



A-580-883

Administrative Review
POR: 10/01/2018 – 9/30/2019
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E&C/OI: AG

February 11, 2021

MEMORANDUM TO: Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Certain Hot-Rolled Steel Flat Products from the Republic of
Korea: Decision Memorandum for the Preliminary Results of
Antidumping Duty Administrative Review; 2018-2019

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea) for the period of review (POR) October 1, 2018, through September 30, 2019. Commerce selected one respondent for individual examination, Hyundai Steel Company (Hyundai). We preliminarily determine that Hyundai did not make sales of subject merchandise in the United States at prices below normal value (NV) during the POR.

II. BACKGROUND

On October 3, 2016, Commerce published in the *Federal Register* the AD order on hot-rolled steel from Korea.¹ On October 1, 2019, Commerce published a notice of opportunity to request an administrative review of the *Order*.² On October 9, 2019, Hyundai requested an administrative review of its exports of subject merchandise to the United States.³ On October 31, 2019, AK Steel Corporation; ArcelorMittal USA LLC; Nucor Corporation; SSAB Enterprises, LLC; Steel Dynamics, Inc.; and United States Steel Corporation (collectively, the

¹ See *Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders*, 81 FR 67962 (October 3, 2016) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 52068 (October 1, 2019).

³ See Hyundai's Letter, "Hot-Rolled Steel Flat Products from the Republic of Korea, Case No. A-580-883: Request for Antidumping Duty Administrative Review," dated October 9, 2019.



petitioner) requested an administrative review with respect to ten companies.⁴ On December 11, 2019, based on timely requests for administrative reviews, we initiated an administrative review of hot-rolled steel from Korea.⁵

On December 16, 2019, we released under administrative protective order (APO) entry data we obtained from U.S. Customs and Border Protection (CBP) to all interested parties having an APO and invited comments regarding the data and our selection of respondents for this review.⁶ Pursuant to section 777A(c)(2)(B) of the Act, Commerce selected Hyundai as the sole mandatory respondent in this administrative review because Hyundai accounted for the largest volume of entries of subject merchandise during the POR that could be reasonably examined.⁷ On January 13, 2020, Commerce issued its initial AD questionnaire to Hyundai.⁸ Hyundai submitted timely questionnaire responses.⁹ Commerce issued supplemental questionnaires to Hyundai and received timely responses.¹⁰

On April 6, 2020, we rescinded the administrative review with respect to the following companies: POSCO; POSCO Daewoo Corporation; Dongbu Steel Co., Ltd.; Dongkuk Industries Co., Ltd.; Dongkuk Steel Mill Co., Ltd.; Marubeni-Itochu Steel Korea Ltd.; Soon Hong Trading Co.; Snp Ltd.; and Sungjin Co., Ltd.¹¹

The petitioner submitted comments regarding Hyundai's questionnaire responses on April 8, 2020, and November 16, 2020, and pre-preliminary results comments on January 29, 2021.¹²

⁴ See Petitioners' Letter, "Hot-Rolled Steel Flat Products from the Republic of Korea – Petitioners' Request for 2018/2019 Administrative Review," dated October 31, 2019. The companies in the petitioners' request are: Dongbu Steel Co., Ltd.; Dongkuk Industries Co., Ltd.; Dongkuk Steel Mill Co., Ltd.; Hyundai Steel Company; Marubeni-Itochu Steel Korea; POSCO; POSCO Daewoo Corporation; Soon Hong Trading Co.; Snp Ltd.; and Sungjin Co. Subsequent filings in this case have been made only on behalf of ArcelorMittal USA LLC (the petitioner).

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 67712 (December 11, 2019).

⁶ See Memorandum, "Release of Customs and Border Protection (CBP) Data Query," dated December 16, 2019.

⁷ See Memorandum, "Administrative Review of Antidumping Duty Order of Certain Hot-Rolled Steel Flat Products from the Republic of Korea, 2018 – 2019: Respondent Selection," dated January 10, 2020.

⁸ See Commerce's Letter, "Administrative Review of the Antidumping Duty Order of Certain Hot-Rolled Steel Flat Products from Korea: Initial Questionnaire," dated January 13, 2020.

⁹ See Hyundai's Letters, "Certain Hot-Rolled Steel Flat Products from Korea, 10/01/2018-9/30/2019 Administrative Review; Case No. A-580-883: Hyundai Steel's Initial Section A Questionnaire Response," dated February 10, 2020 (Hyundai AQR); "Certain Hot-Rolled Steel Flat Products from Korea, 10/01/2018-9/30/2019 Administrative Review; Case No. A-580-883: Hyundai Steel's Initial Sections B-D Questionnaire Response," dated March 2, 2020 (Hyundai BCDQR).

¹⁰ See Hyundai's Letters, "Certain Hot-Rolled Steel Flat Products from Korea, 10/01/2018-9/30/2019 Administrative Review; Case No. A-580-883: Supplemental Sections A-D Questionnaire Response," dated October 26, 2020; "Certain Hot-Rolled Steel Flat Products from Korea, 10/01/2018-9/30/2019 Administrative Review; Case No. A-580-883: Part 2 of Supplemental Sections A-D Questionnaire Response," dated November 5, 2020 (Hyundai SQR2); "Certain Hot-Rolled Steel Flat Products from Korea, 10/01/2018-9/30/2019 Administrative Review; Case No. A-580-883: Second Supplemental Section D Questionnaire Response," dated January 21, 2021.

¹¹ See *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Partial Rescission of the Antidumping Duty Administrative Review; 2018–2019*, 85 FR 19137 (April 6, 2020).

¹² See Petitioner's Letters, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea – Petitioner's Comments Concerning Deficiencies in The Supplemental Questionnaire Response of Hyundai Steel Company,"

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for the preliminary results of this administrative review until August 21, 2020.¹³ On July 21, 2020, Commerce tolled all deadlines again in administrative reviews by an additional 60 days, thereby extending the deadline for the preliminary results of this administrative review until October 20, 2020.¹⁴ On September 21, 2020, Commerce fully extended the deadline for these preliminary results until February 17, 2021.¹⁵

III. SCOPE OF THE *ORDER*

The products covered by this *Order* are certain hot-rolled, flat-rolled steel products, with or without patterns in relief, and whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of thickness, and 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 of 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 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 unless the resulting measurement makes the product covered by the existing antidumping¹⁶ or countervailing duty¹⁷ orders on Certain Cut-To-Length Carbon-Quality Steel Plate Products From the Republic of Korea (A-580-836; C-580-837), and

dated November 16, 2020; “Certain Hot-Rolled Steel Flat Products from the Republic of Korea – Petitioner’s Comments on the Section D Questionnaire Response of Hyundai Steel Company,” dated April 8, 2020; and “Certain Hot-Rolled Steel Flat Products from the Republic of Korea – Petitioner’s Pre-Preliminary Comments,” dated January 29, 2021.

¹³ 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.

¹⁴ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

¹⁵ See Memorandum, “Certain Hot-Rolled Steel Flat Products from Korea: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2018-2019,” dated September 21, 2020.

¹⁶ See *Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products from France, India, Indonesia, Italy, Japan and the Republic of Korea*, 65 FR 6585 (February 10, 2000).

¹⁷ See *Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate from India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea*, 65 FR 6587 (February 10, 2000).

(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, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium, 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, high strength low alloy (HSLA) steels, the substrate for motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). 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. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes hot-rolled steel that has been further processed in a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, 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 hot-rolled 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*:

- Universal mill plates (*i.e.*, hot-rolled, flat-rolled products not in coils that have been rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, of a thickness not less than 4.0 mm, and without patterns in relief);
- Products that have been cold-rolled (cold-reduced) after hot-rolling;¹⁸
- Ball bearing steels;¹⁹
- Tool steels;²⁰ and
- Silico-manganese steels;²¹

The products subject to this *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.10.1500, 7208.10.3000, 7208.10.6000, 7208.25.3000, 7208.25.6000, 7208.26.0030, 7208.26.0060, 7208.27.0030, 7208.27.0060, 7208.36.0030, 7208.36.0060, 7208.37.0030, 7208.37.0060, 7208.38.0015, 7208.38.0030, 7208.38.0090, 7208.39.0015, 7208.39.0030, 7208.39.0090, 7208.40.6030, 7208.40.6060, 7208.53.0000, 7208.54.0000, 7208.90.0000, 7210.70.3000, 7211.14.0030, 7211.14.0090, 7211.19.1500, 7211.19.2000, 7211.19.3000, 7211.19.4500, 7211.19.6000, 7211.19.7530, 7211.19.7560, 7211.19.7590, 7225.11.0000, 7225.19.0000, 7225.30.3050, 7225.30.7000, 7225.40.7000, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.5000, 7226.91.7000, and 7226.91.8000. The products subject to the *Order* may also enter under the following HTSUS numbers: 7210.90.9000, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.5000, 7226.99.0180, and 7228.60.6000. The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the *Order* is dispositive.

¹⁸ For purposes of this scope exclusion, rolling operations such as a skin pass, levelling, temper rolling or other minor rolling operations after the hot-rolling process for purposes of surface finish, flatness, shape control, or gauge control do not constitute cold-rolling sufficient to meet this exclusion.

¹⁹ Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

²⁰ Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

²¹ Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

IV. AFFILIATION

Section 771(33) of the Act defines the term affiliated persons (affiliates) to include: (A) members of a family; (B) an officer or director of an organization and that organization; (C) partners; (D) employers and employees; (E) any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and that organization; (F) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (G) any person who controls any other person and that other person. For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person. Commerce's regulations at 19 CFR 351.102(b)(3) state that in finding affiliation based on control, Commerce will consider, among other factors: (i) corporate or family groupings; (ii) franchise or joint venture agreements; (iii) debt financing; and (iv) close supplier relationships. 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.²² A "close supplier relationship" is established when a party demonstrates that the relationship is significant and could not be easily replaced.²³ Only if Commerce determines that there is reliance does it evaluate whether one of the parties is in a position to exercise restraint or direction over the other.²⁴ Commerce will not, however, find affiliation on the basis of this factor unless the relationship has the potential to affect decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.²⁵

The petitioner alleges that Hyundai is affiliated with certain home market customers by virtue of close supplier relationships.²⁶ In the final results of the 2016-2017 review of this *Order*, Commerce found that Hyundai and its customers were not affiliated within the meaning of section 771(33) of the Act.²⁷ The petitioner placed evidence on the record of this segment of the proceeding from the 2016-2017 administrative review, with the purpose of supporting its arguments regarding Hyundai's close supplier relationships. Pursuant to section 771(33) of the Act, we reviewed the record evidence regarding Hyundai's relationships with certain home market customers provided in Hyundai's questionnaire responses, and preliminarily find that there is no evidence that Hyundai has a close supplier relationship with its customers. Therefore, we preliminarily find that there is insufficient evidence to demonstrate reliance for purposes of finding affiliation through control under section 771(33)(G) of the Act.

²² See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (SAA) at 838.

²³ See *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea: Final Results of Antidumping Duty Administrative Reviews*, 62 FR 18404, 18417 (April 15, 1997).

²⁴ See *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011), and accompanying Issues and Decision Memorandum (IDM) at Comment 21; and *TIJID, Inc. v. United States*, 366 F. Supp. 2d 1286, 1298-1300 (CIT 2005).

²⁵ See 19 CFR 351.102(b)(3).

²⁶ See Petitioner's Letter, "Certain Hot Rolled Steel Flat Products from the Republic of Korea - Petitioner's Comments Concerning Hyundai Steel's the Section A Questionnaire Response" (March 2, 2020).

²⁷ See *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Results of the Antidumping Duty Administrative Review; 2016-2017*, 84 FR 32720 (July 9, 2019) (*Hot-Rolled Steel Final 2016-2017*), and accompanying IDM at 24-26.

V. DISCUSSION OF THE METHODOLOGY

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

A. Comparisons to Normal Value

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

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (*i.e.*, the average-to-average (A-A) 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 (A-T) method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.²⁸

In recent proceedings, Commerce applied a "differential pricing" analysis for determining whether application of the A-T method is appropriate in a particular situation, pursuant to section 777A(d)(1)(B) of the Act and 19 CFR 351.414(c)(1).²⁹ Commerce finds that the differential pricing analysis used in recent investigations and reviews may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential

²⁸ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012) and accompanying IDM at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

²⁹ See, e.g., *Polyethylene Terephthalate Resin from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 19696 (May 4, 2018), unchanged in *Polyethylene Terephthalate Resin from Taiwan: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 83 FR 48287 (September 24, 2018); *Large Diameter Welded Pipe from Canada: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 43649 (August 27, 2018), unchanged in *Large Diameter Welded Pipe from Canada: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6378 (February 27, 2019); and *Cast Iron Soil Pipe from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 83 FR 44567 (August 31, 2018), unchanged in *Cast Iron Soil Pipe from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 6767 (February 28, 2019).

masking of dumping that can occur when Commerce uses the A-A method in calculating weighted-average dumping margins for each respondent.

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

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

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the A-T method to all sales as an alternative to the A-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-A method, and application of the A-A method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d*

test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-A method.

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

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

2. Results of the Differential Pricing Analysis

For Hyundai, based on the results of the differential pricing analysis, Commerce preliminarily finds that 73.17 percent of the value of U.S. sales pass the Cohen's *d* test,³⁰ 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 these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Hyundai.

B. Product Comparisons

In accordance with section 771(16) of the Act, Commerce considered all products meeting the physical description of merchandise covered by the "Scope of the Order" section of this memorandum, above, that were in the ordinary course of trade. Commerce compared U.S. sales to sales made in the home market, where appropriate. 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,

³⁰ See Memorandum, "Antidumping Duty Administrative Review of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results Analysis Memorandum for Hyundai Steel Company," dated concurrently with this memorandum (Hyundai Preliminary Analysis Memorandum).

Commerce compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, Commerce matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: whether the product is painted, minimum specified carbon content, quality, minimum specified yield strength, nominal thickness, nominal width, form, pickled, and patterns in relief. For Hyundai's sales of hot-rolled steel in the United States, the reported control number (CONNUM) identifies the characteristics of hot-rolled steel as it entered the United States.

C. Date of Sale

Section 351.401(i) of Commerce's regulations states that, "in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business." The regulation provides further that Commerce may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.³¹ 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.³²

For its home market sales, Hyundai reported the earlier of shipment date (*i.e.*, the date the merchandise leaves the factory or warehouse), or invoice date in the field SALEDATH.³³ Hyundai normally recognizes a sale at the time of shipment from the factory.³⁴ However, in some limited instances, customers requested that Hyundai delay shipments to a later date.³⁵ Consequently, certain home market sales that were invoiced during the POR had not yet shipped from Hyundai's factory. In these instances, because Hyundai had issued tax invoices for these sales, and ownership of the merchandise was transferred to the customer when the tax invoices were issued, Hyundai reported these sales in its sales database.³⁶

For its U.S. sales to unaffiliated customers, Hyundai reported the earlier of shipment date (*i.e.*, the date the merchandise leaves the factory or warehouse), or invoice date in the field SALEDATU.³⁷ For its U.S. sales through Hyundai Corporation (USA) (HCUSA) to unaffiliated customers, Hyundai reported the date of shipment from HCUSA's warehouse as the date of sale. For both home market and U.S. sales, Hyundai generally issued its commercial invoices (U.S.

³¹ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (*Allied Tube*) (quoting 19 CFR 351.401(i)).

³² 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.

³³ See Hyundai BCDQR at B-25 and B-26.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ See Hyundai BCDQR at C-22.

market) or tax invoices (home market) at or after the time of shipment; in limited circumstances like those described above, Hyundai issued tax invoices before the time of shipment at the customer's request.³⁸

For these preliminary results, we used the shipment date or invoice date as the date of sale as indicated above for Hyundai's home market and U.S. sales, consistent with Commerce's normal methodology regarding date of sale because the material terms of sale (*e.g.*, price and quantity) are still subject to change when orders are confirmed.³⁹

D. Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, we calculated certain Hyundai sales sold to the first unaffiliated purchaser in the United States prior to importation on an export price (EP) basis. In accordance with section 772(b) of the Act, for the remainder of Hyundai's U.S. sales, we used constructed export price (CEP) because the merchandise under consideration was sold in the United States by U.S. sellers affiliated with Hyundai.

We based Hyundai's EP sales on the price to the first unaffiliated purchaser in the United States. Commerce also made adjustments for billing adjustments, and U.S. and Korean brokerage and handling charges, as appropriate. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, marine insurance, foreign brokerage and handling, U.S. customs duties, U.S. brokerage and handling, international freight, and U.S. inland freight. In addition, Hyundai reported expenses associated with loading subject merchandise onto trucks for shipment in "other direct selling expenses."⁴⁰ We have included those expenses in Hyundai's movement expenses.

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 CEP sales of the subject merchandise through its affiliate HCUSA during the POR.⁴¹

We calculated CEP based on the price to customers in the United States. We made deductions from the starting price for any movement expenses (*e.g.*, foreign inland freight, foreign

³⁸ See Hyundai AQR at A-26 to A-29.

³⁹ See 19 CFR 351.401(i); and *Allied Tube*. Additionally, Hyundai reported its U.S. sales (both EP and CEP) for all entries that occurred during the POR. However, it also reported several CEP sales that had a revised entry date such that, according to CBP, they entered after the POR, but had a date of sale during the POR. Consistent with our preference to rely on the date of entry, when available, in defining the universe of sales to include in our analysis, we have not included these sales in our analysis for this administrative review as they will be included in the subsequent administrative review, if one is requested. See, *e.g.*, *Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review*, 72 FR 17834 (April 10, 2007), and accompanying IDM at Comment 3; *Certain Corrosion-Resistant Carbon Steel Flat Products from Canada: Final Results of Antidumping Duty Administrative Review*, 70 FR 13458 (March 21, 2005), and accompanying IDM at Comment 5 (finding that date of entry for CEP sales is appropriate to rely on to determine the universe of sales when respondents can tie CEP sales to specific entries within the POR).

⁴⁰ See Hyundai BCDQR at C-49 and Exhibit B-17.

⁴¹ See Hyundai BCDQR at C-1.

brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. duty), in accordance with section 772(c)(2)(A) of the Act, where appropriate. 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 and U.S. inventory carrying costs) and indirect selling expenses (ISE).

E. Normal Value

1. Selection of Comparison Market

To determine whether there was 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), Commerce normally compares the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for comparison market sales, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this administrative review, Commerce preliminarily determined that the aggregate volume of home market sales of the foreign like product for Hyundai was greater than five percent of the aggregate volume of its U.S. sales of subject merchandise. Therefore, we used home market sales as the basis for NV in accordance with section 773(a)(1)(B) of the Act.⁴²

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

Commerce may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.⁴³

Commerce excludes home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because Commerce considers them to be outside the ordinary course of trade. Therefore, consistent with 19 CFR 351.403(c) and (d) and our practice, Commerce "*may calculate normal value based on sales to affiliates if { . . . } satisfied that the transactions were made at arm's length.*"⁴⁴

To test whether Hyundai's home market sales to affiliated customers were made at arm's-length prices, Commerce compared these prices to the prices of sales of comparable merchandise to unaffiliated customers, net of all discounts and rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated customer were, on average, between 98 and 102 percent

⁴² See Hyundai AQR at Exhibit A-1.

⁴³ See 19 CFR 351.403(c).

⁴⁴ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1367 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004).

of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated customer, Commerce determined that the sales to that affiliated customer were at arm's-length prices.⁴⁵ In this review, Commerce preliminarily excluded sales to affiliated customers in the home market that were not made at arm's-length prices from our analysis because we considered these sales to be outside the ordinary course of trade.⁴⁶

3. Overrun Sales

In calculating NV, section 773(a)(1)(B)(i) of the Act states that 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...,” where the “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.”⁴⁷ The SAA clarifies this portion of the statute, stating, “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.”⁴⁸ Therefore, the statute and the SAA agree that a determination of what is within the ordinary course of trade must be based on an analysis of the sales in question as compared to sales of merchandise of the same class or kind generally made in the home market.

By basing the determination of NV upon representative sales, the provision ensures an appropriate comparison between NV and sales to the United States. 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.”⁴⁹ In evaluating whether sales of overrun merchandise 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 home market; (3) the average quantity of the overrun and commercial sales; and (4) the price and profit differentials in the home market.⁵⁰

Hyundai indicated that its overrun sales occur when products “are not accepted by the original customer, whether due to excess production volumes or quality issues, and sold to another customer.”⁵¹ Additionally, its sales of overrun merchandise were much more likely to be classified as non-prime merchandise as compared to its non-overrun sales; of comparatively low

⁴⁵ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

⁴⁶ See 19 CFR 351.102(b)(35).

⁴⁷ See section 771(15) of the Act.

⁴⁸ See SAA at 834.

⁴⁹ See *Laclede Steel Co. v. United States*, 19 CIT 1076, 1078 (1995).

⁵⁰ 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: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 42075 (September 6, 2017), and accompanying IDM.

⁵¹ See Hyundai BCDQR at B-13.

volume and comparatively low sales quantity; and of dissimilar price and profit levels.⁵² As a result of this analysis, we determine that Hyundai's overrun sales were not made in the ordinary course of trade and have not included them in our margin calculation.

4. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, we will calculate NV based on sales of foreign like products at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁵³ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing.⁵⁴ 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 in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale. To determine whether home market sales are at a different LOT than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

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),⁵⁵ Commerce considered the starting prices before any adjustments. For CEP sales, Commerce considered only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.⁵⁶

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 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 and there is no basis for determining whether the difference in LOTs between NV and CEP affects 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.⁵⁷

⁵² See Hyundai Preliminary Analysis Memorandum at 5; *see also* Memorandum, "Antidumping Duty Administrative Review of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Hyundai Steel Company's Home Market Overruns," dated concurrently with this memorandum.

⁵³ See 19 CFR 351.412(c)(2).

⁵⁴ *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) and accompanying IDM at Comment 7 (*OJ from Brazil*), and accompanying IDM.

⁵⁵ 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).

⁵⁶ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

⁵⁷ See, *e.g.*, *OJ from Brazil* IDM at Comment 7.

Hyundai stated that there is one level of trade in the home market, and that this level is more advanced than that for the various CEP channels of trade for its U.S. sales.⁵⁸ Hyundai reported that it performed the following selling functions for sales to all home market customers: sales forecasting; strategic/economic planning; personnel training/exchange; engineering services; advertising; packing; inventory maintenance; order input/processing; direct sales personnel; sales/marketing support; market research; technical assistance; cash discounts; warranty services; freight and delivery arrangements; and post-sale warehousing.⁵⁹

In the U.S. market, Hyundai reported that it made sales through three main channels of distribution: EP sales to unaffiliated U.S. distributors and end-users (Channel 1); CEP sales through its affiliate HCUSA to unaffiliated U.S. end-users (Channel 2); and CEP sales through its affiliate HSA to unaffiliated end-users and affiliated end-users (Channel 3).⁶⁰ With respect to all U.S. channels, Hyundai reported the same selling functions at the same levels of intensity for the following selling function categories: sales forecasting; strategic/economic planning; personnel training/exchange; advertising; packing, inventory maintenance, order input/processing; direct sales personnel; sales/marketing support; market research; technical assistance; warranty services; and freight and delivery arrangements. Thus, we determine that Hyundai's U.S. sales through all its channels are made at the same LOT.

Based on the selling function categories noted above, we compared the EP (Channel 1) and CEP (Channels 2 and 3) LOT to the home market LOT and found that the selling functions Hyundai performed for its home market customers compared to its U.S. customers had minimal intensity differences that were too insignificant to warrant different LOTs between the U.S. and home markets.

Because of the totality of the facts and circumstances, we preliminarily determine that Hyundai's home market LOT is not at a more advanced stage of distribution than its EP/CEP LOT through Channels 1, 2, and 3, and thus, no LOT adjustment is necessary. Consequently, there is no basis for considering a CEP offset with respect to Hyundai. Accordingly, we have not granted a CEP offset, pursuant to section 773(a)(7)(B) of the Act.

5. Cost of Production

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

a. Calculation of Cost of Production

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 expenses (G&A) and interest expenses. We made certain

⁵⁸ See Hyundai AQR at A-27 to A-29; *see also* Hyundai BCDQR at B-34 and B-35.

⁵⁹ See Hyundai AQR at Exhibit A-16.

⁶⁰ See Hyundai AQR at Exhibit A-14(1).

adjustments to mitigate the direct material cost differences that are unrelated to physical characteristics.⁶¹ However, we relied on all other COP data submitted by Hyundai, as reported in its most recently submitted cost databases for the COP calculation.

We find that Hyundai's reported per-unit costs exhibited significant variations unrelated to the physical characteristics of the products under review. Such findings are not unusual, as Commerce is directed to use as a starting point a respondent's normal books and records.⁶² While there were some fluctuations in material costs between similar products, they were not, on the whole, significant, or frequent. For conversion costs, we found significant differences that affected the majority of the reported CONNUMs. Because we find that CONNUM cost differences exist due to the combining of production from multiple mills, differences in timing of production, and production quantities produced in batches, we have smoothed conversion costs.⁶³

We find it appropriate to mitigate cost fluctuations by smoothing Hyundai's reported unit costs by weight-averaging conversion costs among products of the same nominal thickness, nominal width, and form. Specifically, Commerce revised Hyundai's reported per-unit costs by weight-averaging the reported direct labor costs, variable overhead costs, and fixed overhead costs across products with the same thickness, width, and form characteristics.⁶⁴ We then recalculated the general and administrative expenses and the financial expenses by applying the corresponding rate to the revised costs.⁶⁵ This ensures that the product-specific costs we use for the sales-below-cost test, CV, and the difference-in-merchandise adjustment accurately reflect the physical characteristics of the products whose sales prices are used in Commerce's dumping calculations.

Hyundai also reported purchases of minor inputs from affiliated suppliers.⁶⁶ 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 incorporated in sales of the merchandise under consideration in the market under consideration. We compared the average purchase price of scrap on a per-metric-ton (MT) basis from affiliated and unaffiliated suppliers and determined that Hyundai purchased scrap below fair market value from its affiliated suppliers.⁶⁷ Therefore, we adjusted Hyundai's purchases of steel scrap from its affiliates to reflect a market price.

b. Test of Comparison Market Sales Prices

As required under sections 773(b)(1) and (2) of the Act, we compared the weighted average of the COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net

⁶¹ See Hyundai Preliminary Analysis Memorandum at Attachment I.

⁶² See section 773(f)(1)(A) of the Act; *see also* *Hot-Rolled Steel Final 2016-2017 IDM* at 10.

⁶³ See Hyundai Preliminary Analysis Memo at 2-3 and Attachment I.

⁶⁴ *Id.*

⁶⁵ *Id.* at 4.

⁶⁶ See Hyundai BCDQR at Exhibit D-7; *see also* Hyundai SQR2 at Exhibit D-26.

⁶⁷ See Hyundai BCDQR at 3 and Appendix I.

comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, billing adjustments, direct and indirect selling expenses, and packing expenses.

c. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

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

6. Calculation of Normal Value Based on Comparison Market Prices

For those comparison products for which there were sales at prices above the COP for the respondent, we based NV on home market prices. We calculated NV based on prices to unaffiliated customers in Korea and prices to affiliated customers, where applicable.

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

Where applicable, we calculated NV based on delivered or ex-works prices to affiliated and unaffiliated customers.⁶⁹ In addition, we made deductions, where appropriate, from the starting price for billing adjustments in accordance with 19 CFR 351.401(c), and adjusted the starting price for foreign inland freight, inland insurance, and warehousing pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in packing, in accordance with section 773(a)(6)(A) and also made adjustments for differences in circumstances of sale (for imputed credit expenses, warranty expenses, and other direct selling expenses) in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.

⁶⁸ See 19 CFR 351.411(b).

⁶⁹ See Hyundai Preliminary Analysis Memorandum.

7. Normal Value Based on Constructed Value

Where we were unable to find a comparison market match of identical or similar merchandise, we based NV on CV in accordance with section 773(a)(4) of the Act. Sections 773(e)(1) and (2)(A) of the Act provide that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative (SG&A) expenses, profit, and U.S. packing costs.

For Hyundai, we calculated the cost of materials and fabrication based on the methodology described in the “Cost of Production Analysis” section, above. We based SG&A and profit on the actual amounts incurred and realized by it in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act.

For comparisons to Hyundai’s EP sales, we made circumstances-of-sale adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S. direct selling expenses, to CV, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410.⁷⁰

For comparisons to Hyundai’s CEP sales, we deducted from CV direct selling expenses incurred on its comparison market sales, in accordance with section 773(a)(8) of the Act.⁷¹

VI. CURRENCY CONVERSION

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

⁷⁰ See Hyundai Preliminary Analysis Memo at Attachments I and II.

⁷¹ *Id.*

VII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

2/11/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance