



A-580-874

Administrative Review

POR: 7/1/2019 – 6/30/2020

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July 12, 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: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Certain Steel Nails from the
Republic of Korea; 2019-2020

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain steel nails (steel nails) from the Republic of Korea (Korea).¹ The review covers two producers/exporters of the subject merchandise, Daejin Steel Company (Daejin) and Koram Inc. (Koram). We reviewed Daejin as the sole mandatory respondent for this proceeding. The period of review (POR) is July 1, 2019, through June 30, 2020. We preliminarily determine that Daejin sold subject merchandise at less than normal value (NV) during the POR.

II. BACKGROUND

In response to Commerce's notice of opportunity to request an administrative review on certain steel nails from Korea,² on July 27 and 31, 2020, Je-il Wire Production Co., Ltd. (Je-il) and Korea Wire Co., Ltd. (Kowire) timely requested an administrative review of the *Order* with respect to their exports of subject merchandise to the United States during the POR, respectively.³ On July 31, 2020, Mid Continent Steel & Wire, Inc. (the petitioner) requested an administrative review of 93 producers and/or exporters, including Daejin, Je-il, Koram and Kowire.⁴ On September 3, 2020, in accordance with 19 CFR 351.221(c)(1)(i), we published a

¹ See *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 80 FR 39994 (July 13, 2015) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 39531 (July 1, 2020).

³ See Je-il's Letter, "Certain Steel Nails from the Republic of Korea: Request for Administrative Review for the Period July 1, 2019 – June 30, 2020," dated July 27, 2020; see also Kowire's Letter, "Steel Nails from the Republic of Korea – Request for Administrative Review," dated July 31, 2020.

⁴ See Petitioners' Letter, "Request for Administrative Review," dated July 31, 2020.



notice of initiation of an administrative review of the *Order*.⁵ On September 14, 2020, Commerce posted U.S. Customs and Border Protection (CBP) import data to the record, showing the top exporters/producers of subject merchandise in Korea for the POR, for use in respondent selection.⁶ On September 18, 2020, Je-il withdrew its review request.⁷ On September 21, 2020, the petitioner withdrew its request for 91 of the 93 companies (which included Je-il and Kowire), maintaining its review request for Daejin and Koram.⁸ On September 21, 2020, the petitioner submitted comments requesting Commerce use the CBP data to select Daejin, Koram, and Kowire as mandatory respondents.⁹ On October 30, 2020, based on CBP data, we selected Daejin and Kowire as the mandatory respondents in this administrative review.¹⁰

On November 4, 2020, we issued the AD questionnaire to Daejin and Kowire. On November 4, 2020, Kowire withdrew its request of review.¹¹ On November 23, 2020, the petitioner requested that we select Koram as a replacement mandatory respondent.¹² We declined the petitioner's request to select Koram as a replacement mandatory respondent and have examined Daejin as the sole mandatory respondent for this review.¹³ Between December 2020 and April 2021, Daejin timely submitted responses to the initial AD questionnaire and Commerce's subsequent supplemental questionnaires.¹⁴ Between December 2020 and June 2021, Commerce received comments from the petitioner regarding Daejin's questionnaire responses.¹⁵ Between May 2021 and July 2021, Commerce received pre-preliminary comments from Daejin.¹⁶

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 54983 (September 3, 2020).

⁶ See Memorandum, "Release of Customs and Border Protection Data Memorandum," dated September 14, 2020.

⁷ See Je-il's Letter, "Withdrawal of Request for Administrative Review for the Period July 1, 2019 – June 30, 2020," dated September 18, 2020.

⁸ See Petitioner's Letter, "Withdrawal of Request for Administrative Review," dated September 21, 2020.

⁹ See Petitioner's Letter, "Comments on Respondent Selection," dated September 21, 2020.

¹⁰ See Memorandum, "Respondent Selection Memorandum," dated October 30, 2020.

¹¹ See Kowire's Letter, "Withdrawal of Request for Administrative Review," dated November 4, 2020.

¹² See Petitioner's Letter, "Request to Select Replacement Mandatory Respondent," dated November 23, 2020.

¹³ See Commerce's Letter, "Request to Select Replacement Mandatory Respondent: 2019-2020 Administrative Review," dated January 14, 2020.

¹⁴ See Daejin's Letters, "Response to the Department's November 4 Questionnaire," dated December 2, 2020 (Daejin's AQR); "Response of Daejin Steel Company to Section B and C of the Department's November 4 Questionnaire," dated December 23, 2020 (Daejin's BCQR); "Response of Daejin Steel Company to Section D of the Department's November 4 Questionnaire," dated December 23, 2020 (Daejin's DQR); "Response Of Daejin Steel Company to the Department's December 11 Supplemental Section A Questionnaire," dated December 31, 2020; "Response Of Daejin Steel Company to the Department's February 2 Supplemental Questionnaire: Volume I Sections A and B," dated March 1, 2021; "Response Of Daejin Steel Company to the Department's February 2 Supplemental Questionnaire: Volume II Section D," dated March 1, 2021; "Response of Daejin Steel Company to the Department's February 2 Supplemental Questionnaire: Section C and Section D Questions 65, 66, 69," dated March 4, 2021 (Daejin's SCQR); "Response Of Daejin Steel Company to the Department's March 29 Supplemental Questionnaire," dated April 12, 2021.

¹⁵ See Petitioner's Letter, "Deficiency Comments on Daejin Steel Co.'s Section A Response," dated December 16, 2020; *see also* Petitioner's Letter, "Deficiency Comments on Daejin Steel Co.'s Section BCD Responses," dated January 6, 2021; and Petitioner's Letter, "Petitioner's Comments on Daejin's Revised Cost Allocation Methodology and Request to Fully Extend the Deadline for the Preliminary Results," dated June 24, 2021.

¹⁶ See Daejin's Letter, "Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Korea – Redacted Pre-Preliminary Comments," dated May 28, 2021; *see also* Daejin's Letter, "Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Korea – Response to Petitioner's June 28 Pre-Preliminary Comments," dated July 1, 2021.

On September 15, 2020, Astrotech Steels Private Limited (Astrotech) filed a no-shipment certification.¹⁷ On September 22, 2020, Geekay Wires Limited (Geekay) filed a no-shipment certification.¹⁸ On September 30, 2020, Schenker Korea Ltd. (Schenker) filed a no-shipment certification.¹⁹ As noted above, on September 21, 2020, the petitioner withdrew its request for 91 of the 93 companies, among them Astrotech, Geekay, and Schenker.²⁰ For this review, Commerce, based on parties' requests, is rescinding its review for the aforementioned 91 companies.

On March 2, 2021, Commerce extended the due date for issuing the preliminary results of this review by 33 days, until May 5, 2021.²¹ On April 26, 2021, Commerce extended the due date for issuing the preliminary results of this review by an additional 30 days, until June 4, 2021.²² On May 26, 2021, Commerce extended the due date for issuing the preliminary results of this review by an additional 40 days, until July 14, 2021.²³

III. SCOPE OF THE *ORDER*

The merchandise covered by this *Order* is certain steel nails having a nominal shaft length not exceeding 12 inches. Certain steel nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Certain steel nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Certain steel nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope of this *Order* are certain steel nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25. If packaged in combination with one or more non-subject articles, certain steel nails remain subject merchandise if the total number of nails of all types, in aggregate

¹⁷ See Astrotech's Letter, "Request for No Shipment during the Period of Review (POR)," dated September 15, 2020.

¹⁸ See Geekay's Letter, "Request for No Shipment during the Period of Review (POR)," dated September 22, 2020.

¹⁹ See Schenker's Letter, "No Shipment Certification," dated September 30, 2020.

²⁰ See Petitioner's Letter, "Withdrawal of Request for Administrative Review," dated September 21, 2020.

²¹ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated March 2, 2021.

²² See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated April 26, 2021.

²³ See Memorandum, "Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated May 26, 2021.

regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

Also excluded from the scope are certain steel nails with a nominal shaft length of one inch or less that are (a) a component of an unassembled article, (b) the total number of nails is sixty (60) or less, and (c) the imported unassembled article falls into one of the following eight groupings: (1) Builders' joinery and carpentry of wood that are classifiable as windows, French-windows and their frames; (2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; (3) swivel seats with variable height adjustment; (4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); (5) seats of cane, osier, bamboo or similar materials; (6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); (7) furniture (other than seats) of wood (with the exception of (i) medical, surgical, dental or veterinary furniture; and (ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or (8) furniture (other than seats) of materials other than wood, metal, or plastics (e.g., furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81 or 9403.89.

Also excluded from the scope of this *Order* are steel nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also excluded from the scope of *Order* order are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.

Also excluded from the scope of this *Order* are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of this *Order* are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of this *Order* are thumb tacks, which are currently classified under HTSUS subheading 7317.00.10.00.

Certain steel nails subject to this *Order* are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Certain steel nails subject to this *Order* also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive.

IV. RESCISSION OF REVIEW, IN PART

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. We initiated the instant review on 93 companies on September 3, 2020. On September 18, 2020, Je-il withdrew its review request. On September 21, 2020, the petitioner withdrew its request for 91 of the 93 companies, maintaining its review request for Daejin and Koram. On November 4, 2020, Kowire withdrew its request of review on itself. Because all parties that requested review of Je-il and Kowire timely withdrew their requests for review, we are rescinding this review, in part, with respect to Je-il and Kowire, along with the other 89 companies. For a list of the companies for which we are rescinding this review, see Appendix II to the accompanying *Federal Register* notice.

V. DISCUSSION OF THE METHODOLOGY

We are conducting this administrative review of the *Order* in accordance with section 751(a) of the Tariff Act of 1930, as amended (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), to determine whether sales of steel nails from Korea (*i.e.*, Daejin) were made in the United States at less than NV, we compared the export price (EP) or the constructed export price (CEP) to the NV, as described in the “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 (LTFV) 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 finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in LTFV investigations.²⁴

²⁴ 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); and *JBK RAK LLC v. United States*, 790 F.3d 1358, 1363-65 (Fed. Cir. 2015) (“{t}he fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties”) (citations omitted).

Commerce has applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to section 777A(d)(1)(B) of the Act and 19 CFR 351.414(c)(1) in its investigations.²⁵ Commerce finds that the differential pricing analysis used in its investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results was affirmed by the U.S. Court of Appeals for the Federal Circuit (CAFC) as in accordance with law in *Apex*.²⁶ That analysis 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 purchasers, regions, and time periods 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 customer codes (CUSCODU). Regions are defined using the reported destination code (*i.e.*, zip code (DESTU)) 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 being examined 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 EPs (or CEPs) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to the particular purchaser, region, or time period differ significantly from the net 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,

²⁵ See, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

²⁶ See *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286, 1322 (CIT 2014), *aff’d*, 862 F.3d 1322 (Fed. Cir. 2017) (*Apex*).

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.²⁷

2. Results of the Differential Pricing Analysis

²⁷ As noted above, the CAFC has affirmed much of Commerce's differential pricing methodology. See *Apex*, 862 F.3d 1322. We ask that interested parties present only arguments on issues which have not already been decided by the CAFC.

For Daejin, based on the results of the differential pricing analysis, Commerce preliminarily finds that 69.68 percent of the value of U.S. sales pass the Cohen's *d* test,²⁸ 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 the weighted-average dumping crosses the *de minimis* threshold when calculated by applying the A-T method to all U.S. sales. Thus, for the preliminary results, we are applying the A-T method to all U.S. sales to calculate the weighted-average dumping margin for Daejin.

B. 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, Commerce normally will use the date of invoice, as recorded in the producer or exporter's records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.²⁹ Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.³⁰

For its home market sales and U.S. sales, Daejin reported the date of sale as the earlier of the invoice date and the shipment date.³¹ Therefore, consistent with our practice,³² Commerce has preliminarily determined that the earliest date, either the invoice date or the shipment date, is the most appropriate selection for the date of sale for sales in both the comparison and U.S. markets.

C. Product Comparisons

For the purposes of determining an appropriate product comparison to the U.S. sales, in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of the Order" section of this notice, above, that were in the ordinary course of trade. In making the product comparisons, we matched foreign like products to the products sold in the United States based on the physical characteristics. In order of importance, these physical characteristics are type, form, grade, and particle size.

²⁸ See Memorandum, "Preliminary Results Analysis Memorandum for Daejin Steel Company," dated concurrently with this memorandum (Daejin Preliminary Results Analysis Memorandum) at 8.

²⁹ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

³⁰ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007), and accompanying IDM at Comment 11; and *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.

³¹ See Daejin's AQR at 15 and Daejin's BCQR at 15 and at 50.

³² See *Narrow Woven Ribbon with Woven Selvedge from Taiwan; Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 60627 (October 7, 2015), and accompanying PDM at 9, unchanged in *Narrow Woven Woven Ribbon with Woven Selvedge from Taiwan; Final Results of Antidumping Duty Administrative Review; 2013-2014*, 81 FR 22578 (April 18, 2016).

Pursuant to 19 CFR 351.414(f), we compared Daejin’s U.S. sales to Daejin’s home market sales, within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale. For this POR, all product comparisons were based on sales of identical or similar merchandise in both markets.

D. Export Price

Section 772(a) of the Act defines EP as “the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).” In accordance with section 772(a) of the Act, we used the EP methodology for Daejin, because the merchandise under consideration was sold directly to the first unaffiliated purchaser in the United States before the date of importation by the producer or exporter of subject merchandise outside the United States.³³ There were no CEP sales, sales for which the subject merchandise was sold in the United States by U.S. sellers affiliated with Daejin, during the POR. For Daejin’s EP sales, we based EP on a packed price to the first unaffiliated purchaser in the United States. We based the starting price on the prices to unaffiliated purchasers in, or for exportation to, the United States. We made deductions for movement expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, U.S. brokerage and handling, and international freight (which also covered the transport from the U.S. port to the destination where the customers designated).³⁴ Also, where appropriate, we made deductions from the starting price for selling expenses (*e.g.*, warranties, credit expense, and bank charges).

Commerce has not increased U.S. price to account for the duty drawback program (*i.e.*, “Simplified Fixed Drawback” scheme) used by Daejin,³⁵ in accordance with section 772(c)(1)(B) of the Act. Section 772(c)(1)(B) of the Act states that the price used to establish EP shall be increased by “the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.” In determining whether an adjustment for duty drawback should be made, we look for a reasonable link between the duties imposed and those rebated or exempted.³⁶ We do not require that the imported material be traced directly from importation through exportation. We do require, however, that the company meet our “two- pronged” test in order for this adjustment to be made to U.S. prices.³⁷ The first prong of the test requires that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another (or the exemption from import duties is linked to exportation); the second prong of the test requires that the company demonstrate that there were sufficient imports of materials to account for the duty drawback or exemption granted for the export of the manufactured product.³⁸

³³ See Daejin’s AQR at 16 and Daejin’s BCQR at 58.

³⁴ See Daejin’s BCQR at 60-67.

³⁵ See Daejin’s BCQR at 69-70 and Exhibit C-12; see also Daejin’s SCQR at 16-18 and Appendix SC-8-A; Appendix SC-8-B; Appendix SC-8-C; and Appendix SC-8-D.

³⁶ See *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011).

³⁷ *Id.*

³⁸ *Id.*; see also *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on*

Under the Simplified Fixed Drawback system, the amount of duty drawback Daejin received was based on a percentage of the free on board (FOB) value of exports, not on the amount of import duties paid by the company for raw material inputs.³⁹ Therefore, the amount of the duty drawback that Daejin received, and the amount of import duties that Daejin paid, are not directly linked to, and dependent upon, one another as required by prong one of our two-prong duty drawback test. Accordingly, consistent with our recent determinations concerning this program, we have not granted Daejin's duty drawback offset.⁴⁰

E. Normal Value

1. Home Market Viability and Selection of Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404. Based on this comparison, we determine that, pursuant to 19 CFR 351.404(b), Daejin had a viable home market during the POR because the volume of its home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based NV on home market sales.

2. Level of Trade (LOT)

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales of the foreign like product at the same LOT as U.S. sales. Sales are made at

Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea, 71 FR 7513 (February 13, 2006), and accompanying IDM at Comment 2.

³⁹ See, e.g., *Ferrovanadium from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 82 FR 14874 (March 23, 2017), and accompanying IDM at Comment 2 (determining that the amount of the duty drawback that the respondent received under the fixed rate drawback system, and the amount of import duties that it pays, are not directly linked to, and dependent upon, one another, as required by prong one of Commerce's two-prong duty drawback test).

⁴⁰ *Id.*; see also *Certain Steel Nails from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2014-2016*, 82 FR 36749 (August 7, 2017), unchanged in *Certain Steel Nails from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014-2016*, 83 FR 4028 (January 29, 2018), and accompanying IDM; *Certain Steel Nails from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 32265 (July 12, 2018), and accompanying PDM at 12-13, unchanged in *Certain Steel Nails from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 4770 (February 19, 2019), and accompanying IDM; and *Certain Steel Nails from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 28278 (June 18, 2019), and accompanying PDM at 12-13, unchanged in *Certain Steel Nails from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 56424 (October 22, 2019), and accompanying IDM; and *Certain Steel Nails from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2018-2019*, 85 FR 69576 (November 3, 2020), unchanged in *Certain Steel Nails from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2018-2019*, 86 FR 13322 (March 8, 2021), and accompanying IDM.

different LOTs if they are made at different marketing stages (or their equivalent).⁴¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁴² To determine whether the comparison-market sales were at different stages in the marketing process than the U.S. sales, we review 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.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, where NV is based on either home market or third country prices),⁴³ we consider the starting prices before any adjustments.

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 sale, Commerce may compare the U.S. sales to sales at a different LOT in the comparison market. In comparing EP 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.

Daejin reported that it sold steel nails during the POR through one channel of distribution, directly to unaffiliated customers, for both the home and U.S. markets.⁴⁴ Additionally, Daejin indicated that it performed in both the U.S. and the home markets, the following selling functions: packing; inventory maintenance; order input/processing; direct sales personnel; sales/marketing support; warranty service; and freight and delivery.⁴⁵ As such, we compared the selling functions and we preliminarily determine that the LOT of Daejin's U.S. sales were at the same LOT as its home market sales. Therefore, we matched U.S. sales at the same LOT in the comparison market and made no LOT adjustment.

F. Cost of Production (COP) Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested COP information from Daejin. We examined Daejin's cost data and determined that our quarterly cost methodology is not warranted; therefore, we are applying our standard methodology of using annual costs based on the reported data.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated Daejin's COP based on the sum of its costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and interest expenses (*see* "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses).

⁴¹ See 19 CFR 351.412(c)(2).

⁴² *Id.*; *see also* Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*).

⁴³ Where NV is based on constructed value (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).

⁴⁴ See Daejin's AQR at 11 and 16; *see also* Daejin's BCQR at 12-13 and 48-49.

⁴⁵ See Daejin's AR at Appendix A-4.

Except as stated below, we relied on the COP data submitted by Daejin in its questionnaire responses for the COP calculation. We allowed a scrap offset for Daejin with no adjustments.⁴⁶ In addition, for Daejin, we adjusted the allocation of certain expenses between selling and general and administrative expenses.⁴⁷

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the weighted-average COP to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COP. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

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

Our cost test for Daejin indicates 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.⁴⁸ Thus, in accordance with section 773(b)(1) of the Act, we disregarded these below-cost sales and used the remaining above-cost sales to determine NV, as well as to calculate selling expenses and profit for CV.

G. Calculation of NV Based on Comparison Market Prices

We based NV for Daejin on packed prices to unaffiliated customers in the home market. We adjusted, where appropriate, the starting price for billing adjustments, in accordance with 19 CFR 351.401(c). We made deductions, where appropriate, from the starting price for movement

⁴⁶ See Daejin Preliminary Results Analysis Memorandum.

⁴⁷ *Id.*

⁴⁸ See Daejin's Preliminary Comparison Market SAS Program.

expenses, including inland freight, warehousing, and inland insurance, under section 773(a)(6)(B)(ii) of the Act. Pursuant to section 773(a)(6)(C) of the Act and 19 CFR 351.410, we made deductions for direct selling expenses (*i.e.*, imputed credit, warranty, and bank charges).

For those comparison products for which there were sale prices in the ordinary course of trade, we based NV on the starting price to unaffiliated customers in the home market. We adjusted the starting price, where appropriate, for movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. We made adjustments for differences in circumstances of sale (*i.e.*, for imputed credit expenses) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made adjustments for differences in packing expenses in accordance with section 773(a)(6)(B)(i) of the Act. Lastly, when comparing U.S. sale prices with a NV based on comparison market sale prices of similar, but not identical, merchandise, we 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, where warranted. We based this adjustment on the difference in the variable cost of manufacture for the foreign like product and the subject merchandise.⁴⁹

We also deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

H. 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.

VI. RECOMMENDATION

We recommend applying the above methodology for these preliminary results. If this recommendation is accepted, we will publish the preliminary results of this review in the *Federal Register*.

☒

Agree

☐

Disagree

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

⁴⁹ See Daejin Preliminary Results Analysis Memorandum.