



A-580-878

Administrative Review

POR: 07/01/2019 – 06/30/2020

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July 30, 2021

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

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

SUBJECT: Decision Memorandum for Preliminary Results: Certain
Corrosion-Resistant Steel Products from the Republic of Korea,
2019-2020

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea). The review covers nine companies, of which we selected Dongkuk Steel Mill Co., Ltd. (Dongkuk) and Hyundai Steel Company (Hyundai) as the mandatory respondents. The period of review (POR) is July 1, 2019, through June 30, 2020. We preliminarily find that sales of subject merchandise were made at prices below normal value (NV). The estimated weight-average dumping margins are shown in the “Preliminary Results of the Review” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On July 25, 2016, Commerce published in the *Federal Register* the AD order on CORE from Korea.¹ On July 1, 2020, we published a notice of opportunity to request an administrative review of the *Order*.²

¹ See *Certain Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016) (*Order*); and *Certain Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Notice of Correction to the Antidumping Duty Orders*, 81 FR 58475 (August 25, 2016).

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



On July 13, 2020, Dongkuk self-requested a review.³ On July 20, 2020, Hyundai Steel Company self-requested a review.⁴ On July 22, 2020, KG Dongbu Steel Co., Ltd., Dongbu Steel Co., Ltd., and Dongbu Incheon Steel Co., Ltd. (collectively, Dongbu) self-requested a review.⁵ Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), on July 31, 2020, ArcelorMittal USA LLC, AK Steel Corporation, Nucor Corporation, Steel Dynamics Inc., and United States Steel Corporation (collectively, the petitioners) requested reviews of seven companies.⁶ Also on July 30, 2020, POSCO, POSCO International Corporation, POSCO Daewoo Corporation,⁷ and POSCO Coated & Color Steel Co., Ltd.⁸ (POSCO C&C) each self-requested a review.

On September 3, 2020, we initiated the review on nine exporters and/or producers.⁹ On October 16, 2020, we placed U.S. Customs and Border Protection (CBP) entry data on the record of this proceeding.¹⁰ On November 16, 2020, we selected Dongkuk and Hyundai as mandatory respondents.¹¹ On November 20, 2020, we issued initial questionnaires to these companies.¹²

Dongkuk filed its initial responses from December 28, 2020 through January 19, 2021.¹³ On December 4, 2020, Dongkuk requested an exemption for reporting certain sales of CORE.¹⁴ On December 10, 2020, the petitioner filed an objection to Dongkuk's exemption request.¹⁵ Commerce issued a supplemental questionnaire to Dongkuk on December 21, 2020,¹⁶ related to Dongkuk's exemption request, to which Dongkuk responded on December 28, 2020.¹⁷ Commerce issued its response to Dongkuk's request on January 7, 2021, granting a partial exemption from reporting certain sales of CORE.¹⁸

³ See Dongkuk's Letter, "Request for Administrative Review for the Period July 1, 2019 – June 30, 2020," dated July 13, 2020.

⁴ See Hyundai's Letter, "Administrative Review Request," dated July 20, 2020.

⁵ See Dongbu's Letter, "Request for Administrative Review," dated July 22, 2020.

⁶ See Petitioners' Letter, "Petitioners' Request for Administrative Review," dated July 31, 2020.

⁷ See POSCO's Letter, "Administrative Review Request," dated July 30, 2020.

⁸ See POSCO C&C's Letter, "Administrative Review Request," dated July 30, 2020.

⁹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 54983 (September 3, 2020).

¹⁰ See Memorandum, "Release of U.S. Customs Entry Data for Respondent Selection," dated October 16, 2020.

¹¹ See Memorandum, "Respondent Selection," dated November 16, 2020.

¹² See Commerce's Letter, "Antidumping Duty Questionnaire," dated November 20, 2020.

¹³ See Dongkuk's Letter, "Section A Questionnaire Response," dated December 28, 2020 (Dongkuk December 28 AQR); see also Dongkuk's Letter, "Sections B-D Response," dated January 19, 2021 (Dongkuk January 19 BCDQR).

¹⁴ See Dongkuk's Letter, "Notification of Reporting Difficulties," dated December 4, 2020.

¹⁵ See Petitioners' Letter, "Petitioner's Objection to Dongkuk Exemption Request," dated December 10, 2020.

¹⁶ See Commerce's Letter, "Dongkuk Steel Mill Co., Ltd.'s Request for Additional Information Related to Certain U.S. Sales," dated December 21, 2020.

¹⁷ See Dongkuk's Letter, "Request Exemption of Reporting Supplemental Questionnaire Response," dated December 28, 2020.

¹⁸ See Commerce's Letter, "Response to Request for Exemption on Reporting Certain Sales," dated January 7, 2021.

The petitioner filed comments on Dongkuk's AQR on January 19, 2021,¹⁹ and on Dongkuk's BCDQR on March 6, 2020.²⁰ Between April 6, 2021, and July 8, 2021, we issued supplemental questionnaires to and received responses from Dongkuk.²¹

On December 7, 2020, Hyundai filed its request with Commerce for an alternate calculation methodology for certain U.S. sales of products that were further manufactured into formed auto parts, after-service automobile parts (AS Parts), and finished automobiles prior to sale to the first unaffiliated U.S. customer.²² On January 4, 2021, Commerce informed Hyundai that it determined that Hyundai demonstrated, in accordance with 19 CFR 351.402(c), that the value added in the United States is equal to or greater than 65 percent of the value of the AS Parts and finished automobiles.²³ In addition, Commerce determined that the inclusion of formed parts would have a minor impact on Hyundai's overall margin calculation while simultaneously imposing a burden on Commerce.²⁴ Therefore, Commerce exempted Hyundai from reporting U.S. sales of AS Parts, finished automobiles, and formed parts.²⁵

From December 28, 2020, through July 23, 2020, Hyundai filed responses to Commerce's initial questionnaires.²⁶ The petitioner filed comments on Section C of Hyundai's BCDEQR on March 1, 2021,²⁷ and commented on Section D of Hyundai's BCDEQR on February 12, 2021.²⁸ From April 19, 2021, to May 27, 2021, we issued supplemental questionnaires to and received responses from Hyundai.²⁹

On March 18, 2021, we extended the deadline for the preliminary results of this review.³⁰

¹⁹ See Petitioners' Letter, "Petitioners' Comments on the Section A Questionnaire Response of Dongkuk Steel Mill Co., Ltd." dated January 19, 2021.

²⁰ See Petitioners' Letter, "Petitioner's Comments on the Section B-D Questionnaire Response of Dongkuk Steel Mill Co., Ltd." dated March 6, 2021.

²¹ See Dongkuk's Letter, "Response to the Supplemental Sections A-C Questionnaire," dated May 3, 2021 (Dongkuk May 3 ABCSQR); Dongkuk's Letter, "Response to the Supplemental Section D Questionnaire," dated May 10, 2021; and Dongkuk's Letter, "Response to the Supplemental Section D Questionnaire," dated July 8, 2021.

²² See Hyundai's Letter, "Request for Alternate Calculation Methodology for Certain Value-Added U.S. Sales," dated December 4, 2020.

²³ See Commerce's Letter, "Hyundai Steel Company's Exemption Request," dated January 4, 2021.

²⁴ *Id.*

²⁵ *Id.*

²⁶ See Hyundai's Letter, "Initial Section A Questionnaire Response," dated December 28, 2020 (Hyundai December 28 AQR); *see also* Hyundai's Letter, "Initial Sections B-E Questionnaire Response," dated January 19, 2021 (Hyundai January 19 BCDEQR).

²⁷ See Petitioners' Letter, "Petitioners' Comments on Hyundai Steel's Response to Section C of the Department's Questionnaire," dated March 1, 2021.

²⁸ See Petitioners' Letter, "Petitioners' Deficiency Comments Concerning the Response of Hyundai Steel to the Section D Questionnaire Response," dated February 12, 2021.

²⁹ See Hyundai's Letter, "Supplemental Sections A-C Questionnaire Response," dated May 17, 2021; *see also* Hyundai's Letter, "Supplemental Section D Questionnaire Response," dated May 24, 2021; Hyundai's Letter, "Supplemental Section E Questionnaire Response," dated May 27, 2021.

³⁰ See Memorandum, "Extension of Deadline for Preliminary Results of 2019-2020 Antidumping Duty Administrative Review," dated March 18, 2021.

III. SCOPE OF THE *ORDER*

The products covered by this *Order* are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel – or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The products covered include coils that have a width of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, *etc.*). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

- (1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and
- (2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this *Order* are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels and high strength low alloy (HSLA) steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum.

Furthermore, this scope also includes Advanced High Strength Steels (AHSS) and Ultra High Strength Steels (UHSS), both of which are considered high tensile strength and high elongation steels.

Subject merchandise also includes corrosion-resistant steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching and/or slitting or any other processing that would not otherwise remove the merchandise from the scope of the *Order* if performed in the country of manufacture of the in-scope corrosion resistant steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this *Order* unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this *Order*:

- Flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (terne plate), or both chromium and chromium oxides (tin free steel), whether or not painted, varnished or coated with plastics or other non-metallic substances in addition to the metallic coating;
- Clad products in straight lengths of 4.7625 mm or more in composite thickness and of a width which exceeds 150 mm and measures at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion resistant flat-rolled steel products less than 4.75 mm in composite thickness that consist of a flat-rolled steel product clad on both sides with stainless steel in a 20%-60%-20% ratio.

The products subject to the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0040, 7210.49.0045, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000.³¹

³¹ See Memorandum, "Request from Customs and Border Protection to Update the ACE AD Case Reference File," dated July 26, 2021 (explaining the addition of two HTSUS numbers).

The products subject to the *Order* may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the *Order* is dispositive.

IV. COMPARISONS TO NORMAL VALUE

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

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless Commerce determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.³²

In numerous AD investigations and administrative reviews, Commerce 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.³³ Commerce finds that the differential pricing analysis is instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.

³² 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, 1322 (CIT 2014), *aff'd*, 862 F.3d 1337 (Fed. Cir. 2017); and *JBF RAK LLC v. United States*, 790 F.3d 1358, 1363–65 (Fed. Cir. 2015) ("the fact that the statute is silent with regard to administrative reviews does not preclude Commerce from filling gaps in the statute to properly calculate and assign antidumping duties.") (citations omitted).

³³ See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 export sales by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the 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 reported (consolidated) customer codes. 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 reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales other than purchaser, region and time period, that Commerce uses in making comparisons between EP (or CEPs) and NV for the individual dumping margins.

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

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the 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.³⁴

B. Results of the Differential Pricing Analysis

Dongkuk

For Dongkuk, based on the results of the differential pricing analysis, Commerce preliminarily finds that 67.31 percent of the value of U.S. sales pass the Cohen’s *d* test,³⁵ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines there is a 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 all U.S. sales.³⁶ Thus, for these preliminary results, Commerce is applying the average-to-transaction method for all U.S. sales to calculate the weighted-average dumping margin for Dongkuk, in accordance with 19 CFR 351.414(c)(1).

³⁴ 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.

³⁵ See Memorandum, “Preliminary Results Margin Calculation for Dongkuk Steel Mill Co., Ltd.,” dated concurrently with this memorandum (Dongkuk Preliminary Results Sales Calculation Memorandum).

³⁶ *Id.*

Hyundai

For Hyundai, based on the results of the differential pricing analysis, Commerce preliminarily finds that 57.93 percent of the value of U.S. sales pass the Cohen's *d* test,³⁷ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Further, Commerce preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, Commerce is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Hyundai.

C. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in the home market in the ordinary course of trade during the POR that fit the description in the "Scope of the *Order*" to be foreign like products for purposes of determining appropriate NVs for comparisons to EP or CEP.

If there were contemporaneous home market sales of foreign like product identical to subject merchandise, then we calculated NV based on the monthly weighted-average home market prices of all such sales.³⁸ If there were no contemporaneous home market sales of identical merchandise, then we identified home market sales of the most similar merchandise that were contemporaneous with the U.S. sales in accordance with 19 CFR 351.414(f), and calculated NV based on the monthly weighted-average home market prices of all such sales. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the home market, we calculated NV based on constructed value (CV).

In making product comparisons, we matched foreign like product to the subject merchandise based on prime versus non-prime merchandise, and the physical characteristics in the following order of importance: type, reduction process, clad material/coating metal, metallic coating weight, metallic coating process, quality, yield strength, nominal thickness, nominal width, and form.³⁹

V. DATE OF SALE

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the merchandise under consideration 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. Additionally, under the regulation, Commerce may use a date other than the date of

³⁷ See Memorandum, "Preliminary Results Margin Calculation for Hyundai Steel Company," dated concurrently with this memorandum (Hyundai Preliminary Results Calculation Memorandum).

³⁸ See 19 CFR 351.414(b)(f).

³⁹ See Commerce's Letter: Antidumping Duty Questionnaire, dated November 20, 2020 (Initial AD Questionnaire) at B-9 through B-14 and C-8 to C-10.

invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁴⁰ Furthermore, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.⁴¹

Dongkuk

Dongkuk reported the shipment date as the date of sale for its home market sales because the terms of sale can and do change up to the sales invoice date.⁴²

Dongkuk made all its sales of subject merchandise during the POR through its U.S. affiliate, Dongkuk International, Inc. (DKA), and reported the date of shipment from its factory as the date of sale for its U.S. sales because that is when the terms of sales are finalized and also when DKA issues its sales invoice to the first unaffiliated U.S. customer. We have preliminarily based the date of sale on the shipment date from the factory, because the material terms of sale did not change from the date Dongkuk shipped the subject merchandise to DKA and the date DKA issued the sales invoice to the first unaffiliated U.S. customer.⁴³ Based on our analysis, nothing on the record suggests that a different date better reflects the date on which the material terms of sale are established.

Hyundai

For its home market sales, Hyundai reported the date of sale as the earlier of the date of shipment from Hyundai's factory or warehouse to the customer, or the date on which Hyundai issued its sales invoice, as quantity and price can change until shipment from the factory.⁴⁴ Therefore, pursuant to 19 CFR 351.401(i), we are preliminarily using the earlier of shipment date or invoice date, as reported by Hyundai, as the date of sale in the home market.

For sales to the United States, Hyundai reported the earlier of shipment date to the customer or the invoice date. Hyundai further reported that for its EP sales it uses the date the subject merchandise leaves Hyundai's facility, whereas for its CEP sales through its affiliate, Hyundai Steel America Inc. (HSA), Hyundai reported the date of shipment the subject merchandise leaves HSA's facility.⁴⁵ For its U.S. sales through an affiliated processors in the United States to unaffiliated parties, Hyundai likewise reported the earlier of shipment date or the date of invoice

⁴⁰ 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)).

⁴¹ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004) (*Shrimp from Thailand*), and accompanying IDM at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.

⁴² See Dongkuk May 3 ABCSQR, at 19.

⁴³ *Id.*, at 38-39.

⁴⁴ See Hyundai December 28 AQR at A-28 to A-29; see also January 19 BCDEQR at B-22 to B-23; May 17 SQR at 11-12.

⁴⁵ See Hyundai December 28 AQR at A-28 to A-29; see also January 19 BCDEQR at C-26 to C-27; May 17 SQR at 30.

issued by that affiliated processor as the date of sale.⁴⁶ Therefore, pursuant to 19 CFR 351.401(i), we are preliminarily using the earlier of shipment date or invoice date as the date of sale in the U.S. market.

VI. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).” Section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” As explained below, we based the U.S. price on only CEP for Dongkuk, and on both EP and CEP for Hyundai.

Dongkuk

For all U.S. sales made by Dongkuk,⁴⁷ we used the CEP methodology, in accordance with section 772(b) of the Act, because the subject merchandise was first sold in the United States after the date of importation by a seller affiliated with the producer/exporter to a purchaser not affiliated with the producer/exporter and the EP methodology was not otherwise warranted. As discussed further below, we adjusted Dongkuk’s prices under sections 772(c) and (d) of the Act.

We made deductions, where appropriate, from the starting price for billing adjustments and early payment discounts, in accordance with 19 CFR 351.401(c). We also made deductions, where appropriate, for movement expenses (*e.g.*, foreign and U.S. inland freight, international freight (including ocean and air), marine insurance, U.S. and foreign brokerage and handling expenses, U.S. warehousing expenses, other transportation expenses (*i.e.*, barge transportation), and U.S. Customs duties (including merchandise handling and harbor maintenance fees)), in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we also deducted selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (imputed credit expenses, warranty expenses), other direct selling expenses (*i.e.*, export quota allocation certificate fees), and indirect selling expenses (*i.e.*, inventory carrying costs). Finally, we 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 DKA, Dongkuk’s U.S. affiliate, on its sales of the subject merchandise in the United States and the profit associated with those sales.⁴⁸

⁴⁶ See Hyundai January 19 BCDEQR at C-27 and May 17 SQR at 30-31.

⁴⁷ We did not include Dongkuk’s sample sales (all of which are EP sales) in our margin analysis. See Dongkuk May 3, ABCSQR at, at 37.

⁴⁸ See Dongkuk Preliminary Results Sales Calculation Memorandum for a detailed description of the deductions made from CEP.

Hyundai

Hyundai reported that it made EP and CEP sales to the United States through several channels of distribution.⁴⁹ In accordance with section 772(a) of the Act, because the subject merchandise was sold prior to importation by the exporter or producer outside the United States to unaffiliated purchasers in the United States,⁵⁰ we based EP on a packed price to the first unaffiliated customer. We made adjustments, where appropriate, in accordance with section 772(c) of the Act. We made deductions for movement expenses, which included foreign inland freight from plant to port of exportation, warehousing, brokerage and handling incurred in the country of manufacture, and international freight.⁵¹

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. Hyundai reported that it made sales of subject merchandise through its affiliated reseller/processor HSA, and that HSA sold the subject merchandise both in coil form and as further manufactured product.⁵² In addition, HSA sold further manufactured product to affiliated processors/manufacturers that further manufactured and sold the product to the first unaffiliated customer in the United States.⁵³

We calculated the CEP based on a packed price to customers in the United States. We made deductions from the starting price (after accounting for billing adjustments) for any movement expenses (*i.e.*, inland freight from plant to distribution warehouse, warehousing expense, freight from plant/warehouse to port of exportation, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight from port to warehouse, U.S. freight from warehouse to the unaffiliated customer, U.S. customs duties, and U.S. transportation expenses from HSA's plant to its warehouse), in accordance with section 772(c)(2)(A) of the Act.⁵⁴

In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (imputed credit expenses, bank charges, and other direct selling expenses) and indirect selling expenses (U.S. inventory carrying costs and other indirect selling expenses).⁵⁵ We also made an adjustment for profit allocated to these selling expenses, in accordance with section 772(d)(3) of the Act. In addition, we made an adjustment for the cost of any further manufacturing or assembly, in accordance with section 772(d)(2) of the Act. Pursuant to section 772(d)(3) of the Act, we also made an adjustment for CEP profit. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Hyundai and

⁴⁹ See Hyundai December 28 AQR at 12, 20-21, and Exhibits A-11(1) to A-11(6).

⁵⁰ *Id.*

⁵¹ See Hyundai January 19 BCDEQR at C-38 to C-48.

⁵² See Hyundai December 28 AQR at A-13, A-30 to A-32, and Exhibit A-11(1).

⁵³ *Id.*

⁵⁴ See Hyundai January 19 BCDEQR at C-31 to C-54.

⁵⁵ *Id.* at C-49 to C-55.

its U.S. affiliates on their sales of the subject merchandise in the United States and the profit associated with those sales.⁵⁶

VII. NORMAL VALUE

A. Home Market Viability

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

B. Level of Trade (LOT)

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales of the foreign like product at the same LOT as U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁵⁷ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁵⁸ To determine whether the comparison-market sales were at different stages in the marketing process than the U.S. sales, we review the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, where NV is based on either home market or third country prices),⁵⁹ 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.⁶⁰

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

⁵⁶ See Hyundai January 19 BCDEQR at B-5 to B-6 and C-3 to C-5.

⁵⁷ See 19 CFR 351.412(c)(2).

⁵⁸ *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.

⁵⁹ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) expenses, and profit for CV, where possible. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 47081, 47086 (August 4, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004).

⁶⁰ See *Micron Technology, Inc. v. United States*, 243 F. 3d 1301, 1314 (Fed. Cir. 2001).

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 sale and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), Commerce shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act⁶¹ and 19 CFR 351.412(f).

Dongkuk

In this administrative review, we obtained information from Dongkuk regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution.⁶²

During the POR, Dongkuk reported that it made sales in the home market through two channels of distribution: (1) sales to unaffiliated distributors; and (2) sales to unaffiliated end users.⁶³ Dongkuk reported that it performed multiple selling activities within each of the following five selling function categories⁶⁴ Commerce normally considers for LOT analysis: the provision of: (1) sales support; (2) training services; (3) technical support; (4) logistical services; and (5) performance of sales-related administrative activities.⁶⁵

In summary, Dongkuk's selling function chart submitted for the POR shows that it performed each of the above-referenced selling function categories for both home market channels of distribution and at the same level of intensity.⁶⁶ Because Dongkuk performed the same selling functions at the same level of intensity in each channel of distribution, we determine that all home market sales are at the same LOT.

With respect to sales to the U.S. market, Dongkuk reported that it made sales through two channels of distribution: EP sales (channel 1) and CEP sales (channel 2).⁶⁷ As mentioned in the "Export Price and Constructed Export Price" section above, Dongkuk EP sales were all sample sales which we are not including in our margin analysis. Therefore, we considered only Dongkuk's CEP sales in our LOT analysis. For its CEP sales, Dongkuk reported that it performed three of the five selling functions (*i.e.*, technical support, logistical services, and sales-related administrative activities). As Dongkuk only has one U.S. distribution channel and all CEP sales were made through this distribution channel, we determine that there is only one LOT in the U.S. market.⁶⁸

⁶¹ See, *e.g.*, *OJ from Brazil* IDM at Comment 7.

⁶² See Dongkuk December 28 AQR at Appendix A-16.

⁶³ See Dongkuk December 28 AQR at A-25, A-26, and Appendix A-17; and Dongkuk January 19 BCDQR at B-22.

⁶⁴ See Dongkuk December 28 AQR at Appendix A-16.

⁶⁵ See, *e.g.*, *Polyester Textured Yarn from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures* 84 FR 31301 (July 1, 2019) and accompany Preliminary Decision Memorandum at 15, unchanged in *Polyester Textured Yarn from India: Final Determination of Sales at Less Than Fair Value* 84 FR 63843 (November 19, 2019).

⁶⁶ See Dongkuk December 28 AQR at Appendix A-16.

⁶⁷ See Dongkuk December 28 AQR at A-20, A-21, and Appendix A-16.

⁶⁸ *Id.* at Appendix A-16.

We compared the selling activities at the U.S. LOT with the selling activities at the home market LOT and found, based on Dongkuk's qualitative reporting, that the LOT in the U.S. and home markets are dissimilar. The selling function chart and supporting documentation shows that Dongkuk provided more selling functions (*i.e.*, sales support and training services), more selling activities within a selling function (*e.g.*, frequent outside activities (visiting) and early payment discounts within the sales-related administrative activities function), and higher levels of intensity (*e.g.*, interactive technical supports within technical support function) for its home market sales than it did for its sales to its U.S. affiliate DKA.⁶⁹

With respect to the claimed selling activities reflected in its selling function chart, Dongkuk: (1) provided supporting documentation; (2) indicated how often it performed each of the specific activities; and (3) provided quantitative analysis showing how the expenses assigned to home market and U.S. sales differed, thereby demonstrating a higher level of intensity with respect to the selling activities performed in the home market than in the U.S. market.⁷⁰

Therefore, based on Dongkuk's qualitative and quantitative analysis, we determine that the home market LOT is at a more advanced stage of distribution than the U.S. LOT and that no LOT adjustment is possible. Accordingly, we have granted a CEP offset pursuant to section 773(a)(7)(B) of the Act.

Hyundai

In the home market, Hyundai reported that it made sales through a single channel of distribution to affiliated and unaffiliated customers, with the shipment originating from its factory.⁷¹ Hyundai's customer categories in the home market are comprised of only distributors and end-users.⁷² Selling functions can be generally grouped into five 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.

Based on Hyundai's selling functions chart, we find that Hyundai performed all five selling functions for its home market customers.⁷³ In its reporting for both markets (domestic and United States), Hyundai determined the levels of intensity of its selling activities based on the number of sales personnel or expenses associated with those activities.⁷⁴ Hyundai's selling activities were performed at the same level of intensity for all home market sales, therefore, we determine that all home market sales were made at the same LOT.

With respect to the U.S. market, Hyundai reported that it made sales through two channels of distribution: EP sales to U.S. unaffiliated trading companies (Channel 1), and CEP sales through HSA to unaffiliated end-users (Channel 2).⁷⁵ With respect to the U.S. LOT for Channel 1 and Channel 2 sales, Hyundai reported that it performed all five selling functions for its sales to the

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ See Hyundai December 28 AQR at A-29 to A-30 and Hyundai January 19 BCDEQR at B-22.

⁷² See Hyundai January 19 BCDEQR at B-21.

⁷³ See Hyundai December 28 AQR at Exhibit A-13(2).

⁷⁴ See Hyundai December 28 AQR at A-20-28 and Exhibits A-13(1)-(3).

⁷⁵ See Hyundai January 19 BCDEQR at C-25 to C-26.

United States.⁷⁶ Based on Hyundai's selling functions chart, we find that Hyundai performed all five selling functions in the U.S. market.⁷⁷

According to 19 CFR 351.412(c)(2), Commerce will determine that sales are made at different LOTs if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing. Although Hyundai reports differences in the performance of certain selling activities performed between U.S. Channel 1 and U.S. Channel 2, *i.e.*, engineering services/technical assistance and warranty service, we do not find that these differences are significant enough to warrant finding that the U.S. sales channels constitute different LOTs. Because we find that substantial differences in Hyundai's selling activities do not exist between the U.S. channels of distribution (Channel 1 and Channel 2), we determine that Hyundai's sales in the U.S. market during the POR were made at one LOT.

Finally, we compared the U.S. LOT to the home market LOT, and found that all selling activities performed by Hyundai for its home market customers were also performed for its U.S. customers, with the exception of post-sale warehousing.⁷⁸ However, the majority of these selling activities were performed at a higher level of intensity in the home market than in the U.S. market. Therefore, we determine that the home market LOT is at a more advanced stage of distribution than the U.S. LOT and that no LOT adjustment is possible. Our finding is supported by the quantitative analysis provided by Hyundai in its questionnaire response.⁷⁹ Accordingly, we have granted a CEP offset pursuant to section 773(a)(7)(B) of the Act.

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

Pursuant to 19 CFR 351.403(c) and (d), and consistent with Commerce's practice,⁸⁰ if an exporter or producer sold foreign like product to an affiliated party as defined in section 771(33) of the Act, Commerce may calculate NV based on that sale only if it is made at arm's-length, where the price is, on average, within a range of 98 to 102 percent of the price at which the same exporter or producer sold the same or comparable merchandise at same level of trade to unaffiliated parties.

In this review, only Hyundai sold foreign like product to affiliated customers in the home market as defined in section 771(33) of the Act.⁸¹ Consequently, we conducted the arm's-length test on Hyundai's sales to affiliated parties, and because all of these sales failed the test, we excluded them from our analysis consistent with 19 CFR 351.403(c) as they are sales outside the ordinary course of trade.⁸² All of Hyundai's affiliated home market customers consumed the subject

⁷⁶ See Hyundai December 28 AQR at 21-35 and Exhibit A-13(2).

⁷⁷ *Id.*

⁷⁸ *Id.* at Exhibit A-13(2).

⁷⁹ *Id.* at Exhibit A-13(1).

⁸⁰ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 and 102 percent in order for sales to be considered in the ordinary course of trade and used in the NV calculation).

⁸¹ See Hyundai's January 19 BCDEQR at B-20 to B-21 and Exhibit B-5.

⁸² See *Laclede Steel Co. v. United States*, 19 CIT 1076, 1078 (1995).

merchandise in the production of non-subject merchandise, therefore, there are no downstream sales to report.⁸³

D. Overrun Sales

Section 773(a)(1)(B)(i) of the Act, states, in part, that NV is “the price at which the foreign like product is first sold (or, in absence of a sale, offered for sale) for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade ...” The term “ordinary course of trade” is defined as “the conditions and practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind.”⁸⁴ The Statement of Administrative Action (SAA) which accompanied the passage of the Uruguay Round Agreements Act of 1995 clarifies this portion of the statute when it states, “Commerce may consider other types of sales or transactions to be outside the ordinary course of trade when such sales or transactions have characteristics that are not ordinary as compared to sales or transactions generally made in the same market.”⁸⁵ Thus, the statute and the SAA are clear that a determination of whether sales (other than those specifically addressed in section 771(15) of the Act) are in the ordinary course of trade must be based on an analysis comparing the sales in question with sales of merchandise of the same class or kind generally made in the home market. In other words, Commerce must consider whether home market sales of overruns are ordinary in comparison with home market sales of non-overruns.

The purpose of the ordinary-course-of-trade provision “is to prevent dumping margins from being based on sales which are not representative” of the home market.⁸⁶ By basing the determination of NV upon representative sales, the statutory provision ensures that the comparison between NV and sales to the United States is done on an “apples-to-apples” basis.⁸⁷ Congress has not specified any criteria that the agency should use in determining the appropriate “conditions and practices.” Thus, Commerce, “in its discretion, chooses how best to analyze the many factors involved in a determination of whether sales are made within the ordinary course of trade.”⁸⁸

In evaluating whether sales of overruns are outside the ordinary course of trade, Commerce has considered several factors in past cases. These non-dispositive factors include, but are not limited to, the following: (1) whether the merchandise is “off-quality” or produced according to unusual specifications; (2) the comparative volume of sales and the number of buyers in the home market; (3) the average quantity of the overrun and commercial sales; (4) the price and profit differentials in the home market.⁸⁹ Dongkuk reported that its overrun sales are surplus

⁸³ See Hyundai January 19 BCDEQR at B-3 to B-4.

⁸⁴ See section 771(15) of the Act.

⁸⁵ See Uruguay Round Agreements Act Statement of Administrative Action, attached to H.R. Rep. No. 103-316 vol. I at 834 (1994), reprinted in 1994 U.S.C.C.A.N. 3773, 4163 (SAA).

⁸⁶ See *Monsanto Co. v. United States*, 698 F. Supp. 275, 278 (CIT 1988).

⁸⁷ *Id.*

⁸⁸ See *Laclede Steel Co. v. United States*, 19 CIT 1076, 1078 (1995).

⁸⁹ See *China Steel Corp. v. United States*, 264 F. Supp. 2d. 1339, 1364-65 (CIT 2003); see also *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results and Rescission in*

production that is left over from production for export orders.⁹⁰ Our analysis shows that overrun sales possess characteristics that are not ordinary when compared to non-overrun sales. Thus, we find that Dongkuk's home market sales of overruns were made outside the ordinary course of trade during the POR and contemporaneous window period.⁹¹ Accordingly, we excluded these sales from our margin analysis.

Hyundai reported overruns where either production exceeded the original order and the product was sold to other customers, or where the product did not meet the original order's specification but could be sold for other applications and uses.⁹² Hyundai stated that it cannot distinguish between these two categories.⁹³ As a result, all such products were reported as Grade "2," or Non-Prime.⁹⁴ Products coded as Grade "3" did not meet the original order's specification and cannot be sold for other ordinary applications.⁹⁵

Hyundai reported sales of non-prime subject merchandise only in the home market.⁹⁶ Our analysis shows that overrun sales possess characteristics that are not ordinary when compared to non-overrun sales. Thus, we find that Hyundai's home market sales of overruns were made outside the ordinary course of trade during the POR and contemporaneous window period.⁹⁷ Accordingly, we excluded these sales from our margin analysis.

E. Cost of Production Analysis

Pursuant to the amendment of section 773(b)(2)(A)(ii) of the Act, Commerce required that respondents provide CV and cost of production (COP) information to determine if there were reasonable grounds to believe or suspect that sales of foreign like product had been made at prices that represented less than the COP of the product. We examined Dongkuk's and Hyundai's cost data and determined that our quarterly cost methodology is not warranted; therefore, we are applying our standard methodology of using annual costs based on the reported data.

Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated weighted-average COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for G&A expenses and interest expenses.

Part of Antidumping Duty Administrative Review, 70 FR 67428, 67430 (November 7, 2005), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 71 FR 13080 (March 14, 2006).

⁹⁰ See Dongkuk January 19 BCDQR at B-10.

⁹¹ See Dongkuk Preliminary Results Sales Calculation Memorandum.

⁹² See Hyundai January 19 BCDEQR at B-11.

⁹³ See Hyundai January 19 BCDEQR at B-10 to B-11.

⁹⁴ *Id.* at B-11.

⁹⁵ *Id.* at B-12.

⁹⁶ *Id.* BCDEQR at B-10 to B-11 and C-17.

⁹⁷ See Hyundai Preliminary Results Calculation Memorandum.

Dongkuk

We relied on the data submitted by Dongkuk except in the following instances:⁹⁸

In accordance with section 773(f)(3) of the Act, we analyzed Dongkuk's purchases of hot-rolled coils from its affiliate, JFE Steel, to determine whether the transactions between the affiliates were at arm's length. We compared the weighted-average purchase price, exclusive of incidental costs, to the weighted-average market price, exclusive of incidental costs, and to our revised calculation of JFE Steel's COP of the hot-rolled coils. Specifically, we adjusted the G&A expenses included in the COP calculation. We increased the numerator of JFE Steel's G&A expense rate to include certain non-operating expenses and impairment expenses and then applied the revised G&A expense rate to JFE Steel's total cost of manufacturing to determine the revised G&A expenses and the resulting revised COP. Because JFE Steel's revised per-unit COP of hot-rolled coils was greater than the reported POR weighted-average transfer and market prices, we revised Dongkuk's reported total cost of manufacturing to reflect the COP of the hot-rolled coils.

We preliminarily find that Dongkuk's reported per-unit costs exhibited significant variations that were unrelated to the physical characteristics of the products under review. Such findings are not unusual in cases because Commerce is directed to use, as a starting point for reporting information, a respondent's normal books and records.⁹⁹ To mitigate these distortive cost fluctuations, Commerce revised Dongkuk's reported per-unit costs by weight-averaging the reported other direct material costs between products with the same coating type, coating material, and metallic coating weight. We weight-averaged the reported direct labor cost, and variable and fixed overhead costs between products with the same coating type, reduction process, nominal thickness, and metallic coating process. We did not smooth direct material costs (DIRMAT) because there are not significant variations for net DIRMAT. We then recalculated the G&A expenses and the financial expenses by applying the corresponding rate to the revised costs. This methodology ensures that the product-specific costs we use for the sales-below-cost test, CV, and the difference-in-merchandise adjustment accurately reflect the physical characteristics of the products, the sales prices of which are used in Commerce's dumping calculations.¹⁰⁰

Hyundai

We relied on the data submitted by Hyundai except in the following instances:

As in prior reviews, Commerce determined that Hyundai's affiliated inputs and services, as listed in Exhibit D-4, do not constitute major inputs falling within the meaning of section 773(f)(3) of

⁹⁸ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Dongkuk Steel Mill Co., Ltd.," dated concurrently with this memorandum (Dongkuk Preliminary Results Cost Calculation Memorandum).

⁹⁹ See section 773(f)(1)(A) of the Act; *see also Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 10784 (March 22, 2019), and accompanying IDM at Comment 9.

¹⁰⁰ See Dongkuk Preliminary Results Cost Calculation Memorandum.

the Act.¹⁰¹ In determining whether an input is “major” in accordance with section 773(f)(3) of the Act, among other factors, we normally consider both the percentage of an individual input purchased from affiliated parties and the percentage each individual input represents in relation to the product’s total cost of manufacturing.¹⁰² In the current review, we looked at the percentage of inputs Hyundai received from affiliated parties and the percentage of those input costs to each company’s total cost of manufacturing. Based on our analysis of the information on the record, we determine that inputs purchased by Hyundai from affiliates are not significant in relation to the total costs incurred to produce subject merchandise and, accordingly, are not major inputs under section 773(f)(3) of the Act.

In instances where an input is not a major input, section 773(f)(2) of the Act directs Commerce to determine whether the transactions between affiliates fairly reflect the amount usually reflected in sales of the merchandise under consideration in the market under consideration. Hyundai provided market prices for inputs provided by affiliates, which we compared to the transfer prices Hyundai reported. Specifically, we compared the average per metric ton (MT) price of scrap Hyundai purchased from unaffiliated suppliers to the average per MT price of scrap Hyundai purchased from its affiliated suppliers and determined that Hyundai purchased scrap below fair market value from its affiliated suppliers.¹⁰³ Because Hyundai’s weighted-average unaffiliated purchase price of scrap was greater than the reported POR weighted-average affiliated purchase price, we revised Hyundai’s reported total cost of manufacturing to reflect the market price of the scrap.¹⁰⁴

Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs for Dongkuk and Hyundai to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs within an extended period of time (*i.e.*, normally a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of billing adjustments, discounts and rebates, where applicable, movement charges, actual direct and indirect selling expenses, and packing expenses.

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

¹⁰¹ See Hyundai January 11 BCDEQR at Exhibit D-4.

¹⁰² See *Final Results of the Fifth Administrative Review of the Antidumping Duty Order on Stainless Steel Plate in Coils (SSPC) from Belgium*, 70 FR 72789 (December 7, 2005), and accompanying IDM at Comment 1; *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Ecuador*, 69 FR 76913 (December 23, 2004), and accompanying IDM at Comment 28.

¹⁰³ See Hyundai Preliminary Results Calculation Memorandum.

¹⁰⁴ *Id.*

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 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 because: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for each respondent, more than 20 percent of sales of certain home market products during the POR were at prices less than the COP and, in addition, such sales did not permit for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

F. Calculation of NV Based on Home Market Prices

Dongkuk

In accordance with section 773(a)(4) of the Act, we based Dongkuk's NV entirely on CV because none of its home market sales passing the cost test were found to be comparable to its U.S. sales. See "Calculation of NV based on CV" section below for further discussion.

Hyundai

We calculated NV for Hyundai based on delivered or ex-factory prices to unaffiliated customers in the home market. We made deductions, where appropriate, from the starting price for billing adjustments and early payment discounts, in accordance with 19 CFR 351.401(c). We also made deductions, where appropriate, from the starting price for movement expenses, including inland freight and warehousing expenses, under section 773(a)(6)(B)(ii) of the Act.

For comparisons to EP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we made an adjustment for differences in the circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales (*i.e.*, imputed credit) and added U.S. direct selling expenses (*i.e.*, imputed credit).¹⁰⁵

For comparisons to CEP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses, *i.e.*, imputed credit. We made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses incurred on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

For comparisons to EP or CEP sales, we deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made an

¹⁰⁵ See Hyundai Preliminary Results Calculation Memorandum.

adjustment for difference 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.

G. Calculation of NV Based on CV

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison market sales, NV may be based on CV. Sections 773(e)(1) and (2)(A) of the Act provide that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative (SG&A) expenses, profit, and U.S. packing costs.

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

We also made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses incurred on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

VIII. 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 date of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance web site at <http://enforcement.trade.gov/exchange/index.html>.

IX. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒

☐

Agree

Disagree
7/30/2021

X 

Signed by: CHRISTIAN MARSH
Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance