



A-580-880

Administrative Review

POR: 9/1/2018 – 8/31/2019

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January 15, 2021

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

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

**SUBJECT:** Decision Memorandum for the Preliminary Results of the 2018-2019 Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea

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## I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on heavy walled rectangular welded carbon steel pipes and tubes (HWR) from the Republic of Korea (Korea). The period of review (POR) is September 1, 2018 through August 31, 2019. The review covers three producers and/or exporters of the subject merchandise. Commerce selected two respondents for individual examination, Dong-A Steel Co., Ltd. (Dong-A Steel),<sup>1</sup> and HiSteel Co., Ltd. (HiSteel). We preliminarily determine that sales of the subject merchandise have not been made at prices less than normal value (NV).

## II. BACKGROUND

In September 2016, Commerce published in the *Federal Register* an AD order on HWR from Korea.<sup>2</sup> Subsequently, on September 3, 2019, Commerce published in the *Federal Register* a

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<sup>1</sup> We subsequently preliminarily determined that it was appropriate to collapse Dong-A Steel with its affiliated producer SeAH Steel Corporation (collectively, DOSCO) and treat these companies as a single entity, in accordance with 19 CFR 351.401(f). See Memorandum, “Whether to Collapse Dong-A Steel Co., Ltd., and Its Affiliates, SeAH Steel Corporation and SeAH L&S in the 2018-2019 Antidumping Duty Administrative Review of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea,” dated concurrently with this memorandum (DOSCO Collapsing Memorandum).

<sup>2</sup> See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey: Antidumping Duty Orders*, 81 FR 62865, 62866 (September 13, 2016).



notice of opportunity to request an administrative review of the AD order on HWR from Korea for the period September 1, 2018 through August 31, 2019.<sup>3</sup>

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), in September 2019, Commerce received a request to conduct an administrative review of the AD order on HWR from Korea from the petitioner<sup>4</sup> for 22 Korea producers/exporters. Commerce also received a requests to conduct an administrative review from DOSCO; HiSteel; and Kukje Steel Co., Ltd. (Kukje Steel). On November 12, 2019, based on these timely requests, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the AD order on HWR from Korea<sup>5</sup>

In the *Initiation Notice*, Commerce indicated that, in the event that we limited the respondents selected for individual examination in accordance with section 777A(c)(2) of the Act, we would select mandatory respondents for individual examination based upon U.S. Customs and Border Protection (CBP) entry data.<sup>6</sup> In December 2019, we selected DOSCO and HiSteel as mandatory respondents.<sup>7</sup> Accordingly, we issued the AD questionnaire to these companies.

In January 2020, we received timely responses from DOSCO and HiSteel to section A (*i.e.*, the section relating to general information) of the questionnaire, as well as to the remaining sections of the questionnaire (*i.e.*, sections B, C, and D, the sections covering comparison market sales, U.S. sales, and cost of production (COP)/constructed value (CV), respectively). From March 2020 through December 2020, we issued supplemental sections A through D questionnaires to DOSCO and HiSteel. We received responses to these supplemental questionnaires through January 2021.

In March, we received a timely submission withdrawing all review requests for 19 companies, and we rescinded the review with respect to these companies.<sup>8</sup> Also in March 2020, the petitioner submitted an allegation and supporting factual information that a particular market situation (PMS) exists in Korea.<sup>9</sup> Also in March 2020, Commerce established a deadline for the

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<sup>3</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 45949 (September 3, 2019).

<sup>4</sup> The petitioner is Nucor Tubular Products Inc., formerly known as Independence Tube Corporation and Southland Tube, Incorporated, Nucor companies.

<sup>5</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 61011 (November 12, 2019) (*Initiation Notice*).

<sup>6</sup> See *Initiation Notice*, 84 FR at 61011.

<sup>7</sup> See Memorandum, “Heavy Walled rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Selection of Respondents for Individual Review,” dated December 3, 2019.

<sup>8</sup> See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Rescission of Antidumping Duty Administrative Review; 2018-2019, in Part*, 85 FR 16060 (March 20, 2020). We noted at that time that the listed companies may still be subject to this administrative review if we found them to be an affiliate of any of the mandatory respondents in this review. *Id.* at 16061 n.4. See also DOSCO Collapsing Memorandum at 2 n.7.

<sup>9</sup> See Petitioner’s Letter, “Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Particular Market Situation Allegation and Supporting Information,” dated March 5, 2020 (Petitioner’s PMS Allegation).

submission of factual information rebutting, clarifying, or correcting the petitioner's allegation.<sup>10</sup> In April 2020, DOSCO and HiSteel jointly submitted such rebuttal factual information.<sup>11</sup> In December 2020,<sup>12</sup> we issued a PMS regression analysis supplemental questionnaire to the petitioner; we received a response in January 2021.<sup>13</sup>

### III. SCOPE OF THE ORDER

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

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.0 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or

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<sup>10</sup> See Memorandum, "2018-2019 Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Deadline for Submission of Factual Information Relating to Particular Market Situation Allegation," dated March 11, 2020 (PMS Rebuttal Factual Info Comments Memo); see also Memorandum, "Antidumping Duty Administrative Review of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Extension of the Deadline for Submission of Rebuttal Factual Information," dated March 18, 2020.

<sup>11</sup> See DOSCO's and HiSteel's Letter, "Third Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Carbon Steel Pipes and Tubes from Korea – Submission of Factual Information Rebutting, Clarifying, or Correcting Petitioner's Allegation of a Particular Market Situation," dated April 20, 2020 (DOSCO and HiSteel PMS Allegation Rebuttal).

<sup>12</sup> See Commerce Letter, "2018-19 Administrative Review of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Particular Market Situation Regression Analyses Deficiency Questionnaire," dated December 30, 2020.

<sup>13</sup> See Petitioner's Letter, "Heavy-Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Response to the Department's PMS Allegation Deficiency," dated January 7, 2021 (PMS Regression Supplemental Response). On January 12, 2021 DOSCO and HiSteel requested that Commerce clarify the deadline for filing new factual information rebuttal comments relating to the PMS Regression Supplemental Response. See DOSCO's and HiSteel's Letter, "Antidumping Duty Administrative Review of Heavy Walled Rectangular Pipe and Tube (HWR) from Korea – Request for Clarification of Deadline for the Submission of Rebuttal, Clarifying, or Correcting Factual Information," dated January 12, 2021. On January 13, 2021, Commerce issued a letter clarifying that the deadline is January 19, 2021 and that any information submitted would be considered for the final results given that same date is also the deadline for the preliminary results in this review. See Commerce Letter, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Clarification of Deadline for New Factual Information Rebuttal Comments," dated January 13, 2021.

- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

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

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

Commerce did not select Kukje Steel for individual examination. This company: (1) was not selected as a mandatory respondent; (2) was not subject of a withdrawal of request for review; (3) did not request to participate as a voluntary respondent; and (4) did not submit a claim of no shipments. As such, Kukje Steel remains a non-selected respondent.

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

In this review, we have preliminarily calculated weighted-average dumping margins for DOSCO and HiSteel that are zero percent. We have not calculated any weighted-average dumping margins which are not zero, *de minimis*, or determined entirely on the basis of facts available. Accordingly, consistent with the U.S. Court of Appeals for the Federal Circuit’s decision in *Albemarle* and our practice, we have preliminarily determined that the zero percent dumping margin calculated for the two mandatory respondents will be assigned to the non-selected respondent in this review, *i.e.*, Kukje Steel Co., Ltd., pursuant to section 735(c)(5)(B) of the Act.<sup>14</sup>

#### V. DISCUSSION OF THE METHODOLOGY

##### A) Date of Sale

Section 351.401(i) of Commerce’s regulations states that, “{i}n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer’s records kept in the ordinary course of business.” The regulation provides further that Commerce may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or

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<sup>14</sup> See *Albemarle Corp. v. United States*, 821 F. 3d 1345 (Fed. Cir. 2016) (*Albemarle*).

producer establishes the material terms of sale.<sup>15</sup> 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.<sup>16</sup>

DOSCO reported the invoice date as the date of sale for all home market sales and the bill of lading date for U.S. sales because, according to DOSCO, that is when the final quantity and price are determined.<sup>17</sup> We set DOSCO's date of sale for the home market and U.S. sales as the earlier of invoice date or shipment date in accordance with our standard practice.<sup>18</sup> HiSteel reported the date of sale in the home market as the earlier of invoice date or factory shipment date.<sup>19</sup> In addition, HiSteel reported the U.S. date of sale as the shipment date.<sup>20</sup> We preliminarily followed Commerce's long-standing practice of basing the date of sale for all of DOSCO's and HiSteel's home market and U.S. sales on the earlier of the invoice date or the shipment date.<sup>21</sup>

## B) Normal Value Comparisons

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

## C) Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EP or CEP (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value (LTFV) investigations, Commerce examines whether to

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<sup>15</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

<sup>16</sup> See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004) (*Shrimp from Thailand*), and accompanying Issues and Decision Memorandum (IDM) at Comment 10; and *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.

<sup>17</sup> See DOSCO's Letter, "Heavy Walled Rectangular Carbon Steel Pipes and Tubes from Korea – DOSCO's Response to Sections B, C, and D of the Department's December 3 Questionnaire," dated January 23, 2020 (DOSCO's January 23, 2020 BCDQR), at Section B, 12, and Section C, 12; DOSCO's Letter, "Heavy Walled Rectangular Carbon Steel Pipes and Tubes from Korea – DOSCO's Affiliates' Response to Sections B and D of the Department's December 3 Questionnaire," dated February 6, 2020 (DOSCO's February 6, 2020 Affiliate BDQR), at 13; and DOSCO's Letter, "Heavy Walled Rectangular Carbon Steel Pipes and Tubes from Korea – Response to the Department's December 18 Supplemental Questionnaire," dated January 7, 2021, at 13 and 38.

<sup>18</sup> Given the lack of clarity whether DOSCO reported the actual shipment date from the factory as the shipment date for its U.S. sales, we intend to collect further information from DOSCO regarding this issue prior to the final determination.

<sup>19</sup> See HiSteel's Letter, "Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Carbon Steel Pipes and Tubes from Korea - Response to Sections B, C, and D of the Department's December 3 Questionnaire," dated January 23, 2020 (HiSteel's January 23, 2020 BCDQR), at 11.

<sup>20</sup> See HiSteel's January 23, 2020 BCDQR at 48.

<sup>21</sup> See, e.g., *Shrimp from Thailand* IDM at Comment 10; and *Steel Beams from Germany* IDM at Comment 2.

compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce’s examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in LTFV investigations.<sup>22</sup>

In numerous AD investigations and reviews, Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-average method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>23</sup> Commerce finds that the differential pricing analysis used in investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent’s weighted-average dumping margin.

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

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s

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<sup>22</sup> See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying IDM at Comment 1; see also *JBF RAK LLC v. United States*, 790 F. 3d 1358, 1363-65 (Fed. Cir. 2015) (“{T}he fact that the {Act} is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties.”) (citations omitted).

<sup>23</sup> See, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

*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.

#### D) Results of the Differential Pricing Analysis

##### DOSCO

For DOSCO, based on the results of the differential pricing analysis, Commerce preliminarily finds that 81.80 percent of the value of U.S. sales pass the Cohen's *d* test<sup>24</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. However, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for DOSCO.

##### HiSteel

For HiSteel, based on the results of the differential pricing analysis, Commerce preliminarily finds that 97.41 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>25</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. However, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for HiSteel.

#### E) Product Comparisons

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

Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we

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<sup>24</sup> See Memorandum, "Margin Calculations for Dong A-Steel Co., Ltd. for the Preliminary Results," dated concurrently with this memorandum (DOSCO Preliminary Calculation Memo).

<sup>25</sup> See Memorandum, "Calculations for HiSteel Co., Ltd. for the Preliminary Results," dated concurrently with this memorandum (HiSteel Preliminary Calculation Memo), at 2.



compared U.S. sales to sales of the most similar foreign-like product. In making the product comparisons, we matched foreign like products based on the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are as follows: steel input type, quality, metallic coating, painted, perimeter, wall thickness, scarfing, and shape.

#### F) Export Price/Constructed Export Price

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

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

#### DOSCO

We based EP on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses (*e.g.*, foreign inland freight and foreign brokerage and handling expenses), in accordance with section 772(c)(2)(A) of the Act. We accepted these expenses as reported.

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

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (bank charges, other direct selling expenses, and imputed credit expenses) and indirect selling expenses (inventory carrying costs and other indirect selling expenses). Finally, we made an adjustment for profit allocated to these expenses, in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by DOSCO and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.

#### HiSteel

We based EP on packed prices to unaffiliated purchasers in the United States or to unaffiliated purchasers who shipped the merchandise to the United States. We made deductions from the starting price for movement expenses (*i.e.*, foreign inland freight, foreign brokerage and

handling, international freight, and U.S. customs duties (including harbor maintenance fees)), in accordance with section 772(c)(2)(A) of the Act.

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

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (bank charges, export certificate fees, and imputed credit expenses) and indirect selling expenses. Finally, we made an adjustment for profit allocated to these expenses, in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by HiSteel and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.

## G) Normal Value

### 1. Particular Market Situation

#### Background

In the previous administrative reviews of HWR, Commerce found that a PMS existed in Korea which distorted the COP of HWR, based on our consideration of the cumulative effects of: (1) Korean subsidies on hot-rolled coil (HRC), the primary input for HWR; (2) the distortive pricing of unfairly traded HRC from China; (3) strategic alliances between Korean HRC suppliers and Korea HWR pipe and tube producers; and (4) distortive government control over electricity prices in Korea.<sup>26</sup> As noted above, in March 2020, the petitioner submitted factual information and a letter in which it argued that Commerce should find, based on these same four factors, that a PMS continues to exist in Korea in the instant POR, and that we should make corrective adjustments to the respondents' reported costs.<sup>27</sup> Also in March 2020, we invited interested parties to submit factual information to rebut, clarify, or correct the factual information in the Particular Market Situation Allegation.<sup>28</sup> In April 2020, DOSCO and HiSteel jointly submitted factual information and comments concerning the Particular Market Situation Allegation.<sup>29</sup>

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<sup>26</sup> See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments*; 2016-2017, 84 FR 24471 (May 28, 2019) (*HWR from Korea 2016-2017 Final Results*), and accompanying IDM at Comment 1; and *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 41538 (July 10, 2020) (*HWR from Korea 2017-2018 Final Results*), and accompanying IDM at Comment 1.

<sup>27</sup> See Petitioner's PMS Allegation.

<sup>28</sup> See PMS Rebuttal Factual Info Comments Memo.

<sup>29</sup> See DOSCO and HiSteel PMS Allegation Rebuttal.

## The Petitioner's Allegation

The petitioner asserts that Commerce should find in this review that the PMS allegation and the record evidence concerning the allegation remain largely unchanged from those that led to the finding of a PMS in Korea in the other reviews, and that the circumstances present during the instant review are largely unchanged from those in the 2016-2017 POR that led to a PMS finding.<sup>30</sup> The petitioner also asserts that the same four factors that led Commerce to find that a PMS existed in Korea in the prior administrative reviews of HWR pipe and tube from Korea are still present in the instant review. According to the petitioner, the record demonstrates that the Korean government heavily subsidizes HRC, which DOSCO and HiSteel purchased from Korean producers, including POSCO; overcapacity in Chinese steel production has resulted in the Korean market being flooded with cheap Chinese steel products, which exerts downward pressure on Korean domestic steel prices; Korean HRC producers and HWR producers engage in strategic alliances; and the Korean government distorts electricity prices. The petitioner contends that, during the POR, Korean companies continued to import significant volumes of Chinese HRC and that the average unit value (AUV) of these imports was low compared to the AUV of imports from other countries into Korea and the AUV of Chinese HRC exports to other countries. In addition, the petitioner claims that competition from low-priced Chinese imports caused Korean steel producers' prices, market share, and overall profitability to fall. The petitioner asserts that, in addition to strategic alliances, Korean pipe producers participate in price-fixing schemes among themselves, citing decisions by the Korean Fair Trade Commission concerning Korean Gas Corporation bids from 2003 through 2013, steel pipe prices in 1997 and 1998, and Korea Water Resources Corporation bids in 1996.<sup>31</sup>

The petitioner argues that Commerce should, as it did in the previous administrative review of this order, quantify the impact of the PMS on HRC by adjusting the respondents' reported COP using a global excess capacity-based regression analysis that is provided on the record. The petitioner states that this regression analysis quantifies the impact of global steel excess capacity on the price of HRC in Korea and derives a corresponding percentage adjustment factor that, when applied to the respondents' costs of HRC, accounts for the distortions inherent to an overcapacity-driven PMS.<sup>32</sup> The petitioner argues that, as Commerce recognized in prior segments of this and numerous other proceedings, intertwined market conditions contribute to a PMS that distorts and impacts the COP for producers via the acquisition prices for HRC<sup>33</sup> and

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<sup>30</sup> See Petitioner's PMS Allegation at 5 (citing *HWR from Korea 2016-2017 Final Results* IDM at Comment 1 and *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 63613 (November 18, 2019) (*HWR from Korea 2018-2019 Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM) at 9-16).

<sup>31</sup> *Id.*

<sup>32</sup> See Petitioner's PMS Allegation at 42-78 and Exhibits 1-12.

<sup>33</sup> *Id.* at 45-46 (citing *HWR from Korea 2017-2018 Preliminary Results* PDM at 14-16; *HWR from Korea 2016-2017 Final Results* IDM at Comment 1; *Welded Carbon Steel Standard Pipes and Tubes from India: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 2715 (January 16, 2020) (*CWP from India*), and accompanying IDM at Comment 1; and *Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017-2018*, 85 FR 3616 (January 22, 2020) (*CWP from Turkey*), and accompanying IDM at Comment 1; *Large Diameter Welded Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 84 FR 6374 (February 27, 2019) (*LDWP from Korea*), and accompanying IDM at Comment 1; *Welded Line Pipe from the*

that these intertwined market conditions, in conjunction with the excess capacity crisis, combine to generate a PMS at the national level.<sup>34</sup> The petitioner asserts that, as was the case in the prior administrative review of this order, it formulated a PMS adjustment for this review that recognizes the global overcapacity crisis as one of the fundamental drivers that links the various factors that collectively define a given PMS, and seeks to adjust for the overall distortion present in the market.<sup>35</sup>

#### Interested Parties' Rebuttal Comments Regarding the PMS Allegation

DOSCO and HiSteel argue that, as the U.S. Court of International Trade (CIT) has confirmed on several occasions, the Act does not permit an adjustment to the COP used to test whether the mandatory respondents' home market sales were made at below COP based on an alleged PMS in Korea.<sup>36</sup> Specifically, DOSCO and HiSteel maintain that a PMS adjustment is only authorized by the Act when Commerce uses CV as the basis for NV, which is not warranted here.<sup>37</sup>

DOSCO and HiSteel contend that the petitioner has not provided sufficient evidence to demonstrate that a PMS existed during the instant POR that distorted the production costs of HWR. DOSCO and HiSteel argue that the petitioner, by its own admission, maintains that the PMS allegation submitted in this administrative review is "largely unchanged" from the allegations made in previous proceedings concerning pipe products from Korea, including *HWR from Korea 2017-2018 Final Results*.<sup>38</sup> DOSCO and HiSteel note that the PMS allegations in *OCTG from Korea* and *WLP from Korea 15-16 AR* were, however, invalidated by the CIT, where the CIT found that a PMS was unsupported by substantial evidence, and Commerce subsequently recalculated the dumping margins by eliminating the PMS adjustment.<sup>39</sup> DOSCO and HiSteel maintain that there is no basis for a different result in the current proceeding.

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*Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 33919 (July 18, 2018) (*WLP from Korea 15-16 AR*), and accompanying IDM at Comments 1 and 2; *Circular Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 51927 (October 15, 2018), and accompanying IDM; *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 27541 (June 13, 2018), and accompanying IDM at Comment 1; *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 18105 (April 17, 2017), and accompanying IDM at Comment 3, unchanged in *Certain Oil Country Tubular Goods from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 31750 (July 10, 2017); *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 17146 (April 18, 2018), and accompanying IDM at Comment 1).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 46.

<sup>36</sup> See DOSCO and HiSteel PMS Allegation Rebuttal at 2-3 (citing *Saha Thai Steel Pipe Public Co. Ltd. v. United States*, 422 F. Supp. 3d 1363, 1369-71 (CIT 2019); and *Husteel Co. v. United States*, 426 F. Supp. 3d 1376, 1387-91 (CIT 2020)).

<sup>37</sup> *Id.* DOSCO and HiSteel note that both respondents had viable home markets during the current review period. *Id.* at 2.

<sup>38</sup> *Id.* at 3-4.

<sup>39</sup> *Id.* at 4 (citing Petitioner's PMS Allegation at 4-5, which cites *HWR from Korea 2017-2018 Final Results* and *HWR from Korea 2018-2019 Preliminary Results* with inference to *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 18105 (April 17, 2017), and accompanying IDM at Comment 3; *Certain Oil Country Tubular Goods from the Republic of Korea:*

Regarding the petitioner's allegation of subsidies to Korean HRC producers, DOSCO and HiSteel contend that the petitioner's allegation is based on a CVD rate for POSCO from the countervailing duty investigation of *Hot-Rolled Steel from Korea*, which was based entirely on adverse facts available (AFA), is outdated, and is not based on actual evidence of subsidization.<sup>40</sup> DOSCO and HiSteel maintain that the CVD rate has been superseded by *HRS from Korea CVD AR 2016*, as amended, to be 0.54 percent for POSCO, 0.58 percent for Hyundai Steel, and 0.56 percent for unexamined respondents, and these subsidy rates are far too small to contribute to any meaningful distortion in Korean-market HRC prices.<sup>41</sup>

Finally, DOSCO and HiSteel argue that the petitioner bases much of its PMS allegation on articles allegedly obtained from various sources and that Commerce cannot rely on such articles in the absence of corroboration.<sup>42</sup>

### Analysis

Section 504 of the TPEA added the concept of the term "particular market situation" to the definition of "ordinary course of trade" under section 771(15) of the Act and, for purposes of CV, under section 773(e) of the Act. Through section 773(e) of the Act, "particular market situation" also applies to COP under section 773(b)(3) of the Act. Section 773(e) of the Act states that "if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the COP in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology."

In the instant review, the petitioner alleged that a PMS exists in Korea which distorts the COP for HWR based on the following four factors: (1) subsidization of Korean hot-rolled steel products by the Korean government; (2) the distortive pricing of unfairly traded HRC from China; (3) strategic alliances between Korean HRC suppliers and Korean HWR producers; and (4) distortive government control over electricity prices in Korea. In the previous administrative

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*Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 17146 (April 18, 2018), and accompanying IDM at Comment 1; and *Certain Oil Country Tubular Goods from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 51442 (October 11, 2018) (collectively *OCTG from Korea*); and *WLP from Korea 15-16 AR* IDM at Comment 1). DOSCO and HiSteel further cite *NEXTEEL v. United States*, 355 F. Supp. 3d 1336, 1348 (CIT 2019); *NEXTEEL v. United States*, 399 F. Supp. 3d 1353, 1357 (CIT 2019); *Husteel v. United States*, No. 18-00169, 2020 WL 200815, at 3 (CIT Jan. 3, 2020).

<sup>40</sup> *Id.* at 5 (citing *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 81 FR 53439 (August 12, 2016), as amended in *Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders*, 81 FR 67960 (October 3, 2016) (collectively, *Hot-Rolled Steel from Korea*)).

<sup>41</sup> *Id.* (citing *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 2016*, 84 FR 28461 (June 19, 2019) (*HRS from Korea CVD AR 2016*); and *Countervailing Duty Order on Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Amended Final Results of the First Administrative Review*, 84, FR 35604, 35605 (July 24, 2019)).

<sup>42</sup> *Id.* at 7. DOSCO and HiSteel argue that, for example, the petitioner claims that various press articles indicate POSCO's profitability has been adversely affected by imports of steel products from China; however, DOSCO and HiSteel maintain that POSCO's actual financial results show that its gross and operating profits in 2018 were higher than in any previous year from 2013. *Id.* at 7 and Appendices 25 and 26).

reviews of HWR from Korea, the petitioner alleged that a PMS existed in Korea based on the same four factors and, upon analyzing the four allegations as a whole, Commerce found that a PMS existed in Korea during that POR.<sup>43</sup> For the current review, after analyzing the petitioner's allegation and the factual information and comments subsequently submitted by interested parties, we preliminarily determine that, based on the record evidence in this proceeding, a PMS exists in Korea that distorts the COP of HWR. This PMS results from the collective impact of the four factors described above.

In the current administrative review, we considered the four aspects underlying the PMS allegation as a whole, based on their cumulative effect on the COP for Korean HWR. Based on the existence of these conditions in the Korean market, we preliminarily find that a single PMS exists which impacts the COP for HWR during the POR. The record evidence demonstrates that the Korean government subsidized HRC and that DOSCO purchased HRC from entities receiving these subsidies, including POSCO.<sup>44</sup> Additionally, we note that HRC as an input of HWR constitutes a substantial proportion of the cost of HWR production; thus, distortions in the HRC market have a significant impact on the COP for HWR.<sup>45</sup>

Further, as a result of significant overcapacity in Chinese steel production, which stems, in part, from the distortions and interventions prevalent in the Chinese economy, the Korean steel market has been flooded with imports of cheaper Chinese steel products, placing downward pressure on Korean domestic steel prices.<sup>46</sup> This situation distorts the Korean market prices of HRC, the main input in Korean HWR production.

With respect to the petitioner's contention that certain Korean HRC suppliers and Korean HWR producers attempt to compete by engaging in strategic alliances, we agree that the record evidence supports that such strategic alliances exist in Korea.<sup>47</sup> Because strategic alliances have led to distortions in the prices of HRC, as evidenced by the record information,<sup>48</sup> we find that such strategic alliances are a contributing factor to the PMS in Korea impacting the COP for HWR.

With respect to the allegation of distortion present in the electricity market, consistent with the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, a PMS may exist where there is government control over prices to such an extent that home market prices cannot be considered to be competitively set.<sup>49</sup> Moreover, electricity in Korea functions as a tool of the government's industrial policy. Furthermore, the largest electricity

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<sup>43</sup> See *HWR from Korea 2016-2017 Final Results* IDM at Comment 1; and *HWR from Korea 2017-2018 Final Results* IDM at Comment 1.

<sup>44</sup> See Petitioner's PMS Allegation at Exhibits 13 and 17; see also DOSCO's January 23, 2020 BCDQR at Appendix D-I-34-A; SeAH Steel's February 6, 2020 Section D Response at Appendix D-11-4-A (SeAH Steel's February 6, 2020 DQR); and HiSteel's January 23, 2020 BCDQR at Appendix D-3-B.

<sup>45</sup> See DOSCO's January 23, 2020 BCDQR at Appendix D-I-4-C; SeAH Steel's February 6, 2020 DQR at Appendix D-II-4-C; and HiSteel's January 23, 2020 BCDQR at Appendix D-3-A.

<sup>46</sup> See Petitioner's PMS Allegation at 16-18 and Exhibit 68.

<sup>47</sup> *Id.* at Exhibits 2.1, 13, 19, and 69 through 71.

<sup>48</sup> *Id.*

<sup>49</sup> See Statement of Administrative Action (SAA) Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol 1 (1994) at 822.

supplier, KEPCO, is a government-controlled entity.<sup>50</sup> Accordingly, the Korean government's involvement in the electricity market in Korea is a contributing factor to the PMS in Korea impacting the COP for HWR.

These intertwined market conditions signify that the production costs of HWR, especially the acquisition prices of HRC in Korea, are distorted and are not in the ordinary course of trade. Thus, we find that various market forces result in distortions which impact the COP for HWR from Korea. Considered collectively, we preliminarily find that the allegations support a finding that a PMS existed during the POR in this administrative review.

### Quantification of the Particular Market Situation

Having preliminarily determined that a PMS exists for the respondents' production costs for HWR, we then examined whether there was sufficient record evidence to quantify the impact of the PMS to employ an alternative calculation methodology, as contemplated by section 504 of the TPEA. We preliminarily determine that there is sufficient evidence to quantify the impact of the PMS and apply an upward adjustment to DOSCO's and HiSteel's reported costs for their HRC inputs, as discussed below.<sup>51</sup>

The petitioner argues that Commerce should quantify the impact of the PMS on HRC by adjusting the respondents' costs using a global excess capacity-based regression analysis that is provided on the record, as it did in the previous administrative review of this order. The petitioner states that this regression analysis quantifies the impact of global steel excess capacity on the price of HRC in Korea and derives a corresponding percentage adjustment factor that, when applied to the respondents' costs of HRC, accounts for the distortions inherent to an overcapacity-driven PMS.<sup>52</sup> According to the petitioner, the methodologies it applied to the regression analysis in this instant review are identical to those submitted in the previous administrative review of this order, with the exception of certain additional analyses that address specific aspects of Commerce's most recent final determinations in *CWP from India* and *CWP from Turkey*.<sup>53</sup> According to the petitioner, the PMS modeling and adjustment analyses provided on this record are the same as what it provided to Commerce in the previous administrative review of this order.<sup>54</sup>

Regarding the regression analysis submitted by the petitioner, DOSCO and HiSteel argue that the petitioner's claim that its proposed methodology predicts what the import AUVs of HRC into Korea in 2018 would have been at a hypothetical level of "global excess capacity" is without merit.<sup>55</sup> DOSCO and HiSteel assert that, while slightly different from the model expressly rejected by Commerce in other cases, including *LDWP from Korea*, the proposed model

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<sup>50</sup> See *LDWP Korea* IDM at Comment 1.

<sup>51</sup> See Memorandum, "2018-2019 Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea: Preliminary Results Regression Analysis for Particular Market Situation Adjustment," dated January 19, 2021.

<sup>52</sup> See Petitioner's PMS Allegation at 42-78 and Exhibits 1-12.

<sup>53</sup> *Id.* at 46-47 (citing *CWP from India* IDM; and *CWP from Turkey* IDM).

<sup>54</sup> *Id.* at 47.

<sup>55</sup> See DOSCO and HiSteel PMS Allegation Rebuttal at 6.

continues to make numerous quantitative and qualitative assumptions that render it incomplete and invalid.<sup>56</sup>

These concerns that respondents raise with the regression analysis submitted by the petitioner are similar to concerns raised in the previous administrative review of this proceeding, as well as other proceedings; however, Commerce responded to such arguments in the previous administrative reviews for this proceeding, as well as other proceedings, which is applicable here.<sup>57</sup> Therefore, after reviewing and considering all of the data, regression models, and arguments on the record, Commerce finds that the petitioner's regression is adequate for the purpose of quantifying a PMS adjustment for these preliminary results. Commerce will continue to evaluate the submitted regression models as we continue to develop the concepts and types of analysis that are necessary to address allegations of PMS under section 773(e) of the Act.

## 2. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of DOSCO's and HiSteel's respective home market sales of the foreign like product to the volume of their U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

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

## 3. Level of Trade (LOT)

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same LOT as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>58</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>59</sup> In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system

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<sup>56</sup> *Id.* (citing *LDWP from Korea* IDM at Comment 1). DOSCO and HiSteel argue that, among the model's flaws, Commerce recently concluded that the 85 percent capacity utilization target used in the analysis is unsupported by evidence. *Id.* (citing *Corrosion-Resistant Steel Products from the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017-2018*, 85 FR 15114 (March 17, 2020), and accompanying IDM at Comment 3).

<sup>57</sup> *See, e.g., HWR from Korea 2017-2018 Final Results; Certain Oil Country Tubular Goods from the Republic of Korea, Final Results of Antidumping Duty Administrative Review 2017-2018*, 85 FR 41949 (July 13, 2020).

<sup>58</sup> *See* 19 CFR 351.412(c)(2).

<sup>59</sup> *Id.*; *see also Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*), and accompanying IDM at Comment 7.



in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),<sup>60</sup> we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.<sup>61</sup>

When Commerce is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was possible), Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>62</sup>

In this administrative review, we obtained information from DOSCO and HiSteel regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution.<sup>63</sup> Our LOT findings are summarized below. Selling activities can be generally grouped into five selling function categories for analysis: (1) provision of sales support;<sup>64</sup> (2) provision of training services;<sup>65</sup> (3) provision of technical support;<sup>66</sup> (4) provision of logistical services;<sup>67</sup> and (5) performance of sales-related administrative activities.<sup>68</sup>

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<sup>60</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. *See* 19 CFR 351.412(c)(1).

<sup>61</sup> *See Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>62</sup> *See, e.g., OJ from Brazil* IDM at Comment 7.

<sup>63</sup> *See* DOSCO's Letter, "Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Carbon Steel Pipes and Tubes from Korea—Response to Section A of the Department's December 3 Questionnaire," dated January 7, 2020 (DOSCO's January 7, 2020 AQR), at Vol. I, 19-27, and Vol. II, 23-29; DOSCO's Letter, "Heavy Walled Rectangular Carbon Steel Pipes and Tubes from Korea—DOSCO's Response to the Department's May 19 Section A Supplemental Questionnaire," dated June 16, 2020 (DOSCO's June 16, 2020 SAQR), at 31-38; and HiSteel's Letter, "Administrative Review of the Antidumping Duty Order on Heavy Walled Rectangular Carbon Steel Pipes and Tubes from Korea - Response to Section A of the Department's December 3 Questionnaire," dated January 7, 2020 (HiSteel's January 7, 2020 AQR), at 17 - 23 and Appendices A-3 and A-4-A.

<sup>64</sup> The provision of sales support may include sales forecasting strategic/economic planning, advertising, sales promotion, sales/marketing support, market research, and other related activities. *See Acetone from Belgium: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 84 FR 49999 (September 24, 2019), and accompanying PDM at 17, unchanged in *Acetone from Belgium: Final Determination of Sales at Less Than Fair Value*, 85 FR 8249 (February 13, 2020).

<sup>65</sup> The provision of training services may include personnel training/exchange, distributor/dealer training, and other related activities. *Id.*

<sup>66</sup> The provision of technical support may include engineering services, technical assistance, and other related activities. *Id.*

<sup>67</sup> The provision of logistical services may include inventory maintenance, post-sale warehousing, repacking, freight and delivery, and other related activities. *Id.*

<sup>68</sup> The performance of sales-related administrative activities may include order input/processing, rebate programs, warranty service, and other related activities. *Id.*

## DOSCO

DOSCO provided information regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed by each affiliate for each channel of distribution.

In the home market, DOSCO reported that it made sales through two channels of distribution (*i.e.*, direct sales to distributors and end users, and sales to an affiliated reseller, SeAH L&S).<sup>69</sup> According to DOSCO, it performed the following selling functions for sales in both channels at similar levels of intensity: provision of sales support; provision of training services; provision of technical support; provision of logistical services; and performance of sales-related administrative activities.<sup>70</sup> Because DOSCO performed the same selling functions at similar levels of intensity to sell to its home market customers, we preliminarily determine that there is one LOT in the home market for DOSCO.

With respect to the U.S. market, DOSCO reported that it made sales through two channels of distribution (*i.e.*, sales to its U.S. affiliate, Pusan Pipe America, Inc. (PPA), and direct sales to an unaffiliated U.S. distributor).<sup>71</sup> DOSCO reported that it performed the following selling functions in Korea for both its CEP and EP sales at similar levels of intensity: provision of logistical services and performance of sales related administrative activities.<sup>72</sup> Accordingly, based on the selling function categories noted above, we find that DOSCO performed the following selling functions at similar intensities for CEP sales to U.S. customers: provision of sales support and performance of sales related administrative activities.<sup>73</sup> Because the selling functions performed by DOSCO in Korea for EP and CEP U.S. sales do not differ significantly between channels, we determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT, and we preliminarily find that there were significant differences between the selling functions performed for U.S. and home market customers. Specifically, we preliminarily find that three of the five selling functions (*e.g.*, provision of sales support; provision of training services; and provision of technical support) are performed by DOSCO in the home market but not in the U.S. market and that, for the remaining two of five selling functions (*e.g.*, provision of logistical services and performance of sales related administrative activities), DOSCO performed these activities at a higher intensity and with a greater frequency in the home market than the U.S. market.<sup>74</sup> Thus, we find that DOSCO's sales in the home market were at a higher LOT than its sales in the U.S. market.

Because there is only one LOT in the home market, we were unable to calculate a LOT adjustment based on DOSCO'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.

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<sup>69</sup> See DOSCO's January 7, 2020 AQR at 21. DOSCO also reported sales to SeAH Steel Corporation, which we have collapsed with DOSCO. *Id.*

<sup>70</sup> See DOSCO's June 16, 2020 SAQR at Appendix S2A-7.

<sup>71</sup> See DOSCO's January 7, 2020 AQR at 21-22.

<sup>72</sup> See DOSCO's June 16, 2020 SAQR at S2A-8-B.

<sup>73</sup> See DOSCO's June 16, 2020 SAQR at Appendix S2A-8-B.

<sup>74</sup> *Id.* at Appendices S2A-7 through S2A-10-B.

Therefore, based on the totality of the facts and circumstances, we preliminarily determine that a CEP offset is warranted for DOSCO, pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

### HiSteel

In the home market, HiSteel reported that it made sales through one channel of distribution (*i.e.*, direct sales to distributors and end users).<sup>75</sup> According to HiSteel, it performed the following selling functions for sales to all home market customers: order input/processing; market research; sales forecasting; strategic planning; provision of technical product support; provision of warranties; collection of receivables; personnel training; sales promotion; packing; inventory maintenance; and handling of freight and delivery arrangements.<sup>76</sup>

As noted above, selling activities can be generally grouped into five selling function categories. Based on these selling function categories noted above, we find that HiSteel performed sales support, training services, technical support, logistical services, and sales-related administrative activities for its home market sales. Because we find that there were no differences in selling activities performed by HiSteel to sell to its home market customers, we determine that there is one LOT in the home market for HiSteel.

With respect to the U.S. market, HiSteel reported that it made sales through three channels of distribution (*i.e.*, direct sales to U.S. distributors, direct sales to an unaffiliated Korean trading company, and sales through its U.S. affiliate, HiSteel Pipe and Tube, Inc. (HPT)).<sup>77</sup> HiSteel reported that it performed the following selling functions in Korea for sales to all U.S. customers: order input/processing; market research; sales forecasting; strategic planning; provision of technical product support; provision of warranties; collection of receivables; personnel training; sales promotion; packing; inventory maintenance; and handling of freight and delivery arrangements.<sup>78</sup> Accordingly, based on the selling function categories noted above, we find that HiSteel performed sales support, training services, technical support, logistical services, and sales-related administrative activities for all of its reported U.S. sales. Because HiSteel performed the same selling functions at the same relative level of intensity for all of its U.S. sales, we determine that all U.S. sales are at the same LOT.

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

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<sup>75</sup> See HiSteel's January 7, 2020 AQR at 17; and HiSteel's January 23, 2020 BCDQR at 10 and Appendix B-2.

<sup>76</sup> See HiSteel's January 7, 2020 AQR at Appendix A-4-A.

<sup>77</sup> See HiSteel's January 7, 2020 AQR at 17-20; and HiSteel's January 23, 2020 BCDQR at 46 and Appendix C-2.

<sup>78</sup> See HiSteel's January 7, 2020 AQR at Appendix A-4-A.

#### 4. Cost of Production Analysis

Pursuant to section 773(b)(2)(A)(ii) of the Act, we request CV and COP information from respondent companies in all AD proceedings.<sup>79</sup> Accordingly, we requested this information from DOSCO and HiSteel in this review.

We examined DOSCO's and HiSteel's cost data. Based on our review of the quarterly average prices of the three largest material inputs, we determined that our quarterly cost methodology is not warranted for either respondent. Therefore, we applied our standard methodology of using annual average costs based on DOSCO's and HiSteel's reported data.

##### i. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and interest expenses.<sup>80</sup> As noted above, we examined DOSCO's and HiSteel's cost data and preliminarily determine that our quarterly cost methodology is not warranted. Therefore, we applied our standard methodology of using annual average costs based on the reported data, as adjusted below.

We relied on the COP data submitted by Dong-A Steel and its affiliate SeAH Steel except as follows:<sup>81</sup>

- We adjusted Dong-A Steel's and SeAH Steel's reported HRC costs to reflect the PMS.
- We adjusted Dong-A Steel's reported costs to exclude the coil and skelp scrap offset that resulted from scrap that was not generated in the POR.
- We revised the reported general and administrative expense rate reported for the fiscal year 2018 to reflect that for the fiscal year 2019.
- We revised the financial expense ratios reported by Dong-A Steel and SeAH Steel to reflect a consolidated financial expense ratio. We revised the numerator to exclude interest income that was not substantiated to be short-term, and we revised the denominator to ensure the denominator was on the same basis as the cost of manufacturing to which it was applied by using the average of the packing and by-product costs reported by Dong-A-Steel and SeAH Steel .

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<sup>79</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46794-95 (August 6, 2015).

<sup>80</sup> See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

<sup>81</sup> See Memorandum, "Antidumping Duty Administrative Review of Heavy-Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Review – Dong-A Steel Co. Ltd.," dated concurrently with this memorandum.

We relied on the COP data submitted by HiSteel except as follows:<sup>82</sup>

- We adjusted HiSteel's reported HRC costs to reflect the PMS.
- We adjusted HiSteel's reported costs to add POR painting and galvanizing costs to those products sold but not produced during the POR.

ii. Test of Comparison Market Sales Prices

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

iii. Results of the COP Test

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

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

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<sup>82</sup> See Memorandum, "2018-2019 Administrative Review of the Antidumping Duty Order on Heavy-Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—HiSteel Co., Ltd.," dated concurrently with this memorandum.

## 5. Calculation of NV Based on Comparison Market Prices

### DOSCO

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments and early payment discounts, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight where appropriate based on the terms of sale under section 773(a)(6)(B)(ii) of the Act. We further made a deduction from the starting price for warehousing in accordance with 19 CFR 351.401(e)(2).

During part of the POR, DOSCO was affiliated with a company that it used to arrange freight and warehousing for certain home market sales. Given that this company charged the same prices to DOSCO as it did to unaffiliated companies during the POR, we find that the transactions were at arm's-length.<sup>83</sup> Therefore, we accepted the expenses as reported. We capped freight revenue by the amount of inland freight expenses incurred, in accordance with our practice.<sup>84</sup>

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

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>85</sup> For comparisons to both EP and CEP sales, we also deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

### HiSteel

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

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

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<sup>83</sup> See DOSCO's February 6, 2020 Affiliated BDQR at Volume II, 24 and 26.

<sup>84</sup> See, *e.g.*, *OJ from Brazil* IDM at Comment 2.

<sup>85</sup> See 19 CFR 351.411(b).

comparisons to CEP sales, we deducted home market credit expenses, pursuant to 773(a)(6)(C) of the Act.

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

## VI. CURRENCY CONVERSION

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

## VII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree  
1/15/2021

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

<sup>86</sup> See 19 CFR 351.411(b).