



A-580-897  
Administrative Review  
POR: 08/27/18-04/30/20  
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July 26, 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:** Large Diameter Welded Pipe from the Republic of Korea:  
Decision Memorandum for the Preliminary Results of  
Antidumping Duty Administrative Review; 2018-2020

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## I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on large diameter welded pipe (welded pipe) from the Republic of Korea (Korea) for the period of review (POR) August 27, 2018, through April 30, 2020. The review covers two producers and/or exporters of the subject merchandise, Hyundai RB Co., Ltd. (Hyundai RB) and Hyundai Steel Company (Hyundai Steel). We preliminarily find that Hyundai RB and Hyundai Steel did not make sales of the subject merchandise at prices below normal value (NV).

## II. BACKGROUND

On May 2, 2019, Commerce published in the *Federal Register* the *Order* on welded pipe from Korea.<sup>1</sup> On May 1, 2020, Commerce published a notice of opportunity to request an administrative review of the *Order* on welded pipe for the POR.<sup>2</sup> Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), Commerce received timely requests to conduct an administrative review of the *Order* on welded pipe from Korea. On May 29, 2020, Hyundai RB and Hyundai Steel requested an administrative review of sales they made during the POR.<sup>3</sup> On June 1, 2020, HiSteel Co., Ltd. and SeAH Steel Corporation

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<sup>1</sup> See *Large Diameter Welded Pipe from the Republic of Korea: Amended Final Affirmative Antidumping Determination and Antidumping Duty Order*, 84 FR 18767 (May 2, 2019) (*Order*).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 25394 (May 1, 2020).

<sup>3</sup> See Hyundai RB's Letter, "Request for Administrative Review," dated May 29, 2020; and Hyundai Steel's Letter, "Request for Administrative Review," dated May 29, 2020.



(SeAH) requested an administrative review of sales they made during the POR.<sup>4</sup> Also on June 1, 2020, the American Cast Iron Pipe Company, Berg Steel Pipe Corp./Berg Spiral Pipe Corp., Dura-Bond Industries, JSW Steel (USA) Inc.; Stupp Corporation, and Welspun Global Trade LLC, individually and as members of the American Line Pipe Producers Association; Greens Bayou Pipe Mill, LP; Skyline Steel; and Trinity Products LLC (collectively, the petitioners), requested an administrative review of sales made by the aforementioned four companies and sixteen other companies.<sup>5</sup> Pursuant to these requests, on July 10, 2020, Commerce published the *Initiation Notice* in the *Federal Register*.<sup>6</sup>

On July 21, 2020, Commerce tolled all preliminary and final results deadlines in administrative reviews by 60 days.<sup>7</sup>

In the *Initiation Notice*, Commerce indicated that, in the event that we limited the respondents selected for individual examination in accordance with section 777A(c)(2) of the Act, we intended to select respondents for individual examination based on U.S. Customs and Border Protection (CBP) data.<sup>8</sup> On August 5, 2020, we released CBP entry data to interested parties and provided interested parties the opportunity to comment on the CBP entry data and respondent selection.<sup>9</sup> On August 12, 2020, Hyundai Steel submitted comments on the CBP entry data and respondent selection.<sup>10</sup> On August 17 and 18, 2020, SeAH and the petitioners, respectively, submitted rebuttal comments to Hyundai Respondent Selection Comments.<sup>11</sup> On September 4, 2020, Commerce released revised CBP entry data after the identification of an error in the original data query.<sup>12</sup> On September 11, 2020, Hyundai Steel and SeAH submitted comments on the revised entry data and respondent selection.<sup>13</sup> In its comments, SeAH requested that it be examined as a voluntary respondent in the event that it was not selected as a mandatory respondent. On September 25, 2020, Commerce selected Hyundai RB and Hyundai Steel as the mandatory respondents in this review.<sup>14</sup>

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<sup>4</sup> See HiSteel Co., Ltd.'s Letter, "Request for Administrative Review," dated June 1, 2020; and SeAH's Letter, "Request for Administrative Review," dated June 1, 2020.

<sup>5</sup> See Petitioners' Letter, "Request for Administrative Review," dated June 1, 2020.

<sup>6</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 41540 (July 10, 2020) (*Initiation Notice*).

<sup>7</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

<sup>8</sup> See *Initiation Notice* at 41541.

<sup>9</sup> See Memorandum, "Release of Customs and Border Protection Data," dated August 5, 2020.

<sup>10</sup> See Hyundai Steel's Letter, "Hyundai Steel's Respondent Selection Comments," dated August 12, 2020 (Hyundai Respondent Selection Comments).

<sup>11</sup> See Petitioners' Letter, "Petitioners' Rebuttal Comments on Hyundai Steel's Respondent Selection Comments," dated August 17, 2020; and SeAH's Letter, "Rebuttal Comments on Respondent Selection," dated August 18, 2020.

<sup>12</sup> See Memorandum, "Second Release of Customs and Border Protection Data," dated September 4, 2020.

<sup>13</sup> See Hyundai Steel's Letter, "Hyundai Steel's Respondent Selection Comments on Revised CBP Data," dated September 11, 2020; and SeAH's Letter, "Additional Comments on Respondent Selection," dated September 11, 2020.

<sup>14</sup> See Memorandum, "Respondent Selection," dated September 25, 2020.

Between September 2020 and June 2021, Commerce issued its AD questionnaire as well as supplemental questionnaires to Hyundai RB and Hyundai Steel, and it received responses between November 2020 and June 2021.<sup>15</sup>

On December 28, 2020, the petitioners alleged that a particular market situation (PMS) exists in Korea such that the costs of production of welded pipe were distorted during the POR and continue to be distorted.<sup>16</sup> On January 29, 2021, we determined that the petitioners' allegation of a cost-based PMS was timely and sufficient to warrant further analysis.<sup>17</sup> On February 26, 2021, Hyundai RB and Hyundai Steel submitted rebuttal comments in accordance with the schedule set forth in the PMS Acceptance Letter.<sup>18</sup> On March 2, 2021, the petitioners submitted additional factual information to supplement the information in their PMS Allegation.<sup>19</sup> On March 25, 2021, Hyundai RB and Hyundai Steel submitted rebuttal comments in accordance with Commerce's instructions.<sup>20</sup> On April 21, 2021, the petitioners submitted an English translation of a document in Petitioners' Factual Information Submission in accordance with Commerce's instructions.<sup>21</sup> On April 26, 2021, Hyundai Steel submitted rebuttal comments.<sup>22</sup>

On March 10, 2021, pursuant to section 751(a)(3)(A) of the Act, Commerce determined that it was not practicable to complete the preliminary results of this review within 245 days and

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<sup>15</sup> See Hyundai RB's Letter, "Section A Questionnaire Response," dated November 2, 2020 (Hyundai RB AQR); Hyundai RB's Letter, "Sections B-D Questionnaire Response," dated November 24, 2020 (Hyundai RB BCDQR); Hyundai RB's Letter, "Sections A-C Supplemental Questionnaire Response," dated February 17, 2021; Hyundai RB's Letter, "Section D Supplemental Questionnaire Response," dated April 13, 2021; and Hyundai RB's Letter, "Third Supplemental Questionnaire Response," dated June 15, 2021; Hyundai Steel's Letter, "Section A Questionnaire Response," dated November 2, 2020 (Hyundai Steel AQR); Hyundai Steel's Letter, "Sections B-D Questionnaire Response," dated November 24, 2020 (Hyundai Steel BCDQR); Hyundai Steel's Letter, "Sections A-C Supplemental Questionnaire Response," dated February 16, 2021 (Hyundai Steel ABCSQR); Hyundai Steel's Letter, "Section D Supplemental Questionnaire Response," dated March 31, 2021; and Hyundai Steel's Letter, "Third Supplemental Questionnaire Response," dated June 28, 2021.

<sup>16</sup> See Petitioners' Letter, "Particular Market Situation Allegation and Factual Information," dated December 28, 2020 (PMS Allegation). On December 3, 2020, Commerce extended the deadline for the petitioner to submit a cost-based PMS allegation until December 28, 2020. See Commerce's Letter, "Extension of Deadline to Submit a Cost-Based Particular Market Situation Allegation," dated December 3, 2020.

<sup>17</sup> See Commerce's Letter, "Acceptance of Allegation of a Cost-Based Particular Market Situation and Deadline for the Submission of Rebuttal Information," dated January 29, 2021 (PMS Acceptance Letter).

<sup>18</sup> See Hyundai RB's Letter, "Rebuttal Factual Information and Comments Relating to Particular Market Situation (PMS) Allegation," dated February 26, 2021 (Hyundai RB PMS Rebuttal Comments); *see also* Hyundai Steel's Letter, "Hyundai Steel's Particular Market Situation Comments and Rebuttal Factual Information," dated February 26, 2021 (Hyundai Steel PMS Rebuttal Comments).

<sup>19</sup> See Petitioners' Letter, "Petitioners' Submission of Other Factual Information," dated March 2, 2021 (Petitioners' Factual Information Submission).

<sup>20</sup> See Hyundai RB's Letter, "Rebuttal Comments Concerning Petitioners' March 2nd Submission Concerning the Particular Market Situation Allegation," dated March 25, 2021; *see also* Hyundai Steel's Letter, "Response to Petitioners' March 2, 2021 Other Factual Information Submission," dated March 25, 2021 (Hyundai Steel Response to Other Factual Information Submission); and Commerce's Letter, "2018-2020 Administrative Review of the Antidumping Duty Order on Large Diameter Welded Pipe from the Republic of Korea," dated March 18, 2021.

<sup>21</sup> See Petitioners' Letter, "Additional Translations for Petitioners' Submission of Other Factual Information," dated April 21, 2021.

<sup>22</sup> See Hyundai Steel's Letter, "Hyundai Steel's Comments on Petitioners' April 21, 2021 Other Factual Information Submission," dated April 26, 2021.

extended the preliminary results by 120 days.<sup>23</sup> The deadline for the preliminary results of this review is now July 30, 2021.

On May 17, 2021, we determined not to individually examine a voluntary respondent in this administrative review.<sup>24</sup> On July 9, 2021, the petitioners filed pre-preliminary results comments.<sup>25</sup> In addition to certain calculation issues, these comments address arguments raised in the Hyundai RB PMS Rebuttal Comments and the Hyundai Steel PMS Rebuttal Comments. On July 12, 2021, Hyundai Steel submitted comments regarding the PMS Allegation.<sup>26</sup> On July 21, 2021, Hyundai RB submitted a response to the petitioners' pre-preliminary results comments.<sup>27</sup> On July 22, 2021, the petitioners responded to Hyundai Steel's July 21, 2021, submission.<sup>28</sup>

### **III. SCOPE OF THE *ORDER***

The merchandise covered by the *Order* is welded carbon and alloy steel pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this order, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope large diameter welded pipe.

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<sup>23</sup> See Memorandum, "Extension of Deadline for Preliminary Results of 2018-2020 Antidumping Duty Administrative Review," dated March 10, 2021.

<sup>24</sup> See Memorandum, "Whether to Select Voluntary Respondents," dated May 17, 2021.

<sup>25</sup> See Petitioners' Letter, "Pre-Preliminary Comments," dated July 9, 2021; and Petitioners' Letter, "Pre-Preliminary Results Comments regarding Particular Market Situation Allegation," dated July 9, 2021.

<sup>26</sup> See Hyundai Steel's Letter, "Hyundai Steel's Pre-Preliminary Comments Regarding Petitioners' Particular Market Situation Allegation," dated July 12, 2021.

<sup>27</sup> See Hyundai RB's Letter, "Response to Petitioner's Pre-Preliminary Results Comments," dated July 21, 2021.

<sup>28</sup> See Petitioners' Letter, "Response to Hyundai Steel's Request to Reject Petitioners' Pre-Preliminary Comments," dated July 22, 2021.

Excluded from the scope are any products covered by the existing antidumping duty order on welded line pipe from the Republic of Korea. See *Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders*, 80 FR 75056 (December 1, 2015).

Also excluded is large diameter welded pipe in the following combinations of grades, outside diameters, and wall thicknesses:<sup>29</sup>

- Grade X60, X65, or X70, 18 inches outside diameter, 0.688 inches or greater wall thickness;
- Grade X60, X65, or X70, 20 inches outside diameter, 0.688 inches or greater wall thickness;
- Grade X60, X65, X70, or X80, 22 inches outside diameter, 0.750 inches or greater wall thickness; and
- Grade X60, X65, or X70, 24 inches outside diameter, 0.750 inches or greater wall thickness.

The large diameter welded pipe that is subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

#### **IV. DISCUSSION OF THE METHODOLOGY**

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

##### *A) Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (*i.e.*, the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In antidumping investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of an administrative review, the issue arising under 19

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<sup>29</sup> See *Large Diameter Welded Pipe from the Republic of Korea: Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews*, 85 FR 51679 (August 21, 2020).

CFR 351.414(c)(1) in an administrative review is analogous to the issue in antidumping investigations.<sup>30</sup>

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 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>31</sup> Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent’s weighted-average dumping margin.

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

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the

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<sup>30</sup> See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying 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), *aff’d* 862 F.3d 1322 (Fed. Cir. 2017); see also *JBF 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.”) (citation omitted).

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

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

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

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

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.<sup>32</sup>

### *B) Results of the Differential Pricing Analysis*

#### Hyundai RB

Based on the results of the differential pricing analysis, we preliminarily find that 4.94 percent of the value of Hyundai RB's U.S. sales pass the Cohen's *d* test,<sup>33</sup> which does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Hyundai RB.<sup>34</sup>

#### Hyundai Steel

Based on the results of the differential pricing analysis, we preliminarily find that 55.86 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>35</sup> which confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Hyundai Steel.<sup>36</sup>

### *C) Date of Sale*

Section 351.401(i) of Commerce's regulations states that, "{i}n identifying the date of sale of the subject merchandise or foreign like product, {Commerce} normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business." The regulation provides further that Commerce may use a date other than the date of invoice if Commerce is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.<sup>37</sup> Commerce has a long-standing practice of

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<sup>32</sup> The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 862 F.3d 1322 (Fed. Cir. 2017) affirmed much of Commerce's differential pricing methodology. We ask that interested parties present only arguments on issues which have not already been decided by litigation.

<sup>33</sup> See Memorandum, "Preliminary Results Margin Calculation for Hyundai RB Co., Ltd." dated concurrently with this memorandum (Hyundai RB Preliminary Calculation Memo).

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

<sup>35</sup> See Memorandum, "Preliminary Results Margin Calculation for Hyundai Steel Company" dated concurrently with this memorandum (Hyundai Steel Preliminary Calculation Memo).

<sup>36</sup> *Id.*

<sup>37</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

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.<sup>38</sup>

### Hyundai RB

With respect to home market sales, Hyundai RB reported the shipment date (*i.e.*, the date when Hyundai RB recognizes revenue in its accounting system and when the merchandise leaves Hyundai RB's accounting inventory) as the date of sale. The shipment date always precedes or is the same date as the invoice date.<sup>39</sup> With respect to U.S. sales, Hyundai RB reported the earlier of its shipment date or the commercial invoice date as the date of sale.<sup>40</sup> We are preliminarily using the reported date of sale in each market as the date of sale.

### Hyundai Steel

With respect to home market sales, Hyundai Steel reported the earlier of the shipment date (*i.e.*, the date the merchandise leaves Hyundai Steel's factory or warehouse for delivery to the customer), or the tax invoice date as the date of sale.<sup>41</sup> With respect to U.S. sales, Hyundai Steel reported the date of shipment from the factory in Korea (which always precedes the date of the invoice from Hyundai Steel's U.S. affiliates to the unaffiliated U.S. customer) as the date of sale.<sup>42</sup> We are preliminarily using the reported date of sale in each market as the date of sale.

### *D) Product Comparisons*

In accordance with section 771(16)(A) of the Act, we considered all products described in the "Scope of the *Order*" section, above, produced and sold by the respondents in the home market that were in the ordinary course of trade, during the POR, to be foreign like products for purposes of determining NV for the merchandise sold by respondents in the United States. Pursuant to 19 CFR 351.414(f), we compared the respondents' U.S. sales of welded pipe to its sales of welded pipe made in the home market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale.

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<sup>38</sup> 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; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.

<sup>39</sup> See Hyundai RB BCDQR at B-25.

<sup>40</sup> *Id.* at C-21.

<sup>41</sup> See Hyundai Steel BCDQR at B-28.

<sup>42</sup> *Id.* at C-24.

Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, in accordance with section 771(16)(B) of the Act, we compared U.S. sales of the subject merchandise to sales of the most similar foreign like product in the ordinary course of trade. Where there were no sales of identical or similar merchandise, we made product comparisons using constructed value (CV), as discussed in the “Calculation of Normal Value Based on Constructed Value” section below. In making the product comparisons, we matched foreign like products to the products sold in the United States based on the products’ physical characteristics. In the order of importance, these physical characteristics are steel chemistry, minimum specified chromium content, minimum specified nickel content, minimum specified molybdenum content, product type, outer coating, minimum yield strength, nominal outside diameter, nominal wall thickness, weld type, and inner coating.

#### *E) Export Price/Constructed Export Price*

##### Hyundai RB

We used EP methodology for all sales made by Hyundai RB, in accordance with section 772(a) of the Act, because the subject merchandise was first sold by the producer or exporter outside of the United States directly to an unaffiliated purchaser in the United States prior to importation, and CEP methodology was not otherwise warranted.

We based the starting price on packed prices to unaffiliated purchasers in the United States as reported by Hyundai RB. We made deductions from the starting price, where appropriate, for movement expenses (*i.e.*, foreign inland freight, foreign brokerage and handling, international freight expenses, U.S. brokerage and handling, and marine insurance), in accordance with section 772(c)(2)(A) of the Act.

Pursuant to section 772(c)(1)(C) of the Act, Commerce increases the U.S. price by the amount of any countervailing duty (CVD) imposed to offset an export subsidy. Therefore, we increased Hyundai RB’s net U.S. price by an amount based on the export subsidy rate calculated in the final determination of the investigation segment of the companion CVD proceeding.<sup>43</sup>

##### Hyundai Steel

In accordance with section 772(b) of the Act, we based U.S. price on CEP for Hyundai Steel because the subject merchandise was first sold in the United States before importation by a seller affiliated with the producer or exporter to an unaffiliated purchaser and EP was not otherwise indicated.

We calculated CEP based on the price to unaffiliated purchasers in the United States as reported by Hyundai Steel. In accordance with 19 CFR 351.401(c), we adjusted the starting prices for billing adjustments, where appropriate. We made deductions for foreign inland freight expenses, international freight expenses, marine insurance, U.S. and foreign brokerage expenses, and U.S. harbor maintenance fees in accordance with section 772(c)(2)(A) of the Act, where appropriate.

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<sup>43</sup> See Hyundai RB Preliminary Calculation Memo.

Pursuant to section 772(c)(1)(C) of the Act, Commerce increases the U.S. price by the amount of any CVD imposed to offset an export subsidy. Therefore, we increased Hyundai Steel's net U.S. price by an amount based on the export subsidy rate calculated in the final determination of the investigation segment of the companion CVD proceeding.<sup>44</sup>

In accordance with section 772(d)(1) of the Act, we calculated CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (imputed credit expenses, warranty expenses, and other direct selling expenses) and indirect selling expenses (inventory carrying costs and other indirect selling expenses). We also made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Hyundai Steel and its U.S. affiliates on their sales of the foreign like product in the comparison market and their sales of the subject merchandise in the United States and the profit associated with those sales.

#### *F) Normal Value*

##### *1. Particular Market Situation*

###### *i. Background*

In the LTFV investigation, Commerce found that a PMS existed in Korea which distorted the cost of production (COP) of welded pipe, based on our consideration of the cumulative effects of: (1) Korean subsidies for hot-rolled steel inputs (including both hot-rolled coil and hot-rolled plate), the primary inputs for welded pipe; (2) the impact of Chinese global overcapacity on the price of Korean imports of hot-rolled steel inputs from China and Japan; (3) strategic alliances between Korean pipe producers and hot-rolled steel suppliers; and (4) government involvement in the Korean electricity market.<sup>45</sup> As noted above, in December 2020, the petitioners submitted a PMS Allegation in which they argued that Commerce should find that a PMS continues to exist in Korea in the current POR, and that we should make corrective adjustments to the respondents' reported costs.<sup>46</sup> In addition to the four factors alleged in the LTFV investigation,<sup>47</sup> the petitioners alleged that the following two additional factors contributed to the PMS in Korea during the POR: (5) distorted shipping rates for inbound iron ore and coal; and (6) distortions in the cost of iron ore used to produce Korean hot-rolled coil and plate.<sup>48</sup> In January, 2021, we invited interested parties to submit factual information to rebut, clarify, or correct the factual

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<sup>44</sup> See Hyundai Steel Preliminary Calculation Memo.

<sup>45</sup> See *Large Diameter Welded Pipe from the Republic of Korea: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 83 FR 43651 (August 27, 2018), and accompanying Preliminary Decision Memorandum (PDM) at 13, unchanged in *Large Diameter Welded Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 84 FR 6374 (February 27, 2019), and accompanying IDM at Comments 1-4.

<sup>46</sup> See PMS Allegation; see also Petitioners' Factual Information Submission.

<sup>47</sup> In this review, the petitioners expanded their definition of the first factor to include the Korean government's involvement in the restructuring of the Korean steel industry. See PMS Allegation at 8-10 and 32.

<sup>48</sup> See PMS Allegation at 10.

information in the PMS Allegation. From February through April 2021, Hyundai RB and Hyundai Steel submitted factual information and comments concerning the PMS Allegation.

## ii. The Petitioners' Allegation

The petitioners argue that the same four factors which led Commerce to find that a PMS existed in Korea during the LTFV investigation are still present in the instant review. According to the petitioners, the record demonstrates that the respondents in this proceeding purchased hot-rolled coil and plate for the production of welded pipe during the POR from entities that received subsidies (*e.g.*, POSCO). Furthermore, according to the petitioners, the Government of Korea (GOK) further distorts the Korean hot-rolled coil market through its intervention in restructuring the industry; overcapacity in Chinese steel production has resulted in the Korean market being flooded with cheap Chinese steel products, which exerts downward pressure on Korean domestic steel prices; Korean hot-rolled steel producers and welded pipe producers engage in strategic alliances; and the Korean government distorts electricity prices. The petitioners contend that during the POR, Korean companies continued to import significant volumes of Chinese hot-rolled coil and plate, at average unit values (AUVs) below that of Korea's hot-rolled coil and plate imports from all other sources, and that the AUV of Chinese exports to Korea is low compared to the AUVs of Chinese exports to other countries.<sup>49</sup>

The petitioners also allege that global bulk shipping overcapacity during the POR, as well as government subsidies to Korean shipbuilders and Korea's largest shipping company, distorted Korea's inbound bulk shipping market, which impacted the acquisition prices of iron ore and coal, contributing to a PMS within Korea.<sup>50</sup> The petitioners further allege that the cost of iron ore used to produce Korean steel inputs was distorted over the POR due to government subsidization of the iron ore industry in Australia, Korea's largest supplier of iron ore.<sup>51</sup>

The petitioners submitted additional information, *i.e.*, a press release from the Korea Fair Trade Commission (KFTC) regarding its finding that certain steel manufacturers, including Hyundai Steel, engaged in price-fixing with respect to purchases of steel scrap, as well as news articles discussing the KFTC's findings, including the decision to impose fines on the manufacturers involved and the decision to file complaints against select manufacturers.

The petitioners assert that Commerce should make corrective adjustments to the respondents' reported cost data to account for the impact of hot-rolled coil and plate supplied by Chinese suppliers, strategic alliances, the Korean government's control of electricity, and distortions in the Australian and Korean iron ore markets as it did in the LTFV investigation and has done in the recent administrative reviews of welded line pipe (*WLP from Korea*), circular welded pipe (*CWP from Korea*), oil country tubular goods (*OCTG from Korea*), and heavy walled rectangular pipe (*HWRP from Korea*) from Korea.<sup>52</sup> The petitioners argue that, consistent with Commerce's

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<sup>49</sup> *Id.* at 11 and *e.g.*, Attachment 3, Attachment 34.

<sup>50</sup> *Id.* at 45.

<sup>51</sup> *Id.* at 49.

<sup>52</sup> *Id.* at 4-5 (citing *Welded Line Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 76517 (November 30, 2020) (*WLP from Korea*), and accompanying IDM at Comment 2; *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Results of Antidumping*

final determinations issued in other cases,<sup>53</sup> in this case Commerce should quantify the PMS in Korea by adopting a regression analysis of the relationship between global overcapacity and hot-rolled coil and plate AUVs. According to the petitioners, since the original LTFV investigation, Commerce has determined that the PMS regression analysis is “a reasonable method to quantify the relationship between global uneconomic capacity and the price of hot-rolled coil inputs,”<sup>54</sup> thereby applying a regression-based PMS adjustment in numerous proceedings.<sup>55</sup> Under this analysis, the petitioners allege, the respondents’ hot-rolled coil and plate input purchase costs should be increased by 9.56 percent in 2018 and 7.99 percent in 2019 to account for the distortive effects of the PMS in Korea. In addition, because self-produced hot-rolled coil and plate are as much a part of the market as any other hot-rolled coil and plate supply, the petitioners contend that the cost of a respondent’s self-produced hot-rolled coil and plate is just as distorted as the cost of hot-rolled coil and plate purchased from a third-party supplier, and should be adjusted accordingly.

### iii. Hyundai Steel’s Rebuttal Comments

Hyundai Steel argues that, consistent with the Court of International Trade (CIT)’s decisions in *OCTG from Korea*, *WLP from Korea*, and *CWP from Korea*, the record in this review does not support a finding that a PMS exists with respect to hot-rolled steel coil. Moreover, Hyundai Steel contends that the petitioners undertook little analysis of how their allegation applies to Hyundai Steel’s welded pipe production, as the evidence relies primarily on materials repackaged from similar allegations filed in other cases. Fundamental to the petitioners’ allegation is their claim that Korean hot-rolled steel prices are distorted by a PMS. However, Hyundai Steel argues, any issues with respect to hot-rolled steel prices are irrelevant because Hyundai Steel is an integrated producer, producing its own hot-rolled coil and plate for welded pipe production.

According to Hyundai Steel, during the period 2017-2019, the volume of hot-rolled steel imports into Korea decreased substantially and the price of hot-rolled steel imports increased. By 2018, the total import volume of hot-rolled steel from all sources was less than nine percent of Korean production of hot-rolled steel, and imports of hot-rolled steel from China constituted less than four percent of total Korean domestic hot-rolled steel production volume.<sup>56</sup> Such a tiny market share rebuts the petitioners’ claim that Chinese imports flooded the Korean market during the

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*Duty Administrative Review; 2017-2018*, 85 FR 71055 (November 6, 2020) (*CWP from Korea*), and accompanying IDM at Comment 1-B; *Certain Oil Tubular Good from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 41949 (July 13, 2020) (*OCTG from Korea*), and accompanying IDM at Comment 1-B; and *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 41538 (July 10, 2020) (*HWRP from Korea*), and accompanying IDM at Comment 1-B).

<sup>53</sup> *Id.* at 62 (citing e.g., *WLP from Korea* IDM at Comment 3; *CWP from Korea* IDM at Comment 1-C; *HWRP from Korea* IDM at Comment 3; and *OCTG from Korea* IDM at Comment 1-C).

<sup>54</sup> *Id.* at 10 (citing e.g., *Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017-2018*, 85 FR 15114 (March 17, 2020), and accompanying IDM at Comment 3 (*CORE from Korea*)).

<sup>55</sup> *Id.* (citing *WLP from Korea* IDM at Comment 3, *CWP from Korea* IDM at Comment 1-C, *OCTG from Korea* IDM at Comment 1-C, and *HWRP from Korea* IDM at Comment 2).

<sup>56</sup> See Hyundai Steel PMS Rebuttal Comments at 38-39 (citing Exhibit CAP-6; see also Exhibit CAP-12-A (“U.S. Department of Commerce, *Global Steel Trade Monitor, Steel Imports Report: Korea* (May 2019)” at 6)).

POR, according to Hyundai Steel. The petitioners undertook no objective, empirical analysis to show that the prices that Hyundai Steel paid for the hot-rolled steel inputs, either from Korean or foreign suppliers, to manufacture subject welded pipe were inconsistent with market prices or were below the suppliers' production costs. The data provided by the petitioners supports the same trend for Korean imports of both hot-rolled steel plate and hot-rolled coil.<sup>57</sup>

Hyundai Steel further argues that, to the extent Commerce is concerned about subsidization flowing to production of welded pipe in Korea, Commerce has already conducted a full investigation of such alleged subsidization and determined that Hyundai Steel did not receive meaningful subsidies pertaining to welded pipe production. In addition, Commerce has repeatedly determined that electricity in Korea is not provided for less than adequate remuneration nor is there any evidence of an upstream subsidy, *i.e.*, Commerce has found that no countervailable subsidy exists with respect to Korean electricity that confers benefits to Korean steel producers. When Commerce has considered Korean market electricity factors as one of several factors contributing to a PMS in Korea in the context of steel pipe cases, Commerce has correctly refrained from even attempting to quantify a PMS adjustment based on Korean electricity market prices.<sup>58</sup> Furthermore, the petitioners claim that shipping rates for inbound iron ore and coal were distorted during the POR is unsupported and incorrect. The petitioners' allegation of global bulk shipping overcapacity also lacks substance.

Furthermore, according to Hyundai Steel, the petitioners' allegations of price fixing with respect to purchases of steel scrap are not relevant because the alleged conduct ended in February 2018 (six months prior to the beginning of the POR). In addition, the allegation contains nothing with respect to possible strategic alliances between suppliers of the input in question (hot rolled steel) and the producers of the subject merchandise (Korean pipe producers). Moreover, there is no link between the claimed strategic alliances and the specific impact they may have had on the COP of the subject merchandise during the POR.<sup>59</sup>

Finally, Hyundai Steel argues that the petitioners' regression model is flawed and cannot serve as a valid or reliable basis for any PMS adjustment. In Hyundai Steel's estimation, when the petitioners' model is adjusted to account for certain omitted data (*e.g.*, variables related to energy costs) and to conform with the methodology previously endorsed by Commerce, the result is a PMS adjustment factor of zero, regardless of the regression estimates used.<sup>60</sup>

#### iv. Hyundai RB's Rebuttal Comments

Hyundai RB argues that the petitioners' allegation consists of very limited analysis and almost no discussion of how the alleged distortions affect the COP of the welded pipe in this proceeding. Rather, the petitioners simply copy and paste allegations and exhibits from other cases against other Korean steel pipe products, focusing primarily on the alleged excess steel

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<sup>57</sup> *Id.* at 36 (citing PMS Allegation at 148).

<sup>58</sup> *Id.* at 46 (citing *Certain Oil Country Tubular Goods from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review, 2016-2017*, 83 FR 51442 (October 11, 2018), and accompanying PDM at 22-23, unchanged in *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 2016-2017*, 84 FR 24085 (May 24, 2019), and accompanying IDM at Comment 1).

<sup>59</sup> See Hyundai Steel Response to Other Factual Information Submission.

<sup>60</sup> See Hyundai Steel PMS Rebuttal Comments at 3.

capacity relating to Chinese hot-rolled coil only, which is irrelevant because Hyundai RB manufactures the merchandise under consideration from steel plate, not hot-rolled coil.

Hyundai RB asserts that, although Commerce has reached affirmative PMS findings with respect to hot-rolled steel inputs in various cases involving Korean pipe products, the CIT has consistently rejected Commerce's PMS findings in appeals arising out of these cases. Notably, in *Utility Scale Wind Towers from Korea*, Commerce rejected a PMS allegation involving one of the same direct material inputs at issue in this proceeding, steel plate, that likewise cited the same factors: global steel overcapacity, alleged GOK intervention, strategic alliances, and the GOK's involvement in the electricity market.<sup>61</sup> The POI for that case was July 1, 2018 through June 30, 2019, contemporaneous with the period of the instant review. Commerce repeatedly found that no PMS existed in several other cases involving steel inputs other than hot-rolled coil, and the factors cited in those allegations were largely the same as what the petitioners have alleged in the current review.<sup>62</sup>

Likewise, record evidence contradicts the petitioners' arguments that steel production overcapacity globally, and especially in China, caused a PMS in Korea that impacted steel plate costs. Although the petitioners assert that the Korean steel market has been impacted by imports of cheaper Chinese steel products, the import data they provide show that this is not the case. The data regarding capacity, consumption, demand, world trade, prices and profitability all show that, since 2016, there has been a general recovery in the global steel market (including China and Korea) so that even prior to the POR, the global and Korean steel marketplaces had sufficiently recovered and regained pre-overcapacity era levels. The evidence submitted by the petitioners relating to Chinese overcapacity does not establish that market conditions in Korea were any different than they were in any other market around the world. Nor have the petitioners sufficiently explained how global overcapacity depressed import AUVs in the Korean hot-rolled coil and steel plate markets. On the contrary, the rise in steel prices undermines the petitioners' argument that cheaper steel imports from China flooded the Korean market, depressed the prices, and caused a PMS. Rather than flooding markets around the world, there was a conspicuous reduction in Chinese steel exports prior to and during the POR. In addition, while Korean steel exports remained relatively stable from 2016 through 2019, Korean steel imports have been decreasing since the 2016 peak; thus, suggesting a robust performance for Korean domestic steel producers as well as the insignificant impact that steel imports in Korea had on Korean steel pricing during the POR.<sup>63</sup>

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<sup>61</sup> See Hyundai RB PMS Rebuttal Comments at 18 (citing *Utility Scale Wind Towers from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less than Fair Value and Preliminary Determination of Critical Circumstances*, 85 FR 8560 (February 14, 2020) (*Utility Scale Wind Towers from Korea*), and accompanying PDM).

<sup>62</sup> *Id.* at 20-23 (citing Memorandum, "2014-2016 Antidumping Duty Administrative Review of Certain Steel Nails from the Republic of Korea: Post-Preliminary Decision on Particular Market Situation Allegation," dated October 23, 2017; *Certain Tapered Roller Bearings from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less-Than-Fair-Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 4901 (February 2, 2019), and accompanying PDM at 7-15; and *Forged Steel Fittings from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 85 FR 32010 (May 28, 2020), and accompanying PDM at 18-25, unchanged in *Forged Steel Fittings from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 66302 (October 19, 2020)).

<sup>63</sup> *Id.* at 50.

Commerce has determined that the GOK does not intervene to any significant degree in the Korean steel market, specifically with respect to steel plate and hot-rolled steel flat products.<sup>64</sup> Moreover, the petitioners have not shown that any GOK subsidization of steel plate has had an impact on Hyundai RB's manufacturing costs. The record evidence is clear that no Korean welded pipe producers engaged in strategic alliances or cartel behavior during the POR. Rather, these producers compete with each other and in the global steel products markets. The petitioners have not cited empirical data or shown that any alleged alliances have influenced specifically or directly the hot-rolled coil and steel plate purchase prices that Korean pipe producers reported. Nor do the petitioners make any attempt to quantify the impact of the alleged alliances on the cost of hot-rolled coil or steel plate. The petitioners rely almost entirely on an outdated decision by the KFTC to mischaracterize the realities of the Korean steel market during the POR.<sup>65</sup>

Regarding their claim that Korean domestic electricity costs are not market-based, the petitioners draw a conclusion based on a self-serving interpretation of the GOK's regulation over electricity pricing as a tool of managing the industrial policy, the ownership relationship among GOK and the Korean Electrical Power Corporation (KEPCO) and its affiliates, and the fact that KEPCO reported quarterly losses during the POR. While KEPCO experienced a brief period of unprofitability, it is incorrect to assume without substantial evidence that KEPCO sold electricity to producers of steel inputs used in the production of welded pipe at prices that were not sufficient to cover its costs. Moreover, recent changes lowering residential pricing overlapped with the period of unprofitability and clearly contributed to lower profitability.<sup>66</sup> Furthermore, the petitioners' PMS Allegation overlooks the fact that in previous CVD cases involving Korean steel products Commerce has consistently found no countervailable subsidy exists regarding Korean electricity that confers benefits to Korean steel producers.<sup>67</sup> Commerce has consistently and correctly declined to make any PMS adjustments related to electricity costs in prior AD cases. Commerce has also consistently rejected PMS allegations with respect to shipping rates for inbound raw materials and iron ore costs.<sup>68</sup>

Finally, Hyundai RB argues that the petitioners' regression analysis is based on a series of assumptions and cherry-picked criteria that ultimately make its results-oriented approach an

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<sup>64</sup> *Id.* at 56-57 (citing, e.g., *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; Calendar Year 2018*, 85 FR 84296 (December 28, 2020); *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review and Intent to Rescind the Review, in Part; 2018*, 85 FR 45185 (July 20, 2020); *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2017*, 85 FR 2710 (January 16, 2020); *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; 2018*, 86 FR 10533 (February 22, 2021); and *Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 64122 (October 9, 2020)).

<sup>65</sup> *Id.* at 59 (citing PMS Allegation at 37 and Attachments 85-87).

<sup>66</sup> *Id.* at 63 (citing PMS Allegation at Attachments 102, 106 and 107).

<sup>67</sup> *Id.* at 64 (citing, e.g., *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 85 FR 15112 (March 17, 2020), and accompanying IDM at 12-18; and *Welded Line Pipe from the Republic of Korea: Final Negative Countervailing Duty Determination*, 80 FR 61365 (October 13, 2015)).

<sup>68</sup> *Id.* at 66-67 (citing *OCTG from Korea* IDM at 36-37).

unreliable methodology.<sup>69</sup> Specifically, the petitioners used a 20-year period for 2000-2019 and six-digit HTS categories combining multiple steel inputs.<sup>70</sup> The petitioners have provided no support as to why moving away from a ten-year historical period is appropriate.

#### v. Analysis

Section 504 of the Trade Preferences Extension Act of 2015<sup>71</sup> added the concept of the “particular market situation” to the definition of “ordinary course of trade,” found at section 771(15) of the Act. This addition expanded Commerce’s consideration of the existence of a PMS not only in the circumstances of determining NV under section 773(a)(1)(A) of the Act, but also for purposes of CV under section 773(e) of the Act. Through section 773(e) of the Act, “particular market situation” also applies to COP under section 773(b)(3) of the Act. Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the {COP} in the ordinary course of trade, {Commerce} may use another calculation methodology under this subtitle or any other calculation methodology.” Section 773(e) of the Act does not specify whether to consider these allegations individually or collectively.

In this administrative review, we considered the six components of the petitioners’ PMS allegation as a whole, based on their cumulative effect on the Korean market for the inputs to produce welded pipe. With respect to the petitioners’ argument that subsidization of Korean hot-rolled steel products by the GOK occurred during the LTFV investigation (2017), we found in that investigation that the GOK subsidized hot-rolled coil and plate and adjusted corresponding inputs based on the subsidy rates in the investigations of *CTL – Korea*,<sup>72</sup> *HRS – Korea*<sup>73</sup> and *Steel CTL – Korea*,<sup>74</sup> as well as the 2016 review of *CTL Plate – Korea*,<sup>75</sup> where applicable. In other more recent CVD reviews we have found that the level of subsidization in the Korean steel market is less than or barely above *de minimis*.<sup>76</sup> Although Commerce acknowledges that there is subsidization of hot-rolled steel products in Korea, we consider the totality of the circumstances in determining whether a PMS exists, and we find that the low level of subsidization indicated by the instant record combined with other contemporaneous evidence or

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<sup>69</sup> *Id.* at 77 (citing Exhibit REG-2).

<sup>70</sup> *Id.* at 68 (citing PMS Allegation at Appendix I).

<sup>71</sup> See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>72</sup> See *Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate from India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea*, 65 FR 6587 (February 10, 2000) (*CTL – Korea*).

<sup>73</sup> See *Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders*, 81 FR 67960 (October 3, 2016) (*HRS – Korea*).

<sup>74</sup> See *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Countervailing Duty Order*, 82 FR 24103 (May 25, 2017) (*Steel CTL – Korea*).

<sup>75</sup> See *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review and Rescission of Countervailing Duty Administrative Review, in Part*, 83 FR 32840 (July 16, 2018) (*CTL Plate – Korea*).

<sup>76</sup> See *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 2018, 86 FR 15184 (March 22, 2021); and *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; Calendar Year 2018*, 85 FR 84296 (December 28, 2020).

lack thereof on the record does not sufficiently support the overall existence of a PMS during the POR.

The petitioners also argue that, due to global overcapacity, largely driven by Chinese overcapacity, large quantities of unfairly priced Chinese hot-rolled steel products have flooded the Korean market, which places downward pressure on prices in the Korean market. However, import data on the record demonstrate improving trends in imports into Korea. For example, hot-rolled steel imports from China into Korea have declined overall between 2014 and 2018, increasing only slightly in 2019, and Korean domestic production of hot-rolled coil in 2018 was four times the volume of hot-rolled coil imports.<sup>77</sup> In addition, hot-rolled steel import prices increased throughout the POR and AUVs in 2018 were 57 percent higher than in 2016.<sup>78</sup> Therefore, the record evidence shows that, in recent years, Korean import AUVs have risen, contradicting the petitioners' claims.

Furthermore, although we have determined that strategic alliances between hot-rolled coil and plate suppliers and welded pipe producers may have created distortions in the prices of hot-rolled coil and plate in the past and may continue to affect pricing during this POR and in the future, the petitioners have not provided evidence that such alliances existed during the current POR. The petitioners' supporting documentation for their claims regarding strategic alliances and price fixing pre-date the POR for this review.<sup>79</sup> Moreover, the petitioners provide no link between the claimed strategic alliances and the specific impact they may have had on the COP of the subject merchandise during the POR.

With respect to the allegation of distortion present in the electricity market, Commerce has found in previous PMS determinations that electricity in Korea functions as a tool of the government's industrial policy.<sup>80</sup> The largest electricity supplier, KEPCO, is a government-controlled entity.<sup>81</sup> We have repeatedly determined that electricity in Korea is not provided for less than adequate remuneration in CVD proceedings, nor is there evidence of an upstream subsidy, *i.e.*, no countervailable subsidy exists regarding Korean electricity that confers benefits to Korean steel producers.<sup>82</sup> While Commerce observes that distortions may exist in a market even when subsidies are not countervailable, we have considered Korean market electricity factors as one of

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<sup>77</sup> See PMS Allegation at Attachment 3 and Attachment 5, Exhibit 1.

<sup>78</sup> See Hyundai Steel PMS Rebuttal Comments at 39.

<sup>79</sup> See PMS Allegation at Attachments 82-89.

<sup>80</sup> See *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 18105 (April 17, 2017), and accompanying IDM at Comment 3.

<sup>81</sup> See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2018-2019*, 86 FR 35060 (July 1, 2021), and accompanying IDM at Comment 1.

<sup>82</sup> See, *e.g.*, *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 15112 (March 17, 2020), and accompanying IDM at Comment 1; see also *Certain Cold-Rolled Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 38361 (June 26, 2020), and accompanying IDM at Comment 1; and *Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; Calendar Year 2018*, 85 FR 84296 (December 28, 2020), and accompanying IDM at Comment 7.

several factors contributing to a PMS in Korea in the context of steel pipe proceedings.<sup>83</sup> In the instant review, this factor is not sufficient, given the extent of the evidence relating to the other factors, to indicate that a PMS exists in Korea during the POR.

The petitioners also argue that global bulk shipping overcapacity during the POR, coupled with government subsidies to the Korean shipbuilding industry and Korea's largest shipping company, distorted Korea's inbound bulk shipping market which impacted the acquisition prices for raw materials in the Korean steel market. The petitioners also claim that the Australian iron ore industry is distorted due to government subsidization and, because Korea imports a majority of its iron ore from Australia, this situation distorts the cost of hot-rolled coil. However, Hyundai Steel's input shipments by Hyundai Merchant Marine, Korea's largest shipping company, were minor when compared to its total shipments of all of its imported input-material purchases. With respect to Hyundai RB, it does not produce the steel plate used in its production (nor does it use hot-rolled coil in its production); thus, the alleged distortion in shipping and iron ore costs are irrelevant. Further, although the petitioners provide various articles and data in their PMS Allegation regarding whether the Australian iron ore industry is distorted due to government subsidization,<sup>84</sup> many of these articles pre-date the POR, and the petitioners do not provide evidence or draw a connection indicating how these factors affect the production of subject merchandise. We note that in the 2017-2018 reviews of OCTG from Korea and cold-rolled steel flat products from Korea, we determined that similar factual information was insufficient to establish that global bulk shipping overcapacity and anomalies in the Australian iron ore market led to distortions in the Korean steel market.<sup>85</sup> We are preliminarily making the same determination in this review.

In this administrative review, we considered the six components of the PMS Allegation as a whole, based on their cumulative effect on the Korean market for the inputs used to produce the merchandise at issue. Upon examining the data and exhibits that the petitioners provided in their allegation, we preliminarily find this information to be insufficient in proving that a PMS existed in Korea during the POR due to the lack of contemporaneous data and other supporting evidence.<sup>86</sup> Certain data provided by the petitioners regarding the subsidization of hot-rolled coil, the importation of hot-rolled coil from China into Korea, strategic alliances among Korean hot-rolled steel producers and welded pipe producers, distortions in the Korean electricity market, global shipping capacity, and subsidization of Australian iron ore, predate the POR. Moreover, as noted above, the petitioners have not demonstrated the impact of each of these factors on the COP of welded pipe during the POR. Therefore, Commerce preliminarily

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<sup>83</sup> See, e.g., *Certain Cold Rolled Steel Flat Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 41955 (July 13, 2020), and accompanying IDM at Comment 1.

<sup>84</sup> See PMS Allegation Attachments 109-111.

<sup>85</sup> *Id.*; see also *OCTG from Korea* IDM at Comment 1-B.

<sup>86</sup> Commerce also notes that courts have found that determinations of an affirmative PMS based on: (1) Korean subsidies for hot-rolled steel inputs; (2) the impact of Chinese global overcapacity on the price of Korean imports of hot-rolled steel inputs from China; (3) strategic alliances in the Korean steel industry; and (4) government involvement in the Korean electricity market were not based on substantial evidence. See, e.g., *Nexteel Co. v. United States*, 392 F. Supp. 3d 1276 (CIT 2019); *Dong-A Steel Co. v. United States*, 475 F. Supp. 3d 1317 (CIT 2020); *Hyundai Steel Co. v. United States*, 415 F. Supp. 3d 1293 (CIT 2019); and *Husteel Co. v. United States*, 426 F. Supp. 3d 1376 (CIT 2020).

determines that the evidence submitted in the petitioners' PMS allegation is insufficient to warrant the conclusion that a PMS existed in Korea during the POR.

## 2. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this review, we determined that the aggregate volume of home market sales of the foreign like product for each respondent was greater than five percent of the aggregate volume of each respondent's U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for both Hyundai RB and Hyundai Steel, in accordance with section 773(a)(1)(B) of the Act.

## 3. Level of Trade

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).<sup>87</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>88</sup> In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine 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),<sup>89</sup> we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.<sup>90</sup>

When Commerce is unable to match U.S. sales with sales of the foreign like product in the comparison market at the same LOT as the EP or CEP sale, Commerce may compare the U.S.

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<sup>87</sup> See 19 CFR 351.412(c)(2).

<sup>88</sup> *Id.*; see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*), and accompanying IDM at Comment 7.

<sup>89</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

<sup>90</sup> See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

sales to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>91</sup>

In this review, we obtained information from Hyundai RB and Hyundai Steel regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities they performed for each channel of distribution.<sup>92</sup> Our LOT findings are summarized below.

### Hyundai RB

Hyundai RB reported that it sold welded pipe to home market customers through two distribution channels during the POR, *i.e.*, from the factory through an affiliate to unaffiliated end users or distributors (Channel 1), and directly from the factory to unaffiliated distributors or end users (Channel 2).<sup>93</sup> With respect to the U.S. market, Hyundai RB reported that it made EP sales through two channels of distribution, *i.e.*, to unaffiliated Korean traders, which in turn shipped the merchandise to their U.S. end-user or distributor customers (Channel 1), and directly to unaffiliated U.S. end users or distributors (Channel 2).<sup>94</sup>

Selling activities can be generally grouped into five selling function categories for analysis, specifically, provision of: (1) sales support; (2) training services; (3) technical support; (4) logistical services; and (5) performance of sales-related administrative activities. We examined the selling activities performed for these sales and found that Hyundai RB performed the following selling functions in both the home and U.S. markets: provision of sales support; provision of logistical services, and provision of administrative activities.<sup>95</sup> We preliminarily determine that there is one LOT in the home market because the selling activities are the same for Channel 1 and Channel 2 sales.<sup>96</sup>

Likewise, the U.S. selling activities do not vary between the two distribution channels in the United States.<sup>97</sup> Therefore, we preliminarily determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT and preliminarily find that, within the three selling function categories, with the exception of one selling activity, the selling activities performed for home market sales are performed at the same level of intensity as for U.S. sales. Based on this analysis, we preliminarily determine that sales to the United States and

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<sup>91</sup> See, e.g., *OJ from Brazil* IDM at Comment 7.

<sup>92</sup> See Hyundai RB AQR at A-12 to A-17 and Exhibit A-10.

<sup>93</sup> See Hyundai RB AQR at A-12.

<sup>94</sup> *Id.* at A-13.

<sup>95</sup> Certain information pertaining to this issue is business proprietary. See Hyundai RB AQR Exhibit A-10.

<sup>96</sup> See Hyundai RB AQR at Exhibit A-10.

<sup>97</sup> *Id.*

home market during the POR were made at the same LOT. Thus, we preliminarily determine that no LOT adjustment under 19 CFR 351.412(e) is warranted.<sup>98</sup>

### Hyundai Steel

Hyundai Steel reported that it sold welded pipe to home market customers through one distribution channel during the POR, *i.e.*, to distributors/end users.<sup>99</sup> With respect to the U.S. market, Hyundai Steel reported that it made CEP sales through three channels of distribution, *i.e.*, Hyundai Steel sold subject merchandise to Hyundai Steel USA, Inc. (HSU), which, in turn, sold the merchandise to unaffiliated customers in the United States (U.S. Channel 1); Hyundai Steel sold subject merchandise to HSU, which, in turn sold the merchandise to Hyundai Corporation USA (HC(USA)), and HC(USA) subsequently sold the merchandise to unaffiliated customers in the United States (U.S. Channel 2); and Hyundai Steel sold subject merchandise to HC (Hyundai Corporation) which, in turn, sold the merchandise to its wholly-owned affiliate HC(USA) which, in turn, sold the merchandise to unaffiliated customers in the United States (U.S. Channel 3).<sup>100</sup>

We examined the selling activities, as discussed above, that were performed for these sales and found that Hyundai Steel performed the following selling function categories in both the home and U.S. markets: provision of sales support; provision of training services; provision of technical support; provision of logistical services, and provision of administrative activities.<sup>101</sup> We preliminarily determine that there is one LOT in the home market, as all sales are made through a single distribution channel and the selling activities do not vary within the channel.<sup>102</sup> Although Hyundai Steel's U.S. sales are made through three channels of distribution, the selling activities do not vary among the three channels.<sup>103</sup> Therefore, we preliminarily determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT and preliminarily find that, within the five selling function categories, there are more selling activities performed for home market sales than for U.S. sales. Specifically, there are three selling function activities which are performed only for home market sales. Moreover, the level of intensity at which each selling activity is performed, differs significantly between the two markets.<sup>104</sup> Based on this analysis, we preliminarily determine that home market sales made during the POR were made at a more advanced LOT than U.S. sales. We did not make an LOT adjustment under 19 CFR 351.412(e) because there is only one LOT in the home market and thus, we were unable to identify a pattern of consistent price differences attributable to differences in LOTs.<sup>105</sup> Accordingly, pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f), we are preliminarily granting a CEP offset to Hyundai Steel. We calculated the CEP offset as the lesser of the indirect selling

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<sup>98</sup> See also 19 CFR 351.412(d).

<sup>99</sup> See Hyundai Steel AQR at A-26.

<sup>100</sup> *Id.* at A-26 – A-27.

<sup>101</sup> Certain information pertaining to this issue is business proprietary. See Hyundai Steel ABCSQR Exhibit SA-2.

<sup>102</sup> See Hyundai Steel ABCSQR at Exhibit SA-2.

<sup>103</sup> *Id.*

<sup>104</sup> See Hyundai Steel ABCSQR at SA-2.

<sup>105</sup> See 19 CFR 351.412(d).

expenses incurred on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

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

Commerce may calculate NV based on a sale price to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's-length prices.<sup>106</sup> During the POR, Hyundai RB and Hyundai Steel each made sales to affiliated parties in the home market.<sup>107</sup> To test whether these home market sales to affiliated parties were made at arm's-length prices, for each respondent we compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all billing adjustments, discounts and rebates, movement charges, direct selling expenses, and packing expenses. In accordance with our practice, when the prices charged to an affiliated party are, 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 determine that sales to the affiliated party are at arm's-length prices.<sup>108</sup> When, on average, the sales to a given affiliated customer are not at arm's-length prices, then all sales to that affiliated customer are excluded from the calculation of NV pursuant to 19 CFR 351.403(c). Consistent with 19 CFR 351.403(d), Commerce may request that the respondent report the downstream sales of an affiliated customer if its sales to that affiliate fail the arm's-length test.

#### Hyundai RB

All of Hyundai RB's sales to its affiliated customers passed the arm's-length test. Accordingly, we included these sales in our analysis. We did not require that Hyundai RB report its downstream sales because none of its affiliated customers failed the arm's length test.

#### Hyundai Steel

All of Hyundai Steel's sales to its affiliated customers failed the arm's-length test. Accordingly, we excluded these sales from our analysis consistent with 19 CFR 351.403(c). All of Hyundai Steel's affiliated customers consumed the subject merchandise in the home market in applications such as shipbuilding, construction, and heavy industry; therefore, there are no downstream sales to report.<sup>109</sup>

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<sup>106</sup> See 19 CFR 351.403(c).

<sup>107</sup> See Hyundai RB BCDQR at B-24; and Hyundai Steel BCDQR at B-26.

<sup>108</sup> See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

<sup>109</sup> See Hyundai Steel's BCDQR at B-3-B-4.

## 5. *Cost of Production Analysis*

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested CV and COP information from both respondents. We examined the 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 both respondents' reported data.

### i. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) and financial expenses.<sup>110</sup> We relied on the COP data submitted by Hyundai RB and Hyundai Steel, with the exception noted below.

#### Hyundai RB

- We revised Hyundai RB's general and administrative expense ratio to exclude a line item more appropriately classified as an indirect selling expense.<sup>111</sup>

### ii. Test of Comparison Market Sales Prices

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

### iii. Results of the COP Test

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

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<sup>110</sup> See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

<sup>111</sup> We included this line item in the indirect selling expenses and recalculated the ratios for home market and U.S. indirect selling expenses accordingly. See Hyundai RB Preliminary Calculation Memo.

In this review, we found that for certain products more than 20 percent of Hyundai RB's and Hyundai Steel's home market sales during the POR were at prices less than the COP and that such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales as being outside of the ordinary course of trade and used the remaining sales as the basis for determining NV in accordance with section 773(b)(1) of the Act.

#### *6. Calculation of NV Based on Comparison Market Prices*

##### Hyundai RB

For the foreign like products for which there were sales at arm's-length prices and in the ordinary course of trade, we based NV on comparison market prices. We calculated NV based on the prices that Hyundai RB reported for home market sales to unaffiliated customers and to affiliated parties that were made at arm's-length prices. We calculated NV based on packed prices. We made deductions for inland freight expenses under section 773(a)(6)(B)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales (*i.e.*, credit expenses) and added U.S. direct selling expenses (*i.e.*, credit expenses and wire transfer fees).<sup>112</sup>

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>113</sup> We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.<sup>114</sup>

##### Hyundai Steel

For the foreign like products for which there were sales at prices at arm's length and within the ordinary course of trade, we based NV on comparison market prices. We calculated NV based on the prices that Hyundai Steel reported for home market sales to unaffiliated customers. As explained above, we excluded home market sales to affiliated parties from our analysis because these customers failed the arm's-length test. We calculated NV based on packed prices. In accordance with 19 CFR 351.401(c), we adjusted the starting prices for billing adjustments and early payment discounts, where appropriate. We made deductions for inland freight expenses, inland insurance, and warehouse expenses, under section 773(a)(6)(B)(ii) of the Act. In addition, we made deductions pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for home market credit expenses, late payment fees, warranty expenses, and other direct selling expenses.<sup>115</sup>

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<sup>112</sup> See Hyundai RB Preliminary Calculation Memo.

<sup>113</sup> See 19 CFR 351.411(b).

<sup>114</sup> See Hyundai RB Preliminary Calculation Memo.

<sup>115</sup> See Hyundai Steel Preliminary Calculation Memo.

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>116</sup> We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.<sup>117</sup> We adjusted packing overhead costs associated with outside processors that were affiliated with Hyundai Steel.<sup>118</sup>

#### *7. Calculation of Normal Value Based on Constructed Value*

In accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of Hyundai RB's material and fabrication costs, SG&A expenses, profit and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by Hyundai RB in connection with the production and sale of the foreign like product at the same LOT as the U.S. sale, in the ordinary course of trade, for consumption in the comparison market. We made adjustments to CV for differences in circumstances of sale, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

### **V. 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. The exchange rates are available on the Enforcement and Compliance website at <http://enforcement.trade.gov/exchange>.

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<sup>116</sup> See 19 CFR 351.411(b).

<sup>117</sup> See Hyundai Steel Preliminary Calculation Memo.

<sup>118</sup> *Id.*

## VI. RECOMMENDATION

Based on our analysis, we recommend applying the above methodology for these preliminary results. If this recommendation is accepted, we will publish the preliminary results of the review and the preliminary dumping margins in the *Federal Register*.




Agree



Disagree

7/26/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh  
Acting Assistant Secretary  
for Enforcement and Compliance