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June 15, 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 Cut-to-Length Carbon-Quality Steel Plate Products from
the Republic of Korea: Decision Memorandum for Preliminary
Results of Antidumping Duty Administrative Review; 2019-2020

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea) covering the period of review (POR) February 1, 2019, through January 31, 2020. The review covers four producers and/or exporters of the subject merchandise. We preliminarily determine that companies subject to this review made sales of the subject merchandise at prices below normal value (NV).

II. BACKGROUND

On February 10, 2000, we published in the *Federal Register* an AD order on CTL Plate from Korea.¹ On February 3, 2020, we published in the *Federal Register* a notice of opportunity to request an administrative review of the order.² On April 8, 2020, based on timely requests for administrative review, we initiated an administrative review of four companies: BDP International; Dongkuk Steel Mill Co., Ltd. (Dongkuk Steel); Hyundai Steel Company (Hyundai Steel); and Sung Jin Steel Co., Ltd. (Sung Jin Steel).³

¹ 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) (Order).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 5938 (February 3, 2020).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 19730, 189735 (April 8, 2020).



On May 7, 2020, we selected Hyundai Steel as the mandatory respondent for individual examination in this review.⁴ On May 12, 2020, we issued the AD questionnaire to Hyundai Steel.⁵

On May 29, 2020, Dongkuk Steel requested that Commerce select it as a voluntary respondent.⁶ We are not selecting Dongkuk Steel as a voluntary respondent because doing so would be unduly burdensome and would inhibit the timely completion of the review, pursuant to section 782(a) of the Tariff Act of 1930, as amended (the Act).⁷

On April 24, 2020, pursuant to section 751(a)(1) of the Act, we tolled the deadline for the preliminary results along with all other administrative review deadlines by 50 days from November 20, 2020, to December 30, 2020.⁸ Again, on July 21, 2020, we tolled all preliminary results deadlines, extending the deadline 50 days from December 30, 2020, to February 18, 2021.⁹ On January 26, 2021, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), we extended the due date for the preliminary results of this review by 120 days, from February 18, 2021, to June 18, 2021.¹⁰

III. SCOPE OF THE *ORDER*

The products covered by the antidumping duty *Order* are certain hot-rolled carbon-quality steel: (1) universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to length (not in coils) and without patterns in relief), of iron or non-alloy quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products included in the scope of the *Order* are of rectangular, square, circular, or other shape and of rectangular or non-rectangular cross section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been “worked after rolling”) – for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished, or coated with plastic or other non-metallic substances

⁴ See Memorandum, “Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Respondent Selection,” dated May 7, 2020, at 4.

⁵ See Commerce’s Letter, Initial AD Questionnaire, dated May 12, 2020.

⁶ See Dongkuk’s Letter, “Certain Cut-to-Length Carbon-Quality Steel Plate from Korea: Request for Voluntary Respondent Treatment,” dated May 29, 2020; *see also* Dongkuk Steel’s Letter, “Certain Cut-to-Length Carbon-Quality Steel Plate Products from Korea: Response to Section A of the Questionnaire,” dated June 16, 2020; and Dongkuk Steel’s Letter, “Certain Cut-to-Length Carbon-Quality Steel Plate Products from Korea: Voluntary Response to Sections B through D of the Questionnaire,” dated July 2, 2020.

⁷ See Memorandum, “Antidumping Duty Review of Certain Cut-to-Length Carbon-Quality Steel Plate from Korea: Selection of Voluntary Respondent,” dated concurrently with this memorandum.

⁸ 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.

⁹ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Review,” dated July 21, 2020.

¹⁰ See Memorandum, “Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Extension of Deadline for Preliminary Results of the Antidumping Duty Administrative Review; 2019-2020,” dated January 26, 2021.

are included within the scope. Also, specifically included in the scope of the *Order* are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products included in the scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the *Order* unless otherwise specifically excluded. The following products are specifically excluded from the *Order*: (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

Imports of steel plate are currently classified in the HTSUS under subheadings 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, and 7226.99.0000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by the *Order* is dispositive.

IV. RATES FOR NON-EXAMINED COMPANIES

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

In this review, we have preliminarily calculated a weighted-average dumping margin for Hyundai Steel that is not zero, *de minimis*, or determined entirely on the basis of facts available. Accordingly, Commerce preliminarily assigned to the companies not individually examined,

BDP International, Dongkuk Steel, and Sung Jin Steel,¹¹ a margin of 0.68 percent, which is Hyundai Steel's calculated weighted-average dumping margin.

V. DISCUSSION OF THE METHODOLOGY

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

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 the respondents' sales of the subject merchandise to unaffiliated U.S. customers 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.¹²

In recent proceedings and the last completed administrative review of this *Order*, Commerce applied a "differential pricing" analysis for determining whether application of the A-A method is appropriate in a particular situation, pursuant to section 777A(d)(1)(B) of the Act and 19 CFR 351.414(c)(1) and 19 CFR 351.414(c)(1).¹³ Commerce finds that the differential pricing analysis used in recent investigations and reviews may be instructive for purposes of examining whether

¹¹ See *Initiation Notice*, 85 FR at 19735.

¹² See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

¹³ See, e.g., *Certain Tool Chests and Cabinets from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 82 FR 53456 (November 16, 2017), and accompanying preliminary decision memorandum (PDM) at 21-24, unchanged in *Certain Tool Chests and Cabinets from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 15365 (April 10, 2018); and *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2018-2019*, 84 FR 69360 (December 18, 2019) (2018-19 Prelim), and accompanying PDM at 4-6, unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2018-2019*, 27362 (May 8, 2020) (2018-19 Final).

to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the A-A method in calculating a weighted-average dumping margin for each respondent.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of U.S. prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the 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 to determine individual dumping margins.

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

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the 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 Steel, based on the results of the differential pricing analysis, we preliminarily find that 94.95 percent of the value of U.S. sales pass the Cohen's *d* test¹⁴ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the A-A method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the A-A method and the weighted-average dumping calculated using an alternative comparison method based on applying the A-T method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the A-to-T method to all U.S. sales to calculate the weighted-average dumping margin for Hyundai Steel.

B. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the "Scope of the *Order*" section above, produced and sold by the respondent, in the comparison market, during the POR, to be foreign like product for the purposes of determining appropriate product comparisons to U.S. sales of subject merchandise. Where there were no sales of identical

¹⁴ See Memorandum, "Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Analysis Memorandum for Hyundai Steel Company," dated concurrently with this PDM.

merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent in the following order of importance: quality, specification and grade, heat treatments, standard thickness, and standard width. Specifically, we made comparisons to weighted-average comparison market prices that were based on all sales which passed the cost-of-production (COP) test of the identical product during the relevant or contemporary month.

C. Date of Sale

We normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale, but pursuant to 19 CFR 351.404(i) may use a date other than the invoice date if we are satisfied that a different date better reflects the date on which the material terms of sale are established.¹⁵ Furthermore, we have 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.¹⁶

Hyundai Steel's home market sales were shipped from the factory on SHIPDAT1H, or SHIPDAT2H, the latter indicating sales for which customers requested delayed shipments.¹⁷ Hyundai Steel reported the day it issued its tax invoice as the sales invoice date, SALINDTH.¹⁸ These invoices are issued usually by the end of the month containing shipment from the factory, SHIPDAT1H.¹⁹ Hyundai Steel stated that the material terms of sale do not change after this date, that price is set by the issuance of the tax invoice, and that quantity did not change after this date.²⁰ Therefore, pursuant to 19 CFR 351.404(i) we used the earlier of sales invoice date, SALINDTH, or date of shipment, SHIPDAT1H as the date of sale for home market sales. For U.S. sales, Hyundai Steel reported issuing commercial invoices for its EP sales to the United States when the goods leave its factory, and issues commercial invoices for its CEP sales around the time the goods enter the United States.²¹ Hyundai Steel explained that the material terms of sale do not change after shipment from the factory.²² For EP sales the shipment either precedes or coincides with the issuance of the commercial invoice, and for CEP sales shipment from the factory precedes the commercial invoice.²³ We have defined the date of sale for Hyundai Steel's U.S. market sales as the earlier of sales invoice date or date of shipment (SALINDTU or SHIPDATU).

¹⁵ See 19 CFR 351.401(i).

¹⁶ See, e.g., 2016-17 Prelim PDM at 6-7; unchanged in 2016-17 Final.

¹⁷ See Hyundai Steel's Letter, "Certain Cut-to-Length Carbon-Quality Steel Plate from Korea – Sections B, C, and D Questionnaire Responses," dated July 2, 2020 (BCDQR) at B-22.

¹⁸ *Id.* at B-21.

¹⁹ *Id.* at B-22.

²⁰ *Id.* at B-23.

²¹ See Hyundai Steel's Letter, "Certain Cut-to-Length Carbon-Quality Steel Plate from Korea – Section A Questionnaire Response," dated June 16, 2020 (AQR) at A-30.

²² *Id.* at A-34.

²³ *Id.*

D. Level of Trade/CEP Offset

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).²⁴ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.²⁵ In order to determine whether the comparison-market sales are 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 and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),²⁶ Commerce considers the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.²⁷

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, to sales at a different LOT in the comparison market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, *i.e.*, no LOT adjustment is possible, Commerce shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.²⁸

We examined the differences in selling functions reported by the respondent. Hyundai Steel reported two types of customers in the home market: end-users and distributors.²⁹ The selling activities associated with the two types of customers did not differ; therefore, we consider the two reported channels of distribution to constitute one LOT. In the U.S. market, Hyundai Steel reported CEP sales and EP sales to traders.³⁰ After deducting selling functions corresponding to economic activities in the United States with respect to CEP sales, *i.e.*, those performed by Hyundai Steel's U.S. affiliates, we found that the selling functions Hyundai Steel performs with respect to EP sales and CEP sales do not differ. Accordingly, we find that Hyundai Steel's EP sales and CEP sales were made at the same LOT. We compared the selling activities at the U.S. LOT with the selling activities at the home market LOT and found, after deducting selling

²⁴ See 19 CFR 351.412(c)(2).

²⁵ *Id.*; see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*) and accompanying IDM at Comment 7.

²⁶ 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).

²⁷ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

²⁸ See, e.g., *OJ from Brazil* IDM at Comment 7.

²⁹ See AQR at A-20.

³⁰ *Id.* at A-19 – A-20.

functions corresponding to economic activities in the United States, *i.e.*, those performed by Hyundai Steel's U.S. affiliates, that these levels were substantially dissimilar.

Commerce's methodology requires a quantitative analysis showing how the expenses in each sales channel impact price comparability, and then requests that the respondent assign a level of intensity based on this quantitative analysis in a selling functions chart.³¹ Hyundai Steel provided a quantitative analysis demonstrating staffing intensity differences between selling activities related to its sales in the home market compared to its sales to its U.S. affiliates.³² However, we extended this analysis from a simple comparison of all selling related staffing activities in each of the two channels of distribution (the sales to the home market versus sales to the U.S. affiliate). We found that the extended analysis yields a per-unit staffing intensity which indicates that significantly more effort is applied by Hyundai Steel on each unit of sale to its U.S. affiliate than for each unit sold in the home market. Hyundai Steel's sales at the U.S. level involve higher levels of intensity, *e.g.*, sales forecasting, strategic/economic planning, personnel training/exchange, engineering services, technical assistance, freight and delivery arrangement, advertising, order input processing, inventory maintenance, direct sales personnel, sales/marketing support, or market research, relative to sales at the home market level.³³ Therefore, for Hyundai Steel, we preliminarily determine the home-market sales to be at a different LOT and at a less advanced stage of distribution than the single U.S. LOT.

Because there is only one LOT in the home market, we were unable to calculate an LOT adjustment based on Hyundai Steel's home market sales of the foreign like product and we have no other information that provides an appropriate basis for determining an LOT adjustment. Moreover, because the U.S. LOT did not exist in the home market, there is no basis for calculating an adjustment for the LOT in the U.S. market. Finally, because Hyundai Steel's home-market LOT is not at a more advanced stage of distribution than its CEP LOT; therefore, a CEP offset is not warranted.

E. Affiliated Service Providers

Section 773(f)(2) of the Act provides that “{a} transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated.”

³¹ See *4th Tier Cigarettes from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Negative Determination of Critical Circumstances*, 85 FR 79994 (December 11, 2020), and accompanying IDM at 30.

³² See AQR at A-21, and at Exhibit A-16-B.

³³ See AQR at A-20 – A-29, and at Exhibit A-16-A. Hyundai also conducts inventory maintenance in the home market but does not do so for its sales to the U.S. affiliate.

We preliminarily determine that certain affiliates provided the following services at arm's-length prices to Hyundai Steel: inland freight from factory to warehouse (INLFTWH), warehousing expenses (WARESH and DWAREHU), domestic marine insurance (INSUREH), inland freight from factory/warehouse to customer (INLFTCH), domestic inland freight for U.S. sales (DINLFTWU and DINLFTPU), international freight (INTNFRU), and the delivery of material inputs.³⁴

F. Export Price and Constructed Export Price

In accordance with section 772(a) of the Act, Commerce calculated EP for Hyundai Steel's U.S. sales in which subject merchandise was first sold to the unaffiliated purchaser in the United States prior to importation, and the CEP methodology was not otherwise warranted based on the facts on the record. In accordance with section 772(b) of the Act, for the remainder of Hyundai Steel's U.S. sales we used CEP because the subject merchandise was sold in the United States by U.S. sellers affiliated with Hyundai Steel and EP, as defined by section 772(a) of the Act, was not otherwise warranted.

We based EP on the prices to the first unaffiliated purchaser in the United States. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight and warehousing, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage, U.S. inland freight, and U.S. customs duties. The product is shipped in an unpacked state.³⁵

Hyundai Steel classified certain of its sales of subject merchandise to the United States as CEP sales because all of those sales were invoiced and sold by Hyundai Steel's U.S. affiliate, Hyundai Corporation, USA.³⁶ We calculated CEP based on the delivered prices to unaffiliated purchasers in the United States. We adjusted these prices for movement expenses, including foreign inland freight and warehousing, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage, U.S. inland freight, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act. These products were shipped in an unpacked state.³⁷ 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 includes direct selling expenses and indirect selling expenses. Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit for economic activities in the United States to arrive at CEP.

G. Normal Value

1. Overrun Sales

Section 773(a)(1)(B) of the Act provides that NV shall be based on the price at which the foreign like product is first sold, *inter alia*, in the ordinary course of trade. Section 771(15) of the Act

³⁴ See AQR at A-12 – A-13; see also BQR at B-32 – B-36, C-31 – C-36, and Exhibit D-4.

³⁵ See BCDQR at C-52.

³⁶ See AQR at A-21.

³⁷ See BCDQR at C-52.

defines “ordinary course of trade” 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.”

Hyundai Steel reported home market sales of “overrun” merchandise, *i.e.*, sales of products that failed to meet the original customer’s order specifications because of differences in size, chemical components, and/or strength. In the past, we examined various factors to determine whether “overrun” sales are in the ordinary course of trade.³⁸ We have the discretion to choose how best to analyze the many factors involved in determining whether sales are made within the ordinary course of trade.³⁹ These 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 an overrun sale compared to the average quantity of a commercial sale; and (4) price and profit differentials in the home market.⁴⁰

Based on our analysis of these factors and the terms of sale, we preliminarily determine that Hyundai Steel’s overrun sales are outside the ordinary course of trade. Because our analysis includes business proprietary information, the analysis is available in a separate decision memorandum.⁴¹

2. Selection of Comparison Market

To determine whether there was a sufficient volume of sales in Korea to serve as a viable basis for calculating NV, we compared the respondent’s volume of home market sales of the foreign like product to its U.S. sales volume, in accordance with sections 773(a)(1)(B) and (C) of the Act. Because the volume of the respondent’s home market sales of the foreign like product exceeded five percent of its aggregate U.S. sales volume of the subject merchandise, we preliminarily determine that the respondent’s home market is viable for comparison purposes.⁴²

3. Affiliated Parties

Hyundai Steel made home-market sales to numerous affiliated entities.⁴³ We performed the arm’s-length test on these transactions.

³⁸ See *China Steel Corp. v. United States*, 264 F. Supp. 2d. 1339, 1364-65 (CIT 2003); see also, *e.g.*, *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2015-2016*, 82 FR 12431 (March 3, 2017) (*2015-16 Prelim*), and accompanying PDM at 13, unchanged in *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) (*2015-16 Final*).

³⁹ See *Laclede Steel Co. v. United States*, 19 CIT 1076, 1078 (1995).

⁴⁰ See *2015-16 Prelim PDM* at 13, unchanged in *2015-16 Final*.

⁴¹ See Memorandum, “Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Hyundai Steel’s Home Market Overruns,” dated concurrently with this PDM.

⁴² See Hyundai Steel’s Letter, “Certain Cut-to-Length Carbon-Quality Steel Plate from Korea – Supplemental Sections A-D Questionnaire Response – Part I,” dated October 21, 2020 at Exhibit S-2.

⁴³ See BCDQR at B-4.

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

We may calculate NV based on a sale to an affiliated party only if we are 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 at arm's-length prices.⁴⁴ To test whether the respondent's comparison market sales were made at arm's-length prices, we compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, and direct selling expenses. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length prices.⁴⁵ We included in our calculations of NV those sales to affiliated parties that were made at arm's-length prices and excluded those sales that failed the arm's-length test.

5. Cost of Production

In accordance with section 773(b)(2)(A) of the Act, Commerce requested cost information from Hyundai Steel and received the requested information.⁴⁶ We examined the respondents' cost data and determined that our quarterly cost methodology is not warranted for Hyundai Steel, and, therefore, we applied our standard methodology of using annual costs based on the reported data.

a. Calculation of Cost of Production

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

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 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

⁴⁴ See 19 CFR 351.403(c).

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

⁴⁶ See generally, BCDQR.

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.

Our cost test indicated that, for Hyundai Steel, more than 20 percent of sales of certain home market products were made at prices below the COP within an extended period of time and were made 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 for each respondent 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 respondents, we based NV on home market prices. We calculated NV based on prices to unaffiliated customers in Korea and prices to affiliated customers which were determined to be at arm's length.⁴⁷ We adjusted the starting price for foreign inland freight pursuant to section 773(a)(6)(B)(ii) of the Act.

For Hyundai Steel's EP sales, we adjusted for differences in circumstances of sale, for U.S. imputed credit expenses, in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410.

When comparing U.S. sale prices with an NV based on comparison market sale prices of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and the subject merchandise.⁴⁸

VI. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange/index.html>.

⁴⁷ See the "Affiliated Party Transactions and Arm's-Length Test" section above.

⁴⁸ See 19 CFR 351.411(b).

VI. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree

Disagree

6/15/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh

Acting Assistant Secretary
for Enforcement and Compliance