴⁷ to which Dongkuk responded on October 20, 2020.⁴⁸ On October 28, 2020, the petitioners filed pre-preliminary comments concerning Dongkuk.⁴⁹

Hyundai submitted timely responses to section A of the initial questionnaire on January 13, 2020,⁵⁰ and to the remaining sections of the initial questionnaire on February 11, 2020.⁵¹ In response to Commerce's supplemental questionnaires, Hyundai timely filed its supplemental questionnaire responses to sections A through E on May 27, 2020,⁵² and on August 12, 2020.⁵³

On December 23, 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.⁵⁴ On April 1, 2020, 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. In addition, Commerce preliminarily determined that formed parts neither meet the threshold for value added after importation, pursuant to 19 CFR 351.402(c), nor is the sales quantity at issue considered to be minor. In that

“Certain Corrosion-Resistant Steel Products from the Republic of Korea: Sections B-D Response,” dated February 7, 2020 (Dongkuk February 7, 2020 BCDQR).

⁴³ See Petitioners' Letter, “Third Administrative Review of on-Resistant Steel Products from the Republic of Korea Petitioners' Comments on the Section A Questionnaire Response of Dongkuk Steel Mill Co. Ltd.,” dated February 24, 2020; *see also* Petitioners' Letter, “Administrative Review of Certain Corrosion-Resistant Steel Products from the Republic of Korea-Petitioners' Comments on Dongkuk's Sections B through D Questionnaire Response,” dated March 30, 2020.

⁴⁴ See Commerce's Letter, “Corrosion-Resistant Steel Products from the Republic of Korea: First Supplemental Questionnaire,” dated June 24, 2020.

⁴⁵ See Dongkuk's Letter, “Certain Corrosion-Resistant Steel Products from the Republic of Korea: Response to the First Supplemental Questionnaire,” dated July 22, 2020 (Dongkuk July 22, 2020 ABCDSQR).

⁴⁶ See Petitioners' Letter, “Administrative Review of Certain Corrosion-Resistant Steel Products from the Republic of Korea - Petitioners' Comments Concerning Deficiencies in Dongkuk Steel Mill Company Limited's Questionnaire Responses,” dated August 10, 2020.

⁴⁷ See Commerce's Letter, “Corrosion-Resistant Steel Products from the Republic of Korea - Second Supplemental Questionnaire,” dated October 6, 2020.

⁴⁸ See Dongkuk's Letter, “Certain Corrosion-Resistant Steel Products from the Republic of Korea: Response to the Second Supplemental Questionnaire” dated October 20, 2020 (Dongkuk October 20, 2020 ABCDS2QR).

⁴⁹ See Petitioners' Letter, “Certain Corrosion-Resistant Steel Products from the Republic of Korea - Petitioners' Pre-Preliminary Comments Concerning Dongkuk Steel Mill Co., Ltd.,” dated October 28, 2020.

⁵⁰ See Hyundai's Letter, “Corrosion-Resistant Steel Products (CORE) from the Republic of Korea: Initial Section A Questionnaire Response,” dated January 13, 2020 (Hyundai January 13, 2020 AQR).

⁵¹ See Hyundai's Letter, “Corrosion-Resistant Steel Products (CORE) from the Republic of Korea: Initial Sections B-E Questionnaire Response,” dated February 11, 2020 (Hyundai February 11, 2020 BCDEQR).

⁵² See Hyundai's Letter, “Corrosion-Resistant Steel Products (CORE) from the Republic of Korea: Supplemental Sections A-C Questionnaire Response,” dated May 27, 2020 (Hyundai May 27, 2020 ABCSQR).

⁵³ See Hyundai's Letter, “Corrosion-Resistant Steel Products (CORE) from the Republic of Korea: Supplemental Sections C2, D, E and E2 Questionnaire Response,” dated August 12, 2020 (C2DEE2SQR).

⁵⁴ 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 December 23, 2019.

letter, Commerce further determined that the inclusion of formed parts in the overall quantity of CORE will have an impact on the overall margin calculations for Hyundai. Therefore, Commerce preliminarily exempted Hyundai from reporting U.S. sales of AS Parts and finished automobiles but did not exempt Hyundai from reporting its affiliate's sales of formed parts.⁵⁵ Accordingly, on May 15, 2020, Hyundai amended its sections C and E responses to include sales and further manufacturing information on formed parts in its sales data bases.⁵⁶

On March 23, 2020, we extended the deadline for the preliminary results of this review.⁵⁷ On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.⁵⁸ On July 21, 2020, Commerce tolled all deadlines for preliminary and final results in administrative reviews by an additional 60 days.⁵⁹ The deadline for the preliminary results of this review is now November 17, 2020.

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. PARTIAL RESCISSION OF ADMINISTRATIVE REVIEW

As noted above, the petitioners timely withdrew their requests for review of nineteen companies, and no other parties requested this review with respect to the following nineteen companies. As the petitioners' withdrawal requests were timely filed and no other party requested a review of those companies listed therein, we are rescinding this administrative review with respect to those companies, pursuant to 19 CFR 351.213(d)(1).

- | | | |
|----------------------------|-----------------------------------|-----------------------------|
| 1. Ajin H and S Co., Ltd. | 8. Korea CNC Co., Ltd. | 15. SeAH Steel |
| 2. Anjeon Tech Co., Ltd. | 9. Kima Steel Corporation Ltd. | 16. SeAH Coated Metal Corp. |
| 3. Benion Corp. | 10. Kyoungdo Steel Co., Ltd. | 17. Seun Steel |
| 4. Daeho P C Co., Ltd. | 11. Mitsubishi Corp. (Korea) Ltd. | 18. SK Networks Co., Ltd. |
| 5. GS Global Corp. | 12. Roser Co., Ltd. | 19. Young Steel Co., Ltd. |
| 6. Hanwa (Korea) Co., Ltd. | 13. Samsung Corp. | |
| 7. Hyosung Corporation | 14. Samsung C&T Corp. | |

⁵⁵ See Commerce's Letter re: "Hyundai Steel Company's Exclusion Request," dated April 1, 2020.

⁵⁶ See Hyundai's Letter, "Corrosion-Resistant Steel Products (CORE) from the Republic of Korea: Formed Parts Questionnaire Responses," dated May 15, 2020 (Hyundai May 15, 2020 FP-CEQR).

⁵⁷ See Memorandum, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated March 23, 2020.

⁵⁸ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

⁵⁹ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

V. NO SHIPMENT CLAIMS

The current due date for NSSVC, HSG, and TDA to respond to our October 30, 2020 questionnaire is November 23, 2020.⁶⁰ We will analyze their responses and make a determination in the final results.

VI. COMPANIES NOT SELECTED FOR INDIVIDUAL EXAMINATION

This review covers the following companies that were not selected for individual examination: POSCO and POSCO C&C.

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.

For these preliminary results, the individual weighted-average dumping margins calculated for two mandatory respondents, Dongbu and Dongkuk, are not zero, *de minimis*, or determined entirely on the basis of facts available, thus, the rate for companies that were not individually examined is a weighted-average margin of Dongbu's and Dongkuk's margins using each company's publicly-ranked values for the subject merchandise.⁶¹

VII. 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

⁶⁰ See Commerce's Letter, "Corrosion-Resistant Steel from the Republic of Korea - Administrative Review," dated October 30, 2020.

⁶¹ See All-Others Rate Calculation Memorandum.

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. Section 771(33) of the Act also states that, “[f]or 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.” “Person” is defined to include “any interested party as well as any other individual, enterprise, or entity, as appropriate.”⁶²

19 CFR 351.102(b)(3) 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 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.⁶³ 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.⁶⁴

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.

⁶² See 19 CFR 351.102(b)(37).

⁶³ 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).

⁶⁴ 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).

Not all of these criteria must be met in a particular case; the requirement is that Commerce determine that the affiliated companies are sufficiently related to create the potential of price or production manipulation.⁶⁵ As *Fresh Cut Flowers from Colombia* states:

“Because the Department calculates margins on a company-by-company basis, it must ensure that it reviews the entire producer or reseller, not merely part of it. The Department reviews the entire entity due to its concerns regarding price and cost manipulation. Because of this concern, the Department normally examines the question of whether reviewed companies ‘constitute separate manufacturers or exporters for purposes of the dumping law.’”⁶⁶

B. Dongbu Steel Co., Ltd. and Dongbu Incheon Steel Co., Ltd.

Affiliation

Dongbu Steel Co., Ltd. owns 100 percent of Dongbu Incheon Steel Co., Ltd.,⁶⁷ and this level of shareholding makes the two companies affiliated within the meaning of section 771(33)(E) of the Act. Thus, Commerce finds that Dongbu Steel Co., Ltd. and Dongbu Incheon Steel Co., Ltd. are affiliated.

Collapsing/Single Entity

As stated above, we find that Dongbu Steel Co., Ltd. and Dongbu Incheon Steel Co., Ltd. are affiliated.

Each of the two companies has a production facility producing the foreign like product and the subject merchandise.⁶⁸ Thus, 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.

As explained prior, the Dongbu Steel Co., Ltd. owns 100 percent of Dongbu Incheon Steel Co., Ltd. These two companies also share the same CEO and vice-president.⁶⁹ The overlapping management in addition to the ownership provide reason to believe that operations are intertwined because the operations of both companies are managed by the same CEO and vice-president. Because Dongbu Steel Co., Ltd. fully owns Dongbu Incheon Steel Co., Ltd. and the affiliated companies are sufficiently related, we preliminarily find that there is a significant potential for manipulation of price or production.

⁶⁵ See *Certain Welded Carbon Standard Steel Pipes and Tubes from India; Final Results of New Shippers Antidumping Duty Administration Review*, 62 FR 47632, 47638 (September 10, 1997).

⁶⁶ See *Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Duty Administrative Reviews*, 61 FR 42833, 42853 (August 19, 1996) (*Fresh Cut Flowers from Colombia*), citing *Final Determination of Sales at Less than Fair Value; Certain Granite Products from Spain*, 53 FR 24335, 24337 (June 28, 1988) (*Granite Products from Spain*).

⁶⁷ See Dongbu January 17, 2020 AQR at A-6.

⁶⁸ *Id.* at A-5.

⁶⁹ *Id.* at A-9 fn. 4.

As the record shows that these two affiliated 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 that there is a significant potential for manipulation of price or production, in accordance with 19 CFR 351.401(f), we preliminarily find there is a basis to treat Dongbu Steel Co., Ltd. and Dongbu Incheon Steel Co., Ltd as a single entity (*i.e.*, Dongbu) for antidumping purposes.

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 Dongbu's, 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.⁷⁰ 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(f), 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.⁷¹

Neither Dongbu, Dongkuk, nor Hyundai reported sales of non-prime subject merchandise, while all sold non-prime foreign like product.⁷² In addition, Dongkuk had sales of overruns in the home market.⁷³ Further, Dongbu reported that its product coding system does not have a

⁷⁰ See 19 CFR 351.414(b)(3)(e).

⁷¹ See Initial Questionnaire at B-8-14 and C-7-13.

⁷² See Dongbu February 11, 2020 BCQR at B-12, C-8, and C-9; Hyundai February 11, 2020 BCDEQR at B-11, C-30, and Hyundai May 27, 2020 ABCSQR at S-19-21; Dongkuk February 7, 2020 BCDQR at B-12 and at C-9.

⁷³ See Dongkuk February 7, 2020 BCDQR at B-11.

separate designator for overrun sales.⁷⁴ Dongkuk reported that products of normal quality that do not satisfy a customer's requirement specification are graded "2." Grade "3" products are considered defective but can be used as coil form, and Grade "4" products are considered defected and cannot be used as coil form but as sheet form.⁷⁵ Hyundai reported that in cases where the production exceeded the original order, and this overproduction was not sold through typical sales channels for prime merchandise, 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. Grade "3" are products that also, but more significantly, did not meet the original order's specification, and are sold for other applications.⁷⁶ Once the product is downgraded to Grade "2," Hyundai is unable to distinguish between different Grade "2" classifications.⁷⁷

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.⁷⁸

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.⁷⁹ 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.

⁷⁴ See Dongbu February 11, 2020 BCQR at B-12.

⁷⁵ See Dongkuk February 7, 2020 BCDQR at Appendix B-7.

⁷⁶ See Hyundai February 11, 2020 BCDEQR at B-11.

⁷⁷ See Hyundai May 27, 2020 ABCSQR at S-20.

⁷⁸ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews*; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 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).

⁷⁹ 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).

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 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

Dongbu

For Dongbu, based on the results of the differential pricing analysis, Commerce preliminarily finds that 82.25 percent of the value of U.S. sales pass the Cohen's *d* test,⁸⁰ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the average-to-average method cannot account for such differences because 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 all U.S. sales. Thus, for this preliminary determination, Commerce is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Dongbu.

⁸⁰ See Memorandum, "Calculation Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Corrosion-Resistant Steel Products from the Republic of Korea; 2018-2019," dated concurrently with this memorandum (Dongbu Preliminary Calculation Memorandum).

Dongkuk

For Dongkuk, based on the results of the differential pricing analysis, Commerce preliminarily finds that 66.7 percent of the value of U.S. sales pass the Cohen's *d* test,⁸¹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the average-to-average method cannot account for such differences because 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 all U.S. sales. Thus, for this preliminary determination, Commerce is applying the average-to-transaction method to 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 39.82 percent of the value of U.S. sales pass the Cohen's *d* test,⁸² 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 Hyundai.

IX. DATE OF SALE

19 CFR 351.401(i) 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. The regulation provides that we may use a date other 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.⁸³ 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, and Commerce will use the shipment date as the date of sale.⁸⁴

⁸¹ See Memorandum, "Calculation Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Corrosion-Resistant Steel Products from the Republic of Korea; 2018-2019," dated concurrently with this memorandum (Dongkuk Preliminary Calculation Memorandum).

⁸² See Memorandum, "Antidumping Duty Administrative Review of Corrosion-Resistant Steel Products from the Republic of Korea: Preliminary Margin Calculation for Hyundai Steel Company," dated November 17, 2020 (Hyundai Preliminary Calculation Memorandum).

⁸³ See 19 CFR 351.401(i).

⁸⁴ See e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying IDM at Comment 10; 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 IDM at Comment 2.

Dongbu

For home market sales, Dongbu defined the date of sale as the earlier of the shipment date from factory or warehouse or its invoice date.⁸⁵ For U.S. CEP sales, Dongbu defined the date of sale as the earlier of the shipment date from Korea (*i.e.*, the date of bill of lading) or Dongbu USA's invoice date.⁸⁶ Our review of the record shows that the shipment date from factory or warehouse precedes the invoice date of home market sales,⁸⁷ and that the date of bill of lading precedes Dongbu USA's invoice date.⁸⁸ Therefore, pursuant to 19 CFR 351.401(i), we are using the reported date of sale.

Dongkuk

For both home market and U.S. sales, Dongkuk defined the date of sale as the date of shipment from its Busan factory or warehouse (inventory out).⁸⁹ Our review of the record shows that the shipment date (inventory out) is the same as the invoice date for home market sales, and that the shipment date precedes the invoice date for U.S. sales.⁹⁰ Therefore, pursuant to 19 CFR 351.401(i), we are using shipment date (inventory out) 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 quantity and price 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.⁹¹ 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, Hyundai reports the earlier of shipment date to the customer or the invoice date. Hyundai further reports that for its EP sales it uses the date the subject merchandise leaves Hyundai's facility, whereas for its CEP sales through its affiliate, Hyundai Steel America Inc. (HSA), Hyundai reported the date of shipment the subject merchandise leaves HAS's facility.⁹² 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

⁸⁵ See Dongbu February 11, 2020 BCQR at B-41; and Dongbu January 17, 2020 AQR at A-16.

⁸⁶ See Dongbu February 11, 2020 BCQR at C-18 and C-19; and Dongbu January 17, 2020 AQR at A-17.

⁸⁷ See Dongbu January 17, 2020 AQR at A-18.

⁸⁸ *Id.* at A-20.

⁸⁹ See Dongkuk January 13, 2020 AQR at A-25.

⁹⁰ See Dongkuk February 7, 2020 BCDQR at C-20.

⁹¹ See Hyundai January 13, 2020 AQR at A-28-29; and Hyundai February 11, 2020 BCDEQR at B-5-6 and B-22.

⁹² See Hyundai January 13, 2020 AQR at A-29; and Hyundai February 11, 2020 BCDEQR at C-30-31.

issued by that affiliated processor as the date of sale.⁹³ 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 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 CEP for Dongbu, and on EP and CEP for Dongkuk and Hyundai.

Dongbu

Dongbu reported all U.S. sales were CEP sales.⁹⁴ We calculated CEP in accordance with section 772(b) of the Act, because the subject merchandise was sold by Dongbu’s U.S. affiliate, Dongbu USA, to unaffiliated purchasers in the United States.⁹⁵ 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.⁹⁶

Pursuant to section 772(c)(1)(C) of the Act, we are preliminarily adjusting Dongbu’s U.S. price for export subsidy, Korea Development Bank (KDB) and Industrial Base Fund (IBF) Short-Term Discounted Loans for Export Receivables, using Dongbu’s export subsidies rate (*i.e.*, 0.03%) from the concurrent countervailing duty (CVD) administrative review, in which Dongbu is a mandatory respondent.

Dongkuk

Dongkuk reported that it made EP and CEP sales.⁹⁷

⁹³ See Hyundai May 15, 2020 FP CEQR at C2-24-25.

⁹⁴ See Dongbu January 17, 2020 AQR at A-15.

⁹⁵ *Id.* at A-14.

⁹⁶ See Dongbu Preliminary Calculation Memorandum.

⁹⁷ See Dongkuk January 13, 2020 AQR at A21, A-22 and A-28.

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.⁹⁸ In accordance with section 772(c) of the Act, we made adjustments, where appropriate, for price adjustment, discount, Korean movement expenses (*e.g.*, Korean warehousing expenses, Korean inland freight, Korean brokerage and handling), international and U.S. movement expenses (*e.g.*, international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight, U.S. warehousing, and U.S. duties).⁹⁹

We calculated CEP in accordance with section 772(b) of the Act because the subject merchandise was sold in the United States by its affiliate (*e.g.*, Dongkuk International Inc. (DKA)), to unaffiliated purchasers in the United States.¹⁰⁰ In accordance with section 772(c) and (d) of the Act, we made adjustments, where appropriate, for price adjustment, discount, Korean movement expenses (*e.g.*, Korean warehousing expenses, Korean inland freight, Korean brokerage and handling), international and U.S. movement expenses (*e.g.*, international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight, U.S. warehousing, and U.S. duties), and direct and indirect selling expenses associated with economic activities occurring in the United States (*e.g.*, 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.¹⁰¹

Hyundai

Hyundai reported that it made EP and CEP sales to the United States through two channels of distribution.¹⁰² In accordance with section 772(a) of the Act, where the subject merchandise was sold prior to importation by the exporter or producer outside the United States to unaffiliated purchasers in the United States,¹⁰³ we based EP on a packed price to the first unaffiliated customer. We made adjustments, where appropriate, in accordance with section 772(c) of the Act. We made deductions for movement expenses, which included foreign inland freight from plant to port of exportation, foreign brokerage and handling, and international freight.¹⁰⁴

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 or through its affiliated reseller/processor HSA, and that HSA sold the subject merchandise both in coil form and as further manufactured product.¹⁰⁵ In addition, HSA sold further manufactured product to

⁹⁸ *Id.* at A-22.

⁹⁹ See Dongkuk Preliminary Calculation Memorandum.

¹⁰⁰ See Dongkuk January 13, 2020 AQR at A-21.

¹⁰¹ See Dongkuk Preliminary Calculation Memorandum.

¹⁰² See Hyundai January 13, 2020 AQR at 20-21 and Exhibits A-11(1)-(6).

¹⁰³ *Id.*

¹⁰⁴ See Hyundai February 11, 2020 BCDEQR at C-38-48.

¹⁰⁵ See Hyundai January 13, 2020 AQR at A-13 and A-29-31.

affiliated processors/manufacturers that further manufactured and sold the product to the first unaffiliated customer in the United States.¹⁰⁶

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.*, inland freight from plant to distribution warehouse, warehousing expense, freight from plant/warehouse to port of exportation, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight from port to warehouse, U.S. warehousing expenses, and U.S. freight from warehouse to the unaffiliated customer and U.S. transportation expenses from HSA's plant to its warehouse), in accordance with section 772(c)(2)(A) of the Act.¹⁰⁷

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 warranty expenses) and indirect selling expenses (U.S. inventory carrying costs).¹⁰⁸ 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.¹⁰⁹

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 all respondents, in accordance with section 773(a)(1)(B) of the Act.

¹⁰⁶ *Id.*

¹⁰⁷ See Hyundai February 11, 2020 BCDEQR at 38-50.

¹⁰⁸ *Id.* at 35 and C-54-62.

¹⁰⁹ See Hyundai February 11, 2020 BCDEQR at 35 and C-63-64.

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.¹¹⁰ 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,¹¹¹ and the starting price as adjusted under section 772(d) of the Act for CEP sales.¹¹²

When Commerce is unable to match 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.¹¹³

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. Our LOT findings are summarized below.

Dongbu

Dongbu made home market sales through three channels of distribution,¹¹⁴ and performed the same four selling functions at the same level of intensity in all channels: sales support, training services, logistical services, and sales related administrative activities.¹¹⁵ Because Dongbu performed the same selling functions at the same level of intensity for all home market sales, we determine that all home market sales are at the same LOT.

¹¹⁰ 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.

¹¹¹ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

¹¹² See *Micron Tech., Inc. v. United States*, 243 F. 3d 1301, 1314-16 (Fed. Cir. 2001).

¹¹³ See *OJ Brazil* IDM at Comment 7.

¹¹⁴ See Dongbu January 17, 2020 AQR at A-13.

¹¹⁵ *Id.* at Exhibit A-8.

Dongbu made U.S. sales (*i.e.*, CEP sales) through a sole channel of distribution,¹¹⁶ and performed three selling functions to Dongbu USA: training services, logistical services, and sales-related administrative activities.¹¹⁷ Because Dongbu performed the same selling functions at same level of intensity for all of its U.S. sales, we determine that all U.S. sales are at the same LOT.

Dongbu performed the following selling activities for home market sales only: (1) provision of sales support including sales forecasting, strategic/economic planning, sales promotion, sales/marketing support, and market research; (2) customer negotiation/contract under provision of logistic support; (3) rebates, cash discounts, and receipt of payment from customers under the provision of performance of sales related administrative activities.¹¹⁸ However, as question 3a(iv) in our questionnaire stated, rebates and cash discounts should not be included in this analysis because they are billing adjustments reported directly in the home market sales database.¹¹⁹

The level of intensity reported in the Selling Function chart apparently represents how often Dongbu performed each of the specific activities,¹²⁰ while the Initial Questionnaire instructs respondents to report level of intensity that represents selling expenses.¹²¹

In response to question 3a(ii), Dongbu provided no documentation demonstrating that it performed activities listed in the Selling Function chart.¹²² In response to question 3a(iv), Dongbu provided no quantitative analysis to show how the expenses assigned to home market sales and CEP sales impact price comparability.¹²³ In response to question 3a(v), Dongbu did not demonstrate how indirect selling expenses vary by the home market LOT and CEP LOT.¹²⁴

As the record provides (1) no supporting documentation to demonstrate that the claimed selling activities were performed; and (2) no analysis to demonstrate how the indirect selling expenses vary by the home market LOT and CEP LOT, we preliminarily find no basis to determine that home market sales are at a more advanced LOT than the LOT of the CEP sales. Thus, in accordance with 19 CFR 351.412(f), a CEP offset is not warranted.

¹¹⁶ *Id.* at A-14.

¹¹⁷ *Id.* at Exhibit A-8.

¹¹⁸ *Id.* at Exhibit A-8.

¹¹⁹ See Initial Questionnaire at A-8 and B-29.

¹²⁰ *Id.* at A-16.

¹²¹ The instruction is to “report level of intensity information using a scale of zero to ten in which five represents a sale with average associated selling expenses, and level of intensity information is reported in relation to this baseline of five.” See Initial Questionnaire at A-15 Selling Functions by Category.

¹²² See Dongbu January 17, 2020 AQR at A-13 to A-14.

¹²³ *Id.* at A-15.

¹²⁴ *Id.*

Dongkuk

Dongkuk made home market sales through two channels of distribution until May 2019 and through one channel of distribution afterwards.¹²⁵ The selling function chart shows that it performed five selling functions: sales support, training services, technical support, logistical services, and sales related administrative activities at the same level of intensity.¹²⁶ Because Dongkuk performed the same selling functions at the same level of intensity in the channel of distribution, we determine that all home market sales are at the same LOT.

Dongkuk made U.S. sales through two channels of distribution: EP sales (channel (1) and CEP sales (channel 2)).¹²⁷ In connection with those sales, the selling function chart shows that Dongkuk performed three selling functions: technical support, logistical services, and sales related administrative activities at a similar level of intensity.¹²⁸ 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.

We compared the selling activities at the U.S. LOT with the selling activities at the home market LOT and found that level of trade in the U.S. and home markets were apparently dissimilar. The selling function chart and supporting documentation shows 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 at a 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.¹²⁹

In addition to the selling function chart, Dongkuk (1) provided supporting documentation for 37 claimed activities and cited to the record for the remaining two 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 CEP sales.¹³⁰

Dongkuk's quantitative analysis compares home market indirect selling expenses ratio for home market sales (INDIRSH ratio) with that for U.S. sales (DINDIRSU ratio), and shows that the INDIRSH ratio is substantially higher, which indicates a higher level of intensity in the home market LOT.¹³¹

In that analysis, the indirect selling expenses were allocated to the home market and export market based on the actual indirect labor expenses (*e.g.*, wages, salaries, bonus).¹³² The export market indirect selling expense was further allocated to the U.S. market based on the number of

¹²⁵ See Dongkuk January 13, 2020 AQR at A-21 and Appendix A-16.

¹²⁶ *Id.* at A-27 and Appendix A-17; *see also* Dongkuk BCDSQR at 5 and Appendix S-8.

¹²⁷ See Dongkuk January 13, 2020 AQR at A-21 and Appendix A-16.

¹²⁸ See Dongkuk January 13, 2020 AQR at Appendix A-17; *see also* Dongkuk SQR at Appendix S-8.

¹²⁹ See Dongkuk January 13, 2020 AQR at Appendix A-17; *see also* Dongkuk BCDSQR at 5 and Appendix S-8.

¹³⁰ See Dongkuk January 13, 2020 AQR at A-21 to A-25, and Appendix A-17.

¹³¹ *Id.* at Appendix A-17 page 2.

¹³² *Id.* at Appendix A-17 page 3.

export orders.¹³³ Such method allocated less indirect selling expense from the export market to the U.S. market when compared to an allocation based on sales value.¹³⁴ As a result, the indirect selling expense as a percentage of sales value for the U.S. market is lower than the average of such percentage for the export market.¹³⁵

No record evidence demonstrates that (1) the number of orders is better than the sales values for indicating the level of intensity; and (2) the selling activity for the U.S. market is less intense than the average of that for the export market.

As the base for allocating the indirect selling expenses, the actual indirect labor expenses as a percentage of sales value indicates no difference between the home market and export market.¹³⁶ The finding is the same when the export market indirect selling expenses are allocated to U.S. market based on U.S. sales value as a percentage of export sales value.¹³⁷ Consequently, we found no quantitative analysis to support the claimed substantial difference in the level of intensity between the home market sales and U.S. sales. Therefore, we preliminarily found that a CEP offset is not warranted.

Hyundai

In the home market, Hyundai reported that it made sales through one channel of distribution to affiliated and unaffiliated customers, with the shipment occurring from the factory or from an offsite warehouse.¹³⁸ Hyundai's customer categories in the home market encompass distributors and end-users.¹³⁹ Selling activities can be generally grouped into five selling function categories for analysis, specifically, provision of: (1) sales support; (2) training services; (3) technical support; (4) logistical services; and (5) performance of sales related administrative activities. Based on Hyundai's selling functions chart, we find that Hyundai performed all five selling activities for all home market sales. In its reporting for both markets (domestic and United States), Hyundai determined any level of intensity on the basis of the number of sales personnel involved in a given activity.¹⁴⁰ Of those five selling functions, sales support, training services, logistical services, and performance of sales related administrative activities were performed at the same or at a similarly high level of intensity. However, within the selling function categories, Hyundai performed certain sub-categories at a very high intensity level whereas it performed certain other sub-categories at a low level or not all. For example, under logistical services, Hyundai reported the sub-categories inventory maintenance and freight and delivery arrangements performed at high levels of intensity, whereas the level of intensity for post-sale

¹³³ See Dongkuk February 7, 2020 BCDQR at Appendix C-27 page 1; *see also* Dongkuk October 20, 2020 ABCDS2QR at Appendix SS-7 at page 5.

¹³⁴ See Dongkuk Preliminary Calculation Memorandum.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ See Hyundai January 13, 2020 AQR at A-22; and Hyundai February 11, 2020 BCDEQR at B-21.

¹³⁹ See Hyundai February 11, 2020 BCDEQR at B-21.

¹⁴⁰ See Hyundai January 13, 2020 AQR at A-22-27 and Exhibits A-13(1) and A-13(3).

warehousing and repacking was very low or non-existent.¹⁴¹ The remaining selling function category, technical support, Hyundai performed at a very low level of intensity.¹⁴²

Based on these selling function categories, we find that Hyundai performed all selling function categories, as above, for its reported sales to affiliated and unaffiliated customers in the home market, whether end-user or distributor. 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 three channels of distribution: EP sales to U.S. unaffiliated trading companies (Channel 1), and CEP sales through its HSA to unaffiliated end-users (Channel 2). In addition, Hyundai reported CEP sales through HSA to intermediate affiliated processors to unaffiliated parties for subject merchandise further manufactured, including into formed parts (Formed Parts).¹⁴³ Hyundai states that the sales process up to HSA is essentially the same as for Channel 2, and did not identify these sales as a different Channel.¹⁴⁴

With respect to the U.S. LOT for Channel 1 and Channel 2 sales, as well as Formed Parts (EP sales to unaffiliated trading companies and CEP sales to HSA, respectively), Hyundai reported that it performed the following selling functions categories for its sales to the United States: (1) sales support; (2) training services; (3) technical support; (4) logistical services; and (5) performance of sales related administrative activities.¹⁴⁵

Based on Hyundai's selling functions chart, we find that Hyundai performed all five selling activities for all sales in Channel 1. For Channel 2 and Formed Parts Hyundai performed four of the five selling function categories. That is, it did not perform the technical support function (specifically, engineering services/technical assistance), which was performed at a low intensity in Channel 1.¹⁴⁶ Of the other four selling function categories, sales support, training services, logistical services, and performance of sales related administrative activities, were performed at the same level of intensity, with the exception of one sub-category of selling function category (5), *i.e.*, warranty services, which was not performed at all for Channel 2 and Formed Parts.¹⁴⁷

According to 19 CFR 351.412(c)(2), Commerce will determine that sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing. Although Hyundai reports differences in the performance of certain selling functions performed in U.S. Channel 1 (EP sales), *i.e.*, engineering services/technical assistance and provision of warranty service at low intensity, but not in Channel 2 (CEP sales) and Formed Parts (CEP sales), we do not find that these differences are significant enough to warrant finding that those U.S. sales channels constitute different LOTs.

¹⁴¹ See Hyundai January 13, 2020 AQR at Exhibit A-13(2).

¹⁴² See Hyundai January 13, 2020 AQR at Exhibit A-13(2).

¹⁴³ See Hyundai January 13, 2020 AQR at A-21, A-25 and Exhibits A-11(3)-A-11(5).

¹⁴⁴ See Hyundai January 13, 2020 AQR at A-30 and Exhibit A-13(2).

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

Because we determine that substantial differences in Hyundai's selling activities do not exist between the U.S. channels of distribution (Channel 1, Channel 2, and Formed Parts), we determine that Hyundai's sales in the U.S. market during the POR were made at one LOT.

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 nine out of ten EP (Channel 1) and eight out of ten CEP (Channel 2 and Formed Parts) selling functions (sub-categories) for its U.S. sales compared to its home market sales. The one selling function that Hyundai performs in the home market only is post-sale warehousing. One selling function, the provision of warranty services, Hyundai provides in the home market and in U.S. sales Channel 1 at the same very low intensity, but not in Channel 2 and Formed Parts. However, of the selling functions Hyundai performs in both, the home market and the United States, three are performed at the same level of intensity in the U.S. and home market LOTs. The remainder of the ten selling functions performed by Hyundai in both the home market and the U.S. States, vary in intensity such that the overall difference in intensity of the selling functions performed 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 are unable to calculate a 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. Moreover, because the U.S. LOT did not exist in the home market, there is no basis for calculating an adjustment for the LOT in the U.S. market. 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,¹⁴⁸ 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.¹⁴⁹ Consequently, we conducted the arm's-length

¹⁴⁸ 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).

¹⁴⁹ See Dongbu January 17, 2020 AQR at A-2; Dongkuk February 7, 2020 BCDQR at B-2; and Hyundai February 11, 2020 BCDEQR at B-20 and Exhibit B-5.

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.¹⁵⁰

D. Overrun Sales

Section 773(a)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act), states, in part, that normal value (NV) is “the price at which the foreign like product is first sold (or, in absence of a sale, offered for sale) for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade....” The term “ordinary course of trade” is defined as “the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind.”¹⁵¹ The Statement of Administrative Action which accompanied the passage of the Uruguay Round Agreements Act of 1995 clarifies this portion of the statute when it states, “Commerce may consider other types of sales or transactions to be outside the ordinary course of trade when such sales or transactions have characteristics that are not ordinary as compared to sales or transactions generally made in the same market.”¹⁵² Thus, the statute and the SAA are clear that a determination of whether sales (other than those specifically addressed in section 771(15) of the Act) are in the ordinary course of trade must be based on an analysis comparing the sales in question with sales of merchandise of the same class or kind generally made in the home market. In other words, Commerce must consider whether home market sales of overruns are ordinary in comparison with home market sales of non-overruns.

The purpose of the ordinary-course-of-trade provision “is to prevent dumping margins from being based on sales which are not representative” of the home market.¹⁵³ By basing the determination of NV upon representative sales, the statutory provision ensures that the comparison between NV and sales to the United States is done on an “apples-to-apples” basis.¹⁵⁴ Congress has not specified any criteria that the agency should use in determining the appropriate “conditions and practices.” Thus, Commerce, “in its discretion, chooses how best to analyze the many factors involved in a determination of whether sales are made within the ordinary course of trade.”¹⁵⁵

In evaluating whether sales of overruns are outside the ordinary course of trade, Commerce has considered several factors in past cases. These non-dispositive factors include, but are not limited to, the following: (1) whether the merchandise is “off-quality” or produced according to unusual specifications; (2) the comparative volume of sales and the number of buyers in the

¹⁵⁰ See section 771(15) of the Act and 19 CFR 351.102(b); see also *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1365 (CIT 2003), *aff’d*, 306 F. Supp. 2d 1291 (CIT 2004).

¹⁵¹ See section 771(15) of the Act.

¹⁵² See Uruguay Round Agreements Act Statement of Administrative Action, attached to H.R. Rep. No. 103-316 vol. I at 834 (1994), reprinted in 1994 U.S.C.C.A.N. 3773, 4163 (SAA).

¹⁵³ See *Monsanto Co. v. United States*, 698 F. Supp. 275, 278 (CIT 1988).

¹⁵⁴ *Id.*

¹⁵⁵ See *Laclede Steel Co. v. United States*, 19 CIT 1076, 1078 (1995).

home market; (3) the average quantity of the overrun and commercial sales; (4) the price and profit differentials in the home market.¹⁵⁶

Dongkuk reported that its overrun sales are surplus production that is left over from production for export orders.¹⁵⁷ Our analysis shows that overrun sales have four out of four characteristics that are not ordinary when compared to non-overrun sales. Thus, we find that Dongkuk's home market sales of overruns were made outside the ordinary course of trade during the POR and window period.¹⁵⁸

E. 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 COP of the product.¹⁵⁹

Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated cost of production (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 Dongbu, except the interest expenses, for which we excluded gain on liability adjustment, which is a difference between book value and fair market value of financial liabilities recognized as a gain on the financial statement according to Korean IFRS,¹⁶⁰ because no evidence indicates these liabilities are the short-term investments of its working capital.¹⁶¹

We relied on the data submitted by Dongkuk except the following:¹⁶²

- We reclassified coating material codes 062 and 067 to the standard codes 060 and 065, because the initial questionnaire instructed not to use new codes in control numbers;
- We adjusted G&A expenses to include two items excluded by Dongkuk, who argued those two items were related to non-subject merchandise. Commerce's practice is to include expenses that relate to a company's operation as a whole.

¹⁵⁶ See *China Steel Corp. v. United States*, 264 F. Supp. 2d. 1339, 1364-65 (CIT 2003); see also *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 70 FR 67428, 67430 (November 7, 2005), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 71 FR 13080 (March 14, 2006).

¹⁵⁷ See Dongkuk February 7, 2020 BCDQR at B-11.

¹⁵⁸ See Dongkuk Preliminary Calculation Memorandum.

¹⁵⁹ See Dongbu February 11, 2020 BCQR; Dongkuk February 7, 2020 BCDQR; Dongkuk July 22, 2020 ABCDSQR; Dongkuk October 20, 2020 ABCDS2QR; Hyundai February 11, 2020 BCDEQR; and Hyundai August 12, 2020 C2DEE2SQR.

¹⁶⁰ See Dongkuk July 24, 2020 supplemental section D response at 21 and Exhibit D-41.

¹⁶¹ See Dongbu Preliminary Calculation Memorandum.

¹⁶² See Dongkuk Preliminary Calculation Memorandum.

We relied on Hyundai's reported cost data, except for some adjustments to affiliated inputs. As in prior reviews, Commerce determined that Hyundai's affiliated inputs and services, as listed in Exhibit D-4, do not constitute major inputs falling within the meaning of section 773(f)(3) of the Act.¹⁶⁵ In determining whether an input is "major" in accordance with section 773(f)(3) of the Act, among other factors, we normally consider both the percentage of an individual input purchased from affiliated parties and the percentage each individual input represents in relation to the product's total cost of manufacturing.¹⁶⁶ In the current review we looked at the percentage of inputs Hyundai received from affiliated parties and the percentage of those input costs to each company's total cost of manufacturing. Based on our analysis of all the information on the record, we continue to determine that inputs purchased by Hyundai from affiliates are not significant in relation to the total costs incurred to produce subject merchandise and accordingly, are not major inputs in accordance with section 773(f)(3) of the Act.

Accordingly, 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 one input, 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.¹⁶⁷ Therefore, we have adjusted Hyundai's purchases of steel scrap from affiliates to reflect a market price. Further, for select other minor inputs, for which Hyundai provided an estimated cost of production (COP) based on the affiliates' income statement in lieu of a market price, we will be issuing a supplemental questionnaire to obtain further information about their arms-length nature after these preliminary results.¹⁶⁸

¹⁶³ See Section 773(f)(1)(A) of the Act; see also *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), IDM at Comment 9.

¹⁶⁴ See Dongkuk's Preliminary Calculation Memorandum.

¹⁶⁵ See Hyundai February 11, 2020 BCDEQR at Exhibit D-4.

¹⁶⁶ See *Final Results of the Fifth Administrative Review of the Antidumping Duty Order on Stainless Steel Plate in Coils (SSPC) from Belgium*, 70 FR 72789 (December 7, 2005) (*SSPC from Belgium*), and accompanying IDM at Comment 1; *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Ecuador*, 69 FR 76913 (December 23, 2004), and accompanying IDM at Comment 28.

¹⁶⁷ See Hyundai's Preliminary Calculation Memorandum at Attachment III.

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.¹⁶⁹

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.¹⁷⁰

¹⁶⁸ *Id.*

¹⁶⁹ See Dongbu's Preliminary Calculation Memorandum; Dongkuk's Preliminary Calculation Memorandum; and Hyundai's Preliminary Calculation Memorandum.

¹⁷⁰ *Id.*

F. 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, *e.g.*, inland freight, and for certain direct selling expenses, *e.g.*, credit expenses, pursuant to section 773(a)(6)(B)(ii) of the Act.¹⁷¹

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.

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.¹⁷²

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>.

XIII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒

☐

Agree

Disagree

11/17/2020

X



—Signed by: JEFFREY KESSLER—

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

¹⁷¹ *Id.*

¹⁷² *Id.*

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.