



A-580-887

Administrative Review  
POR: 05/1/2018-4/30/2019  
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March 18, 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:** Issues and Decision Memorandum for the Final Results in the  
2018-2019 Antidumping Duty Administrative Review of Carbon  
and Alloy Steel Cut-to-Length Plate from the Republic of Korea

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## I. SUMMARY

On July 27, 2020, the Department of Commerce (Commerce) published the *Preliminary Results* of the 2018-2019 antidumping duty (AD) administrative review of carbon and alloy steel cut-to-length plate (CTL plate) from the Republic of Korea (Korea).<sup>1</sup> The period of review (POR) is May 1, 2018, through April 30, 2019. We analyzed the case and rebuttal briefs that interested parties submitted on the record. Based on our analysis of the comments received, we made certain changes to the *Preliminary Results*. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum.

Below is a complete list of the issues for which we received comments from parties:

- Comment 1: Affiliation Between POSCO and Shilla Steel Co., Ltd.
- Comment 2: Home Market Freight Revenue Capping
- Comment 3: Freight Revenue Reported as Billing Adjustments
- Comment 4: POSCO International Corporation’s Plate Fabricating Division
- Comment 5: Application of Adverse Facts Available (AFA) to POSCO’s Conversion Costs
- Comment 6: Application of AFA for POSCO’s Service Centers’ Reporting

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<sup>1</sup> See *Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2018-2019*, 85 FR 45165 (July 27, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).



## II. BACKGROUND

On July 27, 2020, Commerce published the *Preliminary Results*. We invited parties to comment on the *Preliminary Results*. On September 2, 2020, POSCO and the petitioners<sup>2</sup> filed case briefs.<sup>3</sup> On September 16, 2020, POSCO and the petitioners filed rebuttal briefs.<sup>4</sup>

On December 30, 2020, we extended the deadline for the final results of this review by 60 days, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2).<sup>5</sup> Accordingly, the final results of this review are due no later than March 18, 2021.

## III. THE POSCO SINGLE ENTITY

In the initial investigation and the first administrative review in this proceeding, Commerce treated POSCO and its affiliated resellers and service centers as a single entity.<sup>6</sup> We find that record evidence continues to support treatment of certain of these companies as a single entity in this administrative review. Specifically, for the reasons outlined in the Preliminary Affiliation and Collapsing Memorandum,<sup>7</sup> Commerce preliminarily determined that POSCO, POSCO International Corporation (successor in interest to POSCO Daewoo Corporation), POSCO Processing & Services Co., Ltd., and certain distributors and service centers (Taechang Steel Co., Ltd., Winsteel Co., Ltd., Moonbae Steel Co., Ltd., Dae Dong Steel Co., Ltd., Shinjin Esco Co., Ltd., and Shilla Steel Co., Ltd.) (collectively, the POSCO single entity)<sup>8</sup> are affiliated pursuant to section 771(33)(E) of the Act, and that these companies constitute a single entity pursuant to 19 CFR 351.401(f). No facts have changed since the *Preliminary Results* to warrant reversal of our determination with respect to the POSCO single entity. See Comment 1 for further discussion.

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<sup>2</sup> The petitioners are ArcelorMittal USA LLC (AMUSA), Nucor Corporation, and SSAB Enterprises LLC (collectively, the petitioners).

<sup>3</sup> See POSCO's Letter, "Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Case Brief of POSCO" (POSCO's Case Brief); and Petitioners' Letter, "Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Petitioners' Case Brief" (Petitioners' Case Brief), both dated September 2, 2020.

<sup>4</sup> See POSCO's Letter, "Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea – Rebuttal Brief of POSCO" (POSCO's Rebuttal Brief); and Petitioners' Letter, "Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Petitioners' Rebuttal Brief" (Petitioners' Rebuttal Brief), both dated September 16, 2020.

<sup>5</sup> See Memorandum, "Certain Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea; 2018-2019 Administrative Review; Extension of Deadline for Final Results," dated December 30, 2020.

<sup>6</sup> See *Certain Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination*, 82 FR 16369 (April 4, 2017) (*CTL Plate from Korea Final Determination*); and *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Final Results and Final Determination; 2016-2018*, 84 FR 70951 (December 26, 2019) (*2016-2018 CTL Plate AR Final Results*).

<sup>7</sup> See Memorandum, "2018-2019 Antidumping Duty Administrative Review of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Affiliation and Collapsing Memorandum," dated July 20, 2020 (Preliminary Affiliation and Collapsing Memorandum).

<sup>8</sup> Note that we preliminarily collapsed Moonbae Steel Co., Ltd. and Dae Dong Steel Co., Ltd. with POSCO only for the portion of the POR during which they were affiliated with POSCO, *i.e.*, from May 1, 2018, to July 2, 2018, and from May 1, 2018, to June 20, 2018, respectively.

#### IV. CHANGES SINCE THE PRELIMINARY RESULTS

1. For the POSCO single entity's downstream sales, we capped the reported freight revenue by the amount of associated freight expenses. *See* Comment 2.<sup>9</sup>
2. For certain U.S. sales, we reclassified certain billing adjustments as freight revenue. *See* Comment 3.<sup>10</sup>
3. We removed our cost-smoothing adjustment to conversion costs. *See* Comment 5.<sup>11</sup>
4. We included general and administrative (G&A) and interest expenses in the costs of POSCO's service centers. *See* Comment 6.<sup>12</sup>

#### V. DISCUSSION OF THE ISSUES

##### Comment 1: Affiliation Between POSCO and Shilla Steel Co., Ltd.

###### *POSCO's Case Brief:*<sup>13</sup>

- Commerce erred in finding Shilla Steel Co., Ltd. (Shilla Steel) affiliated with POSCO and collapsing it with POSCO in the *Preliminary Results*. POSCO holds no direct ownership in Shilla Steel and POSCO's indirect ownership of Shilla Steel via POSCO's ownership in Taechang Steel (Taechang) is less than the five percent threshold necessary to consider the companies affiliated. Moreover, Commerce did not find POSCO to be affiliated with Shilla Steel pursuant to any of the remaining statutory criteria for affiliation. Accordingly, Commerce should find that Shilla Steel is not an affiliate of POSCO and cannot be collapsed with POSCO in the final results.

###### *Petitioners' Rebuttal Brief:*<sup>14</sup>

- The information presented by Shilla Steel was previously dismissed by Commerce in the 2016-2018 administrative review.<sup>15</sup> Additionally, in that administrative review, Commerce found that Shilla Steel was indirectly owned by POSCO in part through POSCO Processing & Service Co., Ltd. (POSCO P&S) and POSCO Daewoo Corporation (PDW), now collectively known as POSCO International Corporation (PIC). As POSCO presented no new facts to warrant a departure from Commerce's prior finding, Commerce should continue to find that Shilla Steel is affiliated with POSCO and continue to collapse Shilla Steel with POSCO accordingly.

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<sup>9</sup> *See* Memorandum, "Final Results Calculation for POSCO in the Antidumping Duty Administrative Review of Certain Carbon and Alloy Steel Cut to Length Plate from the Republic of Korea," dated concurrently with this memorandum (Final Calculation Memorandum), at 3.

<sup>10</sup> *Id.* at 5.

<sup>11</sup> *Id.* at 2-3.

<sup>12</sup> *Id.* at 3-4.

<sup>13</sup> *See* POSCO's Case Brief at 4-5.

<sup>14</sup> *See* Petitioners' Rebuttal Brief at 1-2.

<sup>15</sup> *Id.* (citing 2016-2018 CTL Plate AR Final Results, and accompanying Issues and Decision Memorandum (IDM) at 11).

## **Commerce's Position**

We agree with the petitioners. In the *Preliminary Results*, consistent with our findings in both the investigation and the first administrative review, we collapsed POSCO with its affiliated service center Shilla Steel (among other companies as discussed above).<sup>16</sup> As explained in the Preliminary Affiliation and Collapsing Memorandum, the record of this review continues to show that POSCO is in a position of indirect ownership over Shilla Steel.<sup>17</sup> POSCO has identified no new information regarding its ownership of Shilla Steel during this POR. POSCO claims that its indirect ownership of Shilla Steel is not sufficient to find the two companies affiliated because it is less than the five percent equity interest threshold under section 771(33)(E) of the Act, but provides no support for its claim. The evidence on the record<sup>18</sup> demonstrates that the equity interest between and among POSCO, Shilla Steel, and Taechang is greater than five percent.<sup>19</sup> Additionally, POSCO focuses on its indirect ownership of Shilla Steel through Taechang and neglects the intertwined nature of the operations of the three companies as laid out in the Preliminary Affiliation and Collapsing Memorandum.<sup>20</sup> As the facts have not changed with respect to the relationship between POSCO and Shilla Steel, we continue to find in the final results that POSCO's ownership, directly or indirectly, of greater than five percent equity interest confers legal and/or operational control over Shilla Steel, pursuant to section 771(33)(E) of the Act, and that collapsing Shilla Steel into the POSCO single entity is warranted, in accordance with 19 CFR 351.401(f).

## **Comment 2: Home Market Freight Revenue Capping**

*POSCO's Case Brief:*<sup>21</sup>

- In the *Preliminary Results*, although Commerce indicated it was applying its freight revenue capping methodology to the POSCO single entity in this review, Commerce only applied the capping methodology to POSCO's home market sales, and did not apply it to the downstream sales of the other entities in the collapsed POSCO single entity. Commerce should revise its calculations in the final results to implement freight revenue capping on all home market sales.

*The petitioners did not comment on this issue.*

## **Commerce's Position**

We agree with POSCO. Commerce preliminarily calculated the normal value (NV) for the POSCO single entity based on the prices that the companies in the POSCO single entity charged their unaffiliated customers in the home market and intended to cap freight revenue by the amount of the associated freight expenses for all home market sales, *i.e.*, POSCO's sales and the downstream sales of POSCO's affiliates in the collapsed entity, consistent with our normal practice. However, we inadvertently omitted this freight revenue capping for the POSCO single entity's downstream sales. We have remedied this omission in the final results by capping the

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<sup>16</sup> See Preliminary Affiliation and Collapsing Memorandum.

<sup>17</sup> *Id.* at 4-5.

<sup>18</sup> See POSCO's April 13, 2020 Supplemental Section AB Response at 13 (POSCO's SABQR).

<sup>19</sup> See Preliminary Affiliation and Collapsing Memorandum at 5.

<sup>20</sup> *Id.*

<sup>21</sup> See POSCO's Case Brief at 6-7

reported freight revenue by the amount of the associated freight expenses for the POSCO single entity's downstream sales.<sup>22</sup>

### **Comment 3: Freight Revenue Reported as Billing Adjustments**

#### *Petitioners' Case Brief:*<sup>23</sup>

- In its questionnaire responses, POSCO explained that for its export price (EP) sales, it segregated the reported gross unit price (GRSUPR1U) between the price for the product (PROVALU) and an amount for freight revenue (FRTREVVU).<sup>24</sup> POSCO further explained that when it charged freight to the customer for the sale, but did not include it in GRSUPR1U, POSCO classified the freight revenue as a billing adjustment (BILLADJ1U) and reported FRTREVVU as zero.<sup>25</sup>
- The petitioners noted multiple instances in the U.S. sales database where GRSUPR1U and PROVALU are equal.<sup>26</sup> Adding BILLADJ1U to PROVALU to determine GRSUPR1U for these sales would result in adding the freight revenue back into the gross unit price rather than accounting for it separately as intended by Commerce.
- Due to the degree of obfuscation by POSCO, Commerce should apply AFA by not including BILLADJ1U as part of the net U.S. price for all U.S. sales; or at least Commerce should apply partial facts available by not including BILLADJ1U in the net U.S. price for the U.S. sales for which BILLADJ1U represents freight revenue.

#### *POSCO's Rebuttal Brief:*<sup>27</sup>

- The petitioners' description of "obfuscation" on the part of POSCO is unwarranted. POSCO provided a clear explanation of its reporting methodology where it classified freight revenue as a billing adjustment for certain U.S. sales.
- POSCO explained that FRTREVVU contained non-zero data when the customer was billed together for product value and freight revenue services. BILLADJ1U only represents freight revenue when FRTREVVU is zero, otherwise it represents a different billing adjustment.
- POSCO responded completely and accurately to allow Commerce to apply its freight revenue capping methodology, and, as such, resorting to any sort of facts available is unnecessary.

### **Commerce's Position**

We agree with POSCO that neither AFA nor partial AFA is warranted with respect to POSCO's EP sales, where the amount reported for freight revenue (under the FRTREVVU field in the U.S. sales database) equals zero and the amount reported for billing adjustments (under the BILLADJ1U field in the U.S. sales database) is a positive value. For these sales, BILLADJ1U reports the freight service charge that was billed separately to the customer. POSCO clearly explained in its questionnaire responses that FRTREVVU contains non-zero data for those EP

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<sup>22</sup> See Final Calculation Memorandum at 3.

<sup>23</sup> See Petitioners' Case Brief at 32-33.

<sup>24</sup> *Id.* at 32 (citing POSCO's November 15, 2019, Section C Questionnaire Response at C-33).

<sup>25</sup> *Id.* (citing POSCO's April 24, 2020, Supplemental Sections C-D Questionnaire Response (POSCO's SCDQR) at 1-2).

<sup>26</sup> *Id.* at Attachment 6.

<sup>27</sup> See POSCO's Rebuttal Brief at 28-30.

sales where the customer was billed together for product value and freight services. POSCO also clearly explained that BILLADJ1U represents freight revenue only when the amount reported in FRTREUVU is zero; otherwise it represents a different billing adjustment. Contrary to the petitioners' claims, POSCO's responses meet none of the criteria set out in section 776 of the Act as necessary for Commerce to use facts available. POSCO's responses were complete, timely, and clearly explained POSCO's reporting with respect to freight revenue associated with EP sales. We find no degree of "obfuscation" in POSCO's reporting on this matter.

Notwithstanding the information contained in POSCO's questionnaire responses, we inadvertently failed to make a distinction between EP sales with regular billing adjustments reported under BILLADJ1U and EP sales with freight revenue reported under BILLADJ1U in our preliminary margin calculation program. We, therefore, inadvertently did not remove from the U.S. gross unit price (USGUPADJ) the freight revenue that was reported under BILLADJ1U for those EP sales where FRTREUVU was reported as zero. We have corrected this error in the final results by reclassifying the amounts reported under BILLADJ1U for the affected EP sales to ensure that USGUPADJ for these sales does not include freight revenue.<sup>28</sup>

#### **Comment 4: POSCO International Corporation's Plate Fabricating Division**

*POSCO's Case Brief:*<sup>29</sup>

- Commerce misidentified the Plate Fabricating Division (PFD) of PIC as a separate business entity in the *Preliminary Results*. However, PFD is not a distinct legal entity from PIC but rather a business unit within PIC. Therefore, PFD should not be identified separately among the collapsed entities in the final results.

*The petitioners did not comment on this issue.*

#### **Commerce's Position**

We agree with POSCO and will not identify PFD separately among the companies collapsed as part of the POSCO single entity in the publication of the final results. POSCO's questionnaire responses clearly describe that PFD is a separate business division of PIC.<sup>30</sup>

#### **Comment 5: Application of AFA to POSCO's Conversion Costs**

*Petitioners' Case Brief:*<sup>31</sup>

- In the *Preliminary Results*, Commerce determined that POSCO's reported material and conversion cost information incorporated differences that went beyond those directly determined by the physical characteristics established by Commerce, and then applied its cost-smoothing methodology to POSCO's reported conversion costs.<sup>32</sup>

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<sup>28</sup> See Final Calculation Memorandum at 4.

<sup>29</sup> See POSCO's Case Brief at 5-6.

<sup>30</sup> See Carbon and Alloy Steel Cut-To-Length Plate from the Republic of Korea: POSCO's Section A Questionnaire Response, dated October 17, 2019, at A-15 and A-42.

<sup>31</sup> See Petitioners' Case Brief at 3-24.

<sup>32</sup> *Id.* at 3 (citing Memorandum, "Preliminary Results Calculation for POSCO in the Antidumping Duty Administrative Review of Certain Carbon and Alloy Steel Cut to Length Plate from the Republic of Korea," dated July 20, 2020 (Preliminary Cost Calculation Memorandum) at 2).

- POSCO's reported costs present contorted per-unit cost data that do not reflect the physical characteristics in the product control number (CONNUM),<sup>33</sup> resulting in an unusable cost file that the smoothing methodology cannot fix.
- POSCO's conversion costs do not reflect the CONNUM-specific product trends associated with producing CTL plate. The CONNUM comparisons provided in the petitioners' case brief demonstrate that POSCO's cost data includes unexplained and aberrational discrepancies in the reported direct conversion costs of products that only differ in width and gauge.
- While Commerce's cost-smoothing methodology can correct for timing differences, it cannot correct the multitude of other non-CONNUM-specific differences. Cost-smoothing will not adjust POSCO's reported costs to reasonably reflect actual costs and has no remedial effect.
- Commerce's section D and supplemental section D questionnaires requested that POSCO provide CONNUM-specific costs.<sup>34</sup> However, POSCO failed to provide Commerce with the requested information. Accordingly, the POSCO single entity did not cooperate to the best of its ability and should be assigned total AFA.
- If Commerce determines that total AFA is not warranted, then partial AFA should be used instead. To account for the aberrational differences in the conversion costs, the petitioners suggest calculating the mean for each conversion cost field and, where the reported cost is less than the mean, it should be replaced by the mean as partial AFA.

*POSCO's Rebuttal Brief:*<sup>35</sup>

- The application of total AFA is not supported by the record or consistent with the statute because POSCO reported all of its conversion costs based on its normal books and records which are maintained in compliance with the Korea International Financial Reporting Standards, and POSCO cooperated to the best of its ability with Commerce's requests for information.
- Commerce may, when addressing a gap in information, use an adverse inference when selecting among the facts available.<sup>36</sup> However, prior to resorting to facts available, Commerce must first notify respondents of any deficiencies in their responses to provide respondents an opportunity to remedy deficient submissions.<sup>37</sup> Commerce issued no such notifications to POSCO related to its reported costs.
- The petitioners raised this exact concern both in response to POSCO's section D and supplemental section D questionnaire responses and Commerce decided to request no additional information as a result.<sup>38</sup> Commerce confirmed no adjustments were necessary to material costs in the *Preliminary Results*, and only applied a minor adjustment to conversion costs using the smoothing methodology. As such, the petitioners have provided no new information that cause Commerce to change its decision. Moreover, the

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<sup>33</sup> The product control number is a concatenation of the physical characteristics established in the proceeding which define the subject merchandise and the foreign like product.

<sup>34</sup> *Id.* at 17 - 18 (citing POSCO's November 15, 2019 Section D Questionnaire Response (POSCO's DQR) at D-1, D-2, D-7, D-18, D-27 and D-38; and POSCO's SCDQR at 16-17).

<sup>35</sup> See POSCO's Rebuttal Brief at 2-23.

<sup>36</sup> *Id.* at 5 (citing sections 776(a) and (b) of the Act).

<sup>37</sup> *Id.* at 5 (citing section 782(d) of the Act).

<sup>38</sup> *Id.* at 6 (citing Petitioners' Letters, "Comments Concerning POSCO's Section D Questionnaire Response," dated January 17, 2020, and "Comments Concerning POSCO's Supplemental Section D Questionnaire Response," dated May 14, 2020).

petitioners' arguments ignore previous segments of this order and other cases in which Commerce rejected similar arguments and accepted POSCO's reporting of its costs.<sup>39</sup>

- The petitioners' discussion of allegedly aberrational values related to conversion costs as justification for AFA focuses on specific factors of the CONNUM and is speculative. The arguments either are explained through a better understanding of the production process, were already explained on the record, or are points on which Commerce did not request additional information, nor did it need to.

### **Commerce's Position**

According to the petitioners, POSCO failed to submit reliable, CONNUM-specific cost information despite repeated requests to do so, rendering the cost data unusable for purposes of calculating a dumping margin. We disagree with the petitioners that the application of AFA is warranted for the final determination with respect to POSCO's reported cost data in general or conversion cost data in particular.

Sections 776(a)(1) and 776(a)(2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination if necessary information is not on the record, or if an interested party: (A) withholds information that has been requested by Commerce; (B) fails to provide such information in a timely manner or in the form or manner requested subject to section 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding; or (D) provides such information but the information cannot be verified as provided for in section 782(i) of the Act. Further, section 776(b) of the Act provides that, if Commerce finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, Commerce may use an inference adverse to the interests of that party in selecting from among the facts otherwise available.

Section 773(f)(1)(A) of the Act states that "costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles (GAAP) of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise." In cases where the costs reported according to a company's normal books are unreasonable, Commerce may revise them. Commerce relies on such costs for purposes of the sales-below-cost test and for constructed value (CV) when normal value (NV) prices are not available. Additionally, Commerce relies on the reported CONNUM costs to calculate the difference-in-merchandise (DIFMER) adjustment when comparing prices of similar merchandise.

Accordingly, pursuant to section 773(f)(1)(A) of the Act, Commerce is instructed to rely on a company's normal books and records if the following two conditions are met: (1) the books are kept in accordance with the company's home country GAAP; and (2) the books reasonably reflect the costs associated with the production of the product. The record is clear in this review that POSCO's reported costs for the merchandise under consideration are derived from the company's accounting records as maintained in the normal course of business, and that those

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<sup>39</sup> *Id.* at 9 - 12 (citing 2016-2018 CTL Plate AR Final Results IDM at Comment 9; CTL Plate from Korea Final Determination IDM at Comment 2; and Carbon and Alloy Steel Wire Rod From the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances, 83 FR 13228 (March 28, 2018), and accompanying IDM at Comment 1).



records are kept in accordance with home country GAAP.<sup>40</sup> The petitioners do not dispute these two points but, as discussed further below, allege that the company's submitted cost data are not CONNUM-specific and hence do not reasonably reflect the cost of producing the merchandise.

At the outset of an AD proceeding, Commerce identifies the physical characteristics that are the most significant in differentiating products for price comparison purposes. These are the physical characteristics that define identical or similar products (*i.e.*, the CONNUMs) for determining a NV for the comparison of home market and U.S. sales of subject merchandise. The level of detail within each physical characteristic (*e.g.*, the multiple different grades or sizes of a product) reflects the importance, in making price-to-price comparisons, that we place on establishing NV based on comparison market sale prices, or CV, of the identical, or the most similar, foreign like product.<sup>41</sup> Thus, under section 773(a)(6)(C)(ii) and (iii) of the Act, an adjustment is made to NV to account for the fact that similar products, as defined by the CONNUMs, are being matched instead of identical products as defined by the CONNUMs.

Consistent with the statute, Commerce's section D questionnaire directs the respondent to report weighted-average costs for each CONNUM, relying on the per-unit costs from its normal books and records assigned to CONNUMs based upon the physical characteristics.<sup>42</sup> While either the respondent or Commerce may later assert that such costs do not reasonably reflect the cost of production (COP), the starting point for reporting must be the per-unit cost and production information derived from the respondent's normal books and records. Further, if the respondent's costs do not normally account for certain cost differences, Commerce may direct the respondent to further refine the costs from its system using available information.<sup>43</sup> However, Commerce does not direct the respondent to completely abandon its normal accounting system costs and develop a completely new cost reporting system in order for its reported costs to reflect differences related only to the identified physical characteristics as the petitioners allege. If Commerce instructed respondents to do so, the reported per-unit costs would not reflect the actual costs of producing the products, as they would ignore other physical characteristics not included by Commerce for the purpose of the proceeding, distorting the resulting cost for use as the COP of each CONNUM, including in the sales-below-cost test, and the calculation of NV based on CV. Further, the reported costs would no longer tie to records

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<sup>40</sup> See POSCO's DQR at D-10 and D-14-D-16.

<sup>41</sup> See *Certain Cut-to-Length Carbon-Quality Steel Plate Products from Korea: Final Results of Antidumping Duty Administrative Review; 2018-2019*, 85 FR 27362 (May 8, 2020) (*CTL Plate Products from Korea 18-19*), and accompanying IDM at Comment 4.

<sup>42</sup> See Commerce's Section D Questionnaire, dated September 5, 2019 (Section D Questionnaire), at Question I.C ("Calculate reported COP and CV figures based on the actual costs incurred by your company during the period of review (POR), as recorded under your company's normal accounting system.") at D-2; Question I.A, footnote 2 ("There should be a single weighted-average cost for each CONNUM regardless of market destination as defined by Commerce's product characteristics.") at D-29; and Question III ("The CONNUM specific per-unit COP and CV figures that you provide in response to this section of the questionnaire must reconcile to the actual costs reported in your company's normal cost accounting system and to the accounting records used by your company to prepare its financial statements. Therefore, the starting point for your response must be the costs as recorded in your normal books and records, *see* section 773(f) of the statute.").

<sup>43</sup> See Section D Questionnaire at Question III.A.3 ("If a physical characteristic identified by Commerce is not tracked by the company's normal cost accounting system, calculate the appropriate cost differences for that physical characteristic using a reasonable method based on available company records (*e.g.*, production records, engineering statistics). The starting point for any such calculation must be the product specific costs as recorded in your normal cost accounting system.").

normally kept by the respondent making verification of such costs significantly more difficult and open to manipulation.

Commerce has recognized that modern computer-based accounting systems, which track costs over short periods, will capture differences that do not reflect any physical differences of the individual end products, for example timing differences in raw material purchases, choices between substitutable inputs, or production processing differences that are not smoothed out on small production quantities. In such cases, Commerce has resorted to its cost-smoothing methodology to average certain reported costs across CONNUMs to eliminate such distortions, but does so only when such differences can be shown to be significant.<sup>44</sup> Therefore, the mere presence of some unusual cost differences within the reported data in of itself does not provide sufficient reason for Commerce to reject costs that were based on the respondent's normal books and records.<sup>45</sup> Rather, Commerce would look to whether those costs were unsupported by underlying books and records and whether the respondent failed to act to the best of its ability in providing costs that reasonably reflect the costs associated with the production of the in-scope merchandise.

As discussed above, POSCO followed Commerce's explicit instructions to rely on its normal accounting system as the basis for its submitted costs. In a supplemental questionnaire, Commerce requested additional information from POSCO regarding conversion cost differences among certain CONNUMs. POSCO responded in full to our request and provided a complete explanation for the cost differences among the products at issue.<sup>46</sup> In the *Preliminary Results*, Commerce performed an analysis with respect to the conversion cost differences among similar CONNUMs. Specifically, we evaluated the cost differences among CONNUMs with the same thickness (THICK), heat (HEAT), width (WIDTH), and form (FORM).<sup>47</sup> Based on that analysis, we concluded that our "smoothing methodology" was warranted and we accordingly weight-averaged POSCO's reported conversion costs among CONNUMs sharing these physical characteristics. For purposes of the final results, we have re-visited our analysis of POSCO's reported conversion costs to correct errors with respect to the production quantities used in that analysis. As a result, we found that while there were some cost differences among similar CONNUMs, overall those differences were not significant and relate to lower production volumes.<sup>48</sup> Therefore, we do not find it necessary for the final results to revise POSCO's reported conversion costs.

According to the petitioners, the conversion costs reported by POSCO present distortive cost trends.<sup>49</sup> However, the petitioners do not point to any record information in support of their assertions regarding specifically how or to what extent the CONNUM-specific costs in this case should vary based on the physical characteristics. The petitioners also argue that, based on the presence of certain trends and patterns in conversion costs, POSCO's conversion costs were shifted so that, "the percentage of below-mean home market CONNUMs' conversion costs that

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<sup>44</sup> See *Certain Hot-Rolled Steel Flat Products Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 32720 (July 9, 2019), and accompanying IDM at Comment 1.

<sup>45</sup> See *CTL Plate Products from Korea 18-19* IDM at Comment 4.

<sup>46</sup> See POSCO's SCDQR at 17-18 and at Exhibit SD-4.

<sup>47</sup> See Preliminary Cost Calculation Memorandum.

<sup>48</sup> See Memorandum, "Final Results Calculation for POSCO in the Antidumping Duty Administrative Review of Certain Carbon and Alloy Steel Cut to Length Plate from the Republic of Korea," dated concurrently with this memorandum (Final Calculation Memorandum), at 2-3.

<sup>49</sup> See Petitioners' Case Brief at 15.

would be matched to U.S. CONNUMs is disproportionately lower than the percentage of below-mean conversion costs reported for non-identical home market CONNUMs.”<sup>50</sup> The petitioners simply speculate as to what these trends may be indicative of; however, they direct Commerce to no evidence that the observed cost trends were in fact due to the “shifting” of conversion costs in such a way as to impact the cost test and product matching.

In analyzing the totality of the record evidence related to POSCO’s reported costs and the company’s conduct in this review, we disagree with the petitioners that either total or partial AFA is warranted in the final results. We determine that necessary information is not missing from the record, and also that POSCO did not withhold information that was requested of it, did not fail to provide that information in a timely manner and in the form requested, did not significantly impede the proceeding, and did not provide unverifiable information, within the meaning of section 776(a) of the Act. Further, we find that POSCO has not failed to cooperate by not acting to the best of its ability in complying with our requests for information within the meaning of section 776(b) of the Act. POSCO responded in full to all requests for cost information throughout this administrative review and has, as required, reported its costs consistent with its normal accounting records, which are kept in accordance with its home country GAAP. Therefore, for the final results, we have continued to rely on POSCO’s reported cost data and have removed the cost-smoothing methodology applied to these costs in the *Preliminary Results*.

#### **Comment 6: Application of AFA for POSCO’s Service Centers’ Reporting**

##### *Petitioners’ Case Brief:*<sup>51</sup>

- POSCO failed to submit cost reconciliations for its service centers.
- POSCO did not report its G&A and interest expenses for all CONNUMs that were resold by service centers, and therefore POSCO understated its costs.
- POSCO failed to consider movement costs when applying the G&A and interest expense ratios, thereby understating the total costs.
- POSCO utilized an unacceptable allocation methodology in reporting the short-term interest income from its service centers. This methodology maximized the amount of short-term interest income, which artificially minimized interest expenses.
- POSCO failed to provide a complete chart of accounts, which included a subaccount listing, and the financial statements for the two most recent fiscal years, of its service centers, Shilla Steel and Shinjin Esco.
- Due to these deficiencies, Commerce should apply total AFA to POSCO. If, *arguendo*, Commerce does not apply total AFA then it should at least rely on partial AFA to account for the deficiencies in reported costs.

##### *POSCO’s Rebuttal Brief:*<sup>52</sup>

- The petitioners’ claims regarding reported service center costs and information are unfounded. The petitioners have brought up these arguments throughout the review and Commerce has found them unpersuasive. None of these claims are grounds for the application of any form of AFA.

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<sup>50</sup> *Id.* at 11.

<sup>51</sup> See Petitioners’ Case Brief at 25-32.

<sup>52</sup> See POSCO’s Rebuttal Brief at 23-28.

- The petitioners' allegation that POSCO failed to submit service center cost reconciliations is baseless, as a traditional reconciliation to cost of goods sold is not relevant. Instead POSCO was required to report its actual costs of manufacturing the inputs provided to the service centers. POSCO then used the service centers' costs from their accounting systems to calculate their reported costs. As such, no information is missing.
- The petitioners contend that POSCO did not apply G&A expenses to resales by its service centers. However, Commerce's practice is not to apply G&A expenses to resales unless the company is a pure reseller, which the service centers were not.
- The petitioners claim that POSCO understated service center costs by omitting movement costs when applying G&A and interest expenses ratios. However, these calculations were reasonable and accurate, and Commerce has not found it necessary to adjust them.
- In regard to reporting its short-term interest income, POSCO correctly allocated its interest income using a reasonable methodology in compliance with Commerce's practice, and with which Commerce has not indicated any issues.
- Shilla Steel and Shjin Esco both submitted their chart of accounts on the record. Commerce's initial questionnaire only requests a "chart of accounts" and Commerce requested no additional information.

### **Commerce's Position**

We disagree with the petitioners that the application of either total or partial AFA with regard to POSCO's reported costs for service centers is warranted. As noted above, section 776(a) of the Act provides, in general, that Commerce may resort to facts available if necessary information is not available on the record or if an interested party withholds information that has been requested, fails to provide such information by the established deadlines or in the form and manner requested, significantly impedes a proceeding, or if such information cannot be verified. Further, section 776(b) states that adverse inferences may be applied in selecting from the facts available if an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information. In this case, we find that the use of facts available is not warranted because POSCO reported the costs for all of its service centers based on its books and records in accordance with Korean GAAP. We also find that the use of AFA is not warranted because POSCO cooperated to the best of its ability with Commerce's requests for information, and timely responded to all of Commerce's questionnaires.

The petitioners allege that POSCO failed to submit cost reconciliations for the service centers' costs. Consistent with its responses in the underlying investigation and first administrative review, POSCO provided a supplementary appendix containing the cost data and supporting calculation materials pertaining to the manufacturing costs incurred by its service centers, in addition to a narrative explanation of that data.<sup>53</sup> In response to Commerce's requests, POSCO provided certain additional information related to each service center's costs in a supplemental response, including a demonstration for a selected service center of how the labor and conversion costs were derived for that service center based on its accounting system, and how POSCO used those amounts in calculating the reported costs.<sup>54</sup> Based on our review of the data and

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<sup>53</sup> See POSCO's DQR at Appendix D-I ("Affiliated Service Centers").

<sup>54</sup> See, e.g., POSCO's SCDQR at 22 and Exhibit SD-10B (cost buildup for the highest cost further processed CONNUM).

supporting information provided by POSCO related to service center costs, we find that POSCO responded in full to our requests in the original and supplemental questionnaires and that there is no requisite information missing from the record.

The petitioners also assert that POSCO underreported overall costs by (i) reporting G&A and interest expenses only on CONNUMs that were further manufactured by the service centers and (ii) applying the service center G&A and interest expense ratios, which were calculated using a cost of goods sold that includes movement costs, to a value that excludes such expenses. While we agree that the service center G&A and financial expense ratios should be applied to all CONNUMs in the cost data, and further that the value to which they are applied should include movement expenses, we do not find that the manner in which the company calculated or applied the service center G&A and financial expense ratios to be among the totality of factors the petitioners allege warrant the application of AFA. POSCO asserts that Commerce's practice is not to apply G&A expenses to resales unless the entity is a *pure* reseller, *i.e.*, that the G&A expenses constitute selling expenses. However, the scenario highlighted by POSCO centers around the inclusion of administrative expenses as part of a reseller's total *selling* expenses (*i.e.*, those that are to be reported in a sales database). Here, POSCO reports the CONNUM-specific cost, inclusive of movement expenses, for all products sold by each of the service centers, whether or not further processed. As such, we find that the reported costs for all products should include an appropriate share of the service centers' G&A and financial expenses. Therefore, we have adjusted our cost calculations to include these G&A and financial expenses for all products in the final results.<sup>55</sup>

We continue to disagree with the petitioners that POSCO overstated the portion of interest income that is short-term, thereby understating the interest expenses. POSCO's reliance on interest-bearing assets, versus total assets, is reasonable as that is the population generating interest income.

We disagree with the petitioners that POSCO failed to provide a complete chart of accounts for Shilla Steel and Shinjin Esco. Commerce received the chart of accounts for each of these entities and made no request for further detail, such as subaccounts.<sup>56</sup> Moreover, the question which petitioners cite as evidence that POSCO ignored a request for additional financial statements from Shilla Steel and Shinjin Esco, refers specifically to newly reported affiliated parties.<sup>57</sup> As Shilla Steel and Shinjin Esco have been included in POSCO's reporting of affiliates within the POSCO single entity since the investigation, we find that POSCO was under no obligation to provide the financial statements in response to that question.

Finally, we note that each of the petitioners' arguments was considered by Commerce for the *Preliminary Results* and the petitioners have provided no new information or novel arguments regarding the issues raised for Commerce's consideration in the final results. Accordingly, we continue to find that the POSCO single entity has been fully cooperative and provided all necessary information for Commerce to complete its dumping analysis for the final results of this review. Therefore, we find any application of either total or partial AFA would be unsupported by the record evidence.

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<sup>55</sup> See Final Calculation Memorandum at 5.

<sup>56</sup> See POSCO's SABQR at Exhibit SA-5-B and SA-7-4.

<sup>57</sup> *Id.* at 14-15.

## VI. RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If this recommendation is accepted, we will publish the final results of the review and the final weighted-average dumping margin for the POSCO single entity in the *Federal Register*.

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\_\_\_\_\_  
Agree

☐

\_\_\_\_\_  
Disagree

3/18/2021

X



Signed by: CHRISTIAN MARSH

\_\_\_\_\_  
Christian Marsh  
Acting Assistant Secretary  
for Enforcement and Compliance