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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman 
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Antidumping Duty Investigation of Certain Corrosion-Resistant
Steel Products from the Republic of Korea

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain corrosion-resistant steel products (corrosion-resistant steel) from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less-than-fair-value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying Federal Register notice.

II. BACKGROUND

On June 3, 2015, the Department received an antidumping duty (AD) petition covering imports of certain corrosion-resistant steel products from Korea,¹ which was filed in proper form by United States Steel Corporation, Nucor Corporation, Steel Dynamics Inc., California Steel Industries, ArcelorMittal USA LLC and AK Steel Corporation (collectively, the petitioners). The Department initiated this investigation on June 23, 2015.²

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Corrosion-Resistant Steel Products from the People’s Republic of China, the Republic of Korea, India, Italy, and Taiwan, dated June 3, 2015 (the petition).

² See Certain Corrosion-Resistant Steel Products From Italy, India, the People’s Republic of China, the Republic of Korea, and Taiwan: Initiation of Less-Than-Fair-Value Investigations, 80 FR 37228 (June 30, 2015) (Initiation Notice).



In the Initiation Notice, the Department stated that it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for certain of the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.³ Accordingly, on June 25, 2015, the Department released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.

Also in the Initiation Notice, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of corrosion-resistant steel to be reported in response to the Department's AD questionnaire.⁴ In July and August 2015, POSCO, Totem Steel International (Totem), a U.S. importer of subject merchandise, and Baoshan Iron & Steel Co., Ltd and Baosteel America, Inc., (collectively Baosteel), Great Grandeul Steel Co., Ltd. (GGS), and Yieh Phui Enterprise Co., Ltd. (Yieh Phui), respondents in the companion AD investigations on corrosion-resistant steel, submitted comments on the scope of this investigation. On July 24, 2015, the petitioners submitted rebuttal scope comments in response to POSCO, Totem, Yieh Phui, Baosteel, and GGS.⁵

On July 17, 2015, the petitioners, Dongkuk Steel Mill Co., Ltd./Union Steel Manufacturing Co., Ltd. (Dongkuk/Union)⁶, and Hyundai Steel Company (Hyundai), and Prosperity Tieh Enterprise Co., Ltd. (Prosperity Tieh), and Yieh Phui, respondents in the companion AD investigations on corrosion-resistant steel, submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes. Then, on July 27, 2015, petitioners filed rebuttal comments to the product characteristics comments filed by Dongkuk/Union, Hyundai, Prosperity Tieh, and Yieh Phui. On the same date, Dongkuk/Union, Hyundai, POSCO, JSW Steel Ltd. and JSW Steel Coated Products Limited (collectively JSW), Prosperity Tieh, Yieh Phui, and Uttam Galva Steels Limited (Uttam Galva) filed rebuttal comments to petitioners' comments regarding the physical characteristics of the merchandise under consideration.

On July 7, 2015, petitioners requested that the Department select certain producers/exporters of corrosion-resistant steel as mandatory respondents. On the same day, Dongkuk/Union, Hyundai, and POSCO each submitted comments in which each requested that the Department select it as a mandatory respondent. In addition, Dongkuk/Union and POSCO each requested to participate as voluntary respondents, if not selected as mandatory respondents.⁷ On July 9, 2015, petitioners submitted rebuttal comments to Hyundai's request to be selected as mandatory respondent. On

³ See Initiation Notice, 80 FR at 37233.

⁴ Id. at 37229.

⁵ For further information, see, Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Corrosion-Resistant Steel Products From the People's Republic of China, India, Italy, the Republic of Korea, and Taiwan: Scope Comments Decision Memorandum for the Preliminary Determinations," dated December 21, 2015 (Preliminary Scope Decision Memorandum).

⁶ See "Successor-In-Interest Analysis" section below.

⁷ See Letters from Dongkuk/Union to the Department of Commerce (DOC): Certain Corrosion-Resistant Steel Products From the Republic of Korea: Request for Mandatory or Voluntary Respondent Treatment," dated June 23 and 24, 2015 and "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Comments on Respondent Selection," dated July 7, 2015; Letter from Dongbu to the DOC: "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Request for Mandatory or Voluntary Respondent Treatment," dated July 7, 2015.

the same day, Dongbu Steel Co., Ltd. and Hyundai filed rebuttal comments to petitioners' comments. On July 23, 2015, the Department limited the number of mandatory respondents selected for individual examination to the two largest publicly-identifiable producers/exporters of the subject merchandise by volume. Accordingly, we selected Dongkuk/Union and Hyundai as mandatory respondents in this investigation.⁸

With regard to companies requesting voluntary respondent treatment, we stated that for companies that submitted voluntary responses in accordance with the deadlines and set criteria, we would evaluate the circumstances during the course of the investigation to determine whether the individual examination of those companies would be unduly burdensome and inhibit the timely completion of the investigation.⁹ As we did not receive a voluntary questionnaire response from POSCO or any other party, the question of whether we should accept additional companies for individual examination is moot.

On July 24, 2015, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of corrosion-resistant steel from Korea.¹⁰

On July 27, 2015, the Department issued the AD questionnaire to Dongkuk/Union and to Hyundai. On August 10 and August 13, 2015, respectively, Dongkuk/Union and Hyundai submitted timely responses to the quantity and value chart of section A of the Department's AD questionnaire, and a complete section A (*i.e.*, the section relating to general information) on August 25, 2015 and September 8, 2015. Both companies timely filed responses to sections B through D (*i.e.*, the sections relating to home market and U.S. sales, and cost of production information) on September 22 and September 28, 2015, respectively.

On August 17, 2015, Hyundai notified the Department of difficulty in responding to the questionnaire and requested that the Department apply the "Alternate Calculation Method," in accordance with section 772(e) of the Act and 19 CFR 351.402(c)(2) with respect to certain further manufactured U.S. sales (*i.e.*, automobiles, tailor welded blanks and certain auto parts).¹¹ The Department issued multiple questionnaires to Hyundai on this issue.¹² Hyundai timely submitted responses. During the same time frame, the petitioners submitted comments regarding

⁸ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Respondent Selection for the Antidumping Duty Investigation of Certain Corrosion-Resistant Carbon Steel Products from the Republic of Korea," dated July 23, 2015, at 7-8.

⁹ *Id.*

¹⁰ See Certain Corrosion-Resistant Steel Products From China, India, Italy, Korea, and Taiwan, 80 FR 44151 (July 24, 2015).

¹¹ See Letter from Hyundai to DOC: "Corrosion-Resistant Steel Products from Korea: Notice of Difficulty in Responding to Questionnaire and Request for Alternate Calculation Method," dated August 17, 2015 (Alternative Calculation Method Request).

¹² See Letter from DOC to Hyundai: "Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products (CORE) from the Republic of Korea (Korea): Additional Guidance on information required to substantiate Hyundai Steel Corporation's Request for Alternative Calculation Method," dated September 16, 2015; Letter from Hyundai to DOC: "Corrosion-Resistant Steel Products from Korea: Request for Extension and Additional Guidance Concerning the Department's Instructions to Report Sales of Further Manufactured Products," dated October 25, 2015.

Dongkuk/Union's and Hyundai's questionnaire responses.¹³ After analyzing Hyundai's responses to the Department questionnaires on this issue, the Department instructed Hyundai to revise its section C and D reporting to include tailor welded blanks and certain auto parts and, as necessary, to submit a section E for all further processed/manufactured sales of corrosion-resistant steel to the United States during the period of investigation (POI).¹⁴

Between August and December 2015, we issued multiple supplemental questionnaires to Dongkuk/Union and Hyundai. We received responses to these supplemental questionnaires between August and December 2015. During the same time frame, the petitioners submitted comments regarding Dongkuk/Union's and Hyundai's questionnaire responses.¹⁵

On October 14, 2015, the Department postponed the time period for issuing the preliminary determination of this investigation by 41 days, to December 21, 2015, in accordance with section 733(c)(1)(B) of the Act and 19 CFR 351.205(f)(1).¹⁶

Petitioners filed comments in advance of this preliminary determination on December 8, 2015.¹⁷ To the extent possible, we have considered these comments in making this determination.

We are conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The POI is April 1, 2014, through March 31, 2015. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was June 2015.¹⁸

IV. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

On July 23, 2015, Petitioners filed allegations that critical circumstances exist with respect to imports of subject merchandise from all five countries under investigation.¹⁹ On October 29, 2015, the Department issued its preliminary critical circumstances determinations

¹³ See Letter from Petitioners to DOC: "Certain Corrosion-Resistant Steel Products from the Republic of Korea," dated August 20, 2015, concerning Hyundai's exclusion request. In addition, petitioners filed numerous comments on the responses submitted by respondent companies to sections A to D.

¹⁴ Letter from DOC to Hyundai: "Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products (CORE) from the Republic of Korea (Korea): Hyundai Steel Company's Exclusion Request," dated October 15, 2015 (Response to Hyundai's Exclusion Request).

¹⁵ The Department's initial questionnaire and supplemental questionnaires to respondents Dongkuk/Union and Hyundai, and respondents' respective responses are on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

¹⁶ See Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 80 FR 61793 (October 14, 2015).

¹⁷ See Letter from Petitioners to DOC, "Certain Corrosion-Resistant Steel Products from the Republic of Korea," December 8, 2015.

¹⁸ See 19 CFR 351.204(b)(1).

¹⁹ See Letter from Petitioners, "Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Critical Circumstances Allegations," July 23, 2015.

for all five countries.²⁰ Pursuant to this determination, the Department preliminarily determined that critical circumstances exist for imports of subject merchandise from Hyundai and “all others.”

V. SCOPE OF THE INVESTIGATION

The products covered by the scope 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 metal 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 4.75 mm or more than 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 for above, and
- (2) where the width and thickness vary for a specific period (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 in this investigation 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; (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
- 1.25 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

²⁰ See Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances, 80 FR 68504 (November 5, 2015).

- 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 investigations 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 investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- 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 measure at least twice the thickness; and
- Certain clad stainless flat-rolled products, which are three-layered corrosion-resistant steel 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 investigation 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, 7210.49.0091, 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.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.20.1500, 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 investigation is dispositive.

VI. SUCCESSOR-IN-INTEREST ANALYSIS

Dongkuk/Union

In making a successor-in-interest determination, the Department examines several factors, including, but not limited to, changes in the following: 1) management; 2) production facilities; 3) supplier relationships; and 4) customer base.²¹ While no single factor or combination of factors will necessarily provide a dispositive indication of a successor-in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor.²² Thus, if the record demonstrates that, with respect to the production and sale of subject merchandise, the new company operates as the same business entity as the predecessor company, the Department generally accords the new company the same antidumping treatment as its predecessor.²³ In conducting a successor-in-interest analysis, while we generally consider information from immediately before and after the formation of a new entity, the Department considers all information on the record relevant to the determination.

Throughout this investigation, Dongkuk has maintained that it is "the surviving entity of the January 1, 2015 merger of Union Steel Manufacturing Co. Ltd. (a subsidiary of Donkuk) into Dongkuk." Our preliminary analysis of information on the record indicates that Donkuk is the successor-in-interest of Union. Specifically, our analysis indicates that, with respect to the production and sale of the subject merchandise, Dongkuk's post-merger operations did not change significantly from Union's in terms of ownership and management, production facilities, supplier relationships and customer base.²⁴ Petitioners have not commented on this issue.

²¹ See, e.g., Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From Thailand, 75 FR 61702, 61703 (October 6, 2010) (Shrimp From Thailand Preliminary Results); unchanged in Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp From Thailand, 75 FR 74684 (December 1, 2010) (Shrimp From Thailand Final Results); and Industrial Phosphoric Acid From Israel: Final Results of Antidumping Duty Changed Circumstances Review, 59 FR 6944, 6946 (February 14, 1994).

²² See Shrimp From Thailand Preliminary Results, 75 FR at 61703 (unchanged in Shrimp From Thailand Final Results, 75 FR at 74684).

²³ Id.; see also Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan, 67 FR 58, 59 (January 2, 2002); and Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review, 75 FR 34688, 34689 (June 18, 2010).

²⁴ See Dongkuk/Union's October 22, 2015 Section A supplemental response at 15-19.

VII. DISCUSSION OF THE METHODOLOGY

Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Dongkuk/Union's and Hyundai's sales of the subject merchandise from Korea to the United States were made at less than normal value, the Department compared the export price (EP) and constructed export price (CEP) to the normal value (NV) as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum.

A. *Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average normal values 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. In recent investigations, the Department 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.²⁵ The Department 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 investigation. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. 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 differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. For Dongkuk/Union, purchasers are based on the reported consolidated customer codes. For Hyundai, purchasers are based on the reported customer codes.²⁶ Regions are defined using

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

²⁶ See Hyundai's Initial Questionnaire responses to sections B and C, dated September 28, 2015 (Hyundai IQR-BC) at C-15.

the reported destination code (i.e., zip code for Dongkuk/Union and state for Hyundai) 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 period of investigation 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 the Department 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 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, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department 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.

B) Results of the Differential Pricing Analysis

Dongkuk/Union

For Dongkuk/Union, based on the results of the differential pricing analysis, the Department preliminarily finds that 65.43 percent of the value of U.S. sales pass the Cohen's *d* test,²⁷ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the de minimis threshold when calculated using the average-to-average method and when 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 this preliminary determination, the Department is 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 to calculate the weighted-average dumping margin for Dongkuk/Union.

Hyundai

Since filing its August 17, 2015 exclusion request, Hyundai has continuously argued that, pursuant to section 772(e) of the Act,²⁸ the Department should exclude it from reporting sales of

²⁷ See Memorandum to the File from Lingjun Wang, "Analysis for the Preliminary Determination of the Less-Than-Fair Value Investigation of Certain Corrosion-Resistant Steel Products (corrosion-resistant steel) from the Republic of Korea (Korea)", dated December 21, 2015 (Dongkuk/Union Preliminary Analysis Memorandum).

²⁸ Section 772(e) of the Act states that when the respondent sells the subject merchandise through an affiliated importer, and the value added by that affiliate substantially exceeds the value of the subject merchandise, the Department will use an alternative calculation method for constructed export price. The alternative calculation method is to base constructed export price for the sales to affiliates on the respondent's sales to unaffiliated purchasers, or, if there are insufficient sales to unaffiliated purchasers, to use some other reasonable basis.

further manufactured products including automobiles, tailor welded blanks (TWBs)²⁹ and after service auto parts and apply the alternate calculation method, in accordance with section 772(e) of the Act and 19 CFR 351.402(c)(2), to those sales.³⁰ Hyundai reported that it shipped “essentially all” of its corrosion-resistant steel to Hyundai Steel America (HSA), Hyundai’s affiliate in the United States, and that HSA and a chain of affiliated processors then sold further manufactured products which were “ultimately consumed” in the production of automobiles by Hyundai Motor Company of Georgia or KIA Motors Corporation of Alabama.³¹ In its submission, Hyundai argued that the Department should limit its analysis of HSA’s sales of corrosion-resistant steel to unaffiliated vendors in “coil form.”³²

To support its request, Hyundai submitted one calculation of the value added by its U.S. affiliates using the difference between the average sales price for an automobile (*i.e.*, the merchandise as sold to an affiliated party in the United States) and the average price paid for imported corrosion-resistant steel by HSA.³³

On September 11, 2015, the Department notified Hyundai’s that its initial request was unclear with respect to which further manufactured sales it wanted to be excluded. In the same letter, we instructed Hyundai to revise its August 13, 2015 quantity and value chart to identify all sales made by Hyundai, HSA or any other U.S. affiliate to the first unaffiliated customer in the United States.³⁴ Moreover, our analysis of Hyundai’s submission indicated that, in addition to automobiles, Hyundai Steel or its affiliates sold other further manufactured products such as TWBs and after-service auto parts to unaffiliated parties. These TWBs were then further processed and sold to Hyundai’s affiliated automobile producers. As such, the Department instructed Hyundai to clarify its exclusion request and to demonstrate its value added claim for each product type at the appropriate stage in the sales chain.³⁵

On September 25, 2015, Hyundai provided two additional value added calculations for TWBs and after-service auto parts.³⁶ On October 15, 2015, the Department determined that Hyundai’s calculations for TWBs and after-service auto parts were flawed and instructed Hyundai to report its sales of these two products to unaffiliated parties along with the appropriate databases and

²⁹ TWBs are welded from different sheets of corrosion-resistant steel in the butt joint configuration for use in automobile doors.

³⁰ Section 351.402(c)(2) sets the threshold for value added at 65% and states that we will normally “estimate the value added based on the difference between the price charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the price paid for subject merchandise by the affiliated person.”

³¹ See Hyundai Steel’s Alternative Calculation Method Request at 2-3

³² *Id.* 16.

³³ *Id.* 9.

³⁴ See Letter from DOC to Hyundai: “Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products (CORE) from the Republic of Korea (Korea): Extension to respond to Sections B through D of the Initial Questionnaire,” dated September 11, 2015 (Initial Request for Information to Substantiate Exclusions Request)

³⁵ The Department also excused Hyundai from reporting further manufactured sales when the first sale of corrosion-resistant steel to an unaffiliated party is a completed automobile. See Initial Request for Information to Substantiate Exclusions Request; see also Letter from DOC to Hyundai: “Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products (CORE) from the Republic of Korea (Korea): Additional Guidance on information required to substantiate Hyundai Steel Corporation’s Request for Alternative Calculation Method,” dated September 16, 2015.

³⁶ See Certain Corrosion-Resistant Steel Products From Korea: Response to the Department’s Request for Additional Information dated September 25, 2015.

instructed Hyundai to provide revised sales reporting and U.S sales databases to include sales TWBs and after-service auto parts.³⁷

Hyundai submitted its first Section E further manufactured sales response on November 2, 2015. Our analysis indicated that the response was deficient and that the data bases were unusable. In accordance with section 782(d) of the Act, we identified multiple deficiencies with Hyundai's further manufactured sales databases and instructed Hyundai to submit revised, usable databases.³⁸

Hyundai submitted revised databases on December 2, 2015, over four months after the Department issued its initial questionnaire which requested information, in part, on Hyundai's sales of further manufactured sales.³⁹ We have not had adequate time to fully analyze whether Hyundai's second further manufactured sales response satisfactorily responded to the Department's November 19, supplemental questionnaire. That said, our initial analysis indicates that significant issues continue to exist in how Hyundai reported its sales of further manufactured products in those databases and that these issues potentially affect all of Hyundai's sales of further manufactured merchandise. In particular, the Department has identified issues with Hyundai's basis for certain adjustments made to the prices of these sales which potentially affect the comparison of those prices to the prices of Hyundai's sales of non-further manufactured products as part of the Department's differential pricing analysis using the Cohen's *d* test.

Specifically, Hyundai reported that the field FURMANQTYU indicated the quantity of the CONNUM of corrosion-resistant steel used to produce a single further manufactured product.⁴⁰ It further stated that this value represents the sales quantity of the specific CONNUM reported in QTY2U.⁴¹ Thus, based on Hyundai's explanation, the quantity in FURMANQTYU and QTY2U should be the same.⁴² However, Hyundai reported different quantities in the FURMANQTYU and QTY2U fields for the vast majority of further manufactured sales.⁴³ Hyundai did not explain these differences in its narrative response.⁴⁴

³⁷ See Antidumping Duty Investigation of Certain Corrosion-Resistant Steel Products (CORE) from the Republic of Korea (Korea): Hyundai Steel Company's Exclusion Request dated October 15, 2015.

³⁸ See the Department's supplemental questionnaire dated November 19, 2015 at pages 1-2.

³⁹ See Letter from Hyundai, "Re: Certain Corrosion-Resistant Steel Products From Korea: Hyundai Steel's Response to Sections B and C of the Department's Supplemental Questionnaire," and revised datasets submission, dated December 2, 2015.

⁴⁰ See Hyundai Supplemental Section E response at S-13.

⁴¹ Hyundai reported that for "each newly created line item, Hyundai Steel has included an additional field variable called "FURMANUQTYU" reporting the specific CONNUM MT quantity of CORE that was used to produce the single further manufactured product (e.g., TWB). This value also represents the MT sales quantity of the specific CONNUM in question (reported in the field QTY2U). See Hyundai Supplemental Section E response at S-13.

⁴² See Hyundai's Nov 2 Section E response at S-13.

⁴³ See Letter from Hyundai, "Re: Certain Corrosion-Resistant Steel Products From Korea: Hyundai Steel's Response to Sections B and C of the Department's Supplemental Questionnaire," and revised datasets submission, dated December 2, 2015.

⁴⁴ See Letter from Hyundai, "Re: Certain Corrosion-Resistant Steel Products From Korea: Hyundai Steel's Response to Sections B and C of the Department's Supplemental Questionnaire," and revised datasets submission, dated December 2, 2015.

Moreover, we note that in its initial further manufactured sales response, Hyundai stated that the CORE undergoes slitting, shearing, blanking and welding in the production of TWBs.⁴⁵ Consistent with this description, Hyundai reported a FURCOM which included the reported costs for all four processes.⁴⁶ However, in its December 2 submission, Hyundai revised its reported FURCOM downward without any explanation in its narrative response.

Where the Department determines that a response does not comply with its request, section 782(d) of the Act requires that, to the extent practicable, the Department provide parties with an opportunity to correct deficient responses. As noted above, the response and databases for sales of further manufactured sales submitted by Hyundai as part of its November 2, 2015 response⁴⁷ were deficient and unusable. We subsequently identified numerous deficiencies with Hyundai's November 2, 2015, further manufactured sales response and instructed Hyundai to submit revised, usable databases with complete explanations.⁴⁸ Hyundai submitted revised responses and databases on December 2, 2015. However, as noted above, there is inadequate time to analyze whether the revisions made by Hyundai to its responses or databases are reliable or accurate. Furthermore, our analysis of these responses has been hindered by the fact that the narrative portion of Hyundai's responses does not adequately explain many of the revisions. Given that Hyundai did not provide revised data until very recently, it was not practicable for the Department to provide Hyundai with another opportunity to remedy its further manufactured sales responses prior to the preliminary determination. We intend to provide such Hyundai with such an opportunity in the weeks ahead.

Accordingly, the Department will not rely on Hyundai's further manufactured sales responses to calculate a weighted-average antidumping duty margin for Hyundai in this preliminary determination. Given that Hyundai's sales of further manufactured products comprise a substantial portion of its U.S. sales that the Department intended to examine for this preliminary determination, the Department is unable to determine, based on the information provided thus far by Hyundai, whether Hyundai's U.S. sales display a pattern of differential pricing. We note that, as part of the differential pricing analysis described above, the Department cumulates the sales that pass the Cohen's *d* test for the purposes of the ratio test. Because Hyundai has not yet provided reliable data for its sales of further manufactured merchandise, the Department has been unable to reliably assess whether these sales would contribute to a pattern of differential pricing. As a result, the Department lacks information to determine which of Hyundai's sales pass the Cohen's *d* test.

Section 776(a)(1) and (2) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply "facts otherwise available" if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

⁴⁵ See Hyundai's Nov 2 Section E response at exhibit E-2.

⁴⁶ Id.

⁴⁷ See Hyundai Supplemental Section E response and HYSCO02.

⁴⁸ See the Department's supplemental questionnaire dated November 19, 2015 at pages 1-2.

Therefore, the Department preliminarily determines to apply facts available pursuant to sections 776(a)(1) and (2)(C) of the Act because we find that necessary information is not available on the record of the investigation and that Hyundai, because of the issues affecting its further manufactured sales responses as described above, significantly impeded the proceeding. As facts available, we have preliminarily applied the A-T comparison methodology to all of Hyundai's sales used in calculating a weighted-average antidumping duty margin for Hyundai in this preliminary determination. In addition, we are applying, as facts available, the weighted-average of positive margins derived from Hyundai's non-further manufactured sales to Hyundai's further manufactured sales.⁴⁹

VIII. DATE OF SALE

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁵⁰

Dongkuk/Union

Union and Dongkuk reported the date of shipment from the factory for both U.S. and home market sales as the date of sale, because until the time of shipment, it is possible for Dongkuk/Union or the customer to change the quantity and the price of an order as it remains subject to negotiation.⁵¹

Hyundai

For home market sales, Hyundai reported the date of sale as the earlier of the date of shipment from Hyundai's factory or warehouse or the date on which Hyundai issued its commercial invoice. Negotiations with the customer may continue until the commercial and tax invoices are issued. Hyundai issues its commercial invoices at or after the time of shipment. Hyundai reported that it normally recognizes a sale at the time of shipment from the factory, and that ownership of the merchandise is transferred to the customer with issuance of the commercial invoice.⁵²

⁴⁹ See Preliminary Determination Margin Calculation for Hyundai Steel Company dated December 21, 2015.

⁵⁰ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (*Allied Tube & Conduit Corp.*) ("As elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sales are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.").

⁵¹ See Union's August 25, 2015 Section A response at 21.

⁵² See Hyundai's Initial Questionnaire response to section A, dated September 4, 2015 (Hyundai IQR-A) at A-25, and Hyundai IQR-BC at B-20-22; see also Hyundai's First Supplemental Questionnaire Response to section A, dated October 20, 2015 (Hyundai SQR1-A) at 8-10.

For all sales channels and sub-channels of its U.S. sales, Hyundai reported as the date of sale the date that the merchandise shipped from Hyundai or its affiliates' facilities to the unaffiliated customer. Specifically, Hyundai reported three different dates as the date of sale: (1) for sales to unaffiliated distributors in Korea and through Hyundai Corporation and Hyundai Corporation USA (HCUSA) (Channels 1 and 3), Hyundai reported the shipment date from Hyundai's factory to unaffiliated distributors in Korea and to HCUSA's unaffiliated customers in the United States; (2) for sales through Hyundai Steel America (HSA) to unaffiliated processors (Channel 2), the shipment date from HSA's warehouse; and (3) for its sales through affiliated processors to unaffiliated processors (Channel 2), the date of shipment from the affiliated processor's facility.

That is, for Hyundai's sales to distributors in Korea and through Hyundai Corporation and HCUSA, Hyundai ships the merchandise directly to the unaffiliated U.S. customer, along with a commercial invoice. For Hyundai's sales through its affiliate HSA, HSA issues a commercial invoice at the end of each month for sales of the prior month. According to Hyundai, for both home market sales and each U.S. sales channel, the material terms of sale, such as price and quantity, can change up until shipment from Hyundai's or its affiliates' facilities.⁵³

For Hyundai's U.S. affiliated processors' further manufactured sales, Hyundai reported the date of sale as the earlier of shipment from the seller's facility or the seller's invoice date.⁵⁴

IX. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in Korea during the POI that fit the description in the "Scope of Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. 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, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products based on prime versus non-prime merchandise and the physical characteristics reported by the respondents 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. For Dongkuk/Union's and Hyundai's sales of corrosion-resistant steel in the United States, the reported control number identifies the characteristics of the corrosion-resistant steel as exported by Dongkuk/Union and Hyundai.⁵⁵

Neither Dongkuk/Union nor Hyundai reported sales of non-prime corrosion-resistant steel to the United States, but both sold non-prime corrosion-resistant steel in the home market. In addition, both Dongkuk/Union and Hyundai had sales of overruns in the home market.⁵⁶ According to

⁵³ Id. Hyundai SQR1-A at 9.

⁵⁴ See Hyundai's First Supplemental Questionnaire Response to section E, dated November 30, 2015 (SQR1-E) at 6.

⁵⁵ See Dongkuk/Union IQR-A at 27-31 and IQR-BC at B-9 and C-8; and Hyundai IQR-A at 35-37 and IQR-BC at B-9-10 and C-7-8.

⁵⁶ See Union/Dongkuk's September 22, 2015 Section B response at B-9, and Hyundai IQR-B at B-10

Hyundai it sells its products as prime if it meets a recognized industry specification even if at the time of manufacture it was intended to meet other specifications. Only if the merchandise will not meet any industry specification, will Hyundai sell the merchandise as non-prime.⁵⁷

X. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE

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

Dongkuk/Union

We based EP on a packed price to the first unaffiliated purchaser in the United States. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. duty.

We calculated the CEP based on a packed price to the first unaffiliated purchaser in the United States. We made deductions from the starting price for any movement expenses (e.g., foreign inland freight, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. duty), in accordance with section 772(c)(2)(A) of the Act.⁵⁸

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. 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 Dongkuk/Union and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.

Hyundai

Hyundai reported EP sales to Korean unaffiliated distributors during the POI. Accordingly, we based EP on a packed price to the first unaffiliated purchaser in the United States. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, foreign brokerage and handling, and

⁵⁷ See Dongkuk/Union IQR-BC at B-9 to B10; and Hyundai IQR-A at 35-37 and IQR-BC at B-11.

⁵⁸ See Dongkuk/Union's IQR-BC at B-29 and C-28.

international freight. We recalculated/revised certain movement expenses (charged by an affiliate) reported by Hyundai, and for which Hyundai was unable to demonstrate that those transactions were made at arm's-length, to reflect arm's-length transactions.⁵⁹ In addition, Hyundai reported expenses associated with loading subject merchandise onto trucks for shipment in "other direct selling expenses."⁶⁰ We have included those expenses in Hyundai's movement expenses.

In accordance with section 772(b) of the Act, CEP is 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. Hyundai reported that it sold essentially all of its subject merchandise through its affiliated reseller/processor HSA. Hyundai also reported a single CEP sale made by its affiliate HCUSA during the POI.⁶¹

We calculated the CEP based on a packed price to customers in the United States. We made deductions from the starting price (adjusted for billing adjustments) for any movement expenses (e.g., foreign inland freight, foreign brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. inland freight, and U.S. duty), in accordance with section 772(c)(2)(A) of the Act. We adjusted Hyundai's reported foreign inland freight, U.S. inland freight from port to warehouse, and marine insurance (charged by Hyundai's affiliate service provider) to reflect arm's-length transactions.⁶²

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 and foreign and U.S. inventory carrying costs) and indirect selling expenses.⁶³ 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 to price for the cost of any further manufacturing or assembly for sales used in the calculations, in accordance with section 772(d)(2) of the Act. Pursuant to section 772(d)(3) of the Act, we 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 its U.S. affiliate(s) on their sales of the subject merchandise in the United States and the profit associated with those sales.⁶⁴

XI. NORMAL VALUE

A. Comparison 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

⁵⁹ See Hyundai IQR-BC at B-29-31 and Exhibits B-11-13, and at C-27 and Exhibit C-27-30.

⁶⁰ See Hyundai IQR-BC at C-39.

⁶¹ See Hyundai IQR-A at A-20 and -BC at C-1-2 & C-16.

⁶² See Hyundai IQR-BC at B-29-31 and Exhibits B-11-13, and at C-27 and Exhibit C-27-30; see also, Hyundai Preliminary Analysis Memorandum at 3-4.

⁶³ Hyundai IQR-BC at C-35-43.

⁶⁴ Id.

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 investigation, we determined that Dongkuk/Union's and Hyundai's respective aggregate volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for Dongkuk/Union and Hyundai, in accordance with section 773(a)(1)(B) of the Act.

Consistent with our practice, we also included Dongkuk/Union's and Hyundai's sales to affiliated parties for purposes of determining home market viability.⁶⁵ See "Product Comparison" section, above, for further discussion.⁶⁶

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

The Department may calculate NV based on a sale 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 were made at arm's-length prices.⁶⁷ The Department excludes home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because the Department considered them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, "the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm's length."⁶⁸

During the POI, Dongkuk/Union and Hyundai made sales of corrosion-resistant steel in the home market to affiliated parties, as defined in section 771(33) of the Act.⁶⁹ Consequently, we tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). In addition to comparing sales at the same level of trade, the test adjusts affiliated and unaffiliated party prices for numerous differences relating to the sales. The adjustments account for, among other things, differences in packing expenses, movement expenses from the original place of shipment, discounts and rebates, and selling expenses that relate directly to the sale at issue. While the Department's questionnaire specifically requests information pertaining to a number of adjustments, it also allows for responding companies to

⁶⁵ See Certain Oil Country Tubular Goods From Saudi Arabia: Final Determination of Sales at Less Than Fair Value, 79 FR 41986 (July 18, 2014), and accompanying Issues and Decision Memorandum at Comment 2 (use of affiliated party sales in viability determination).

⁶⁶ See Hyundai IQR-BC at B-11.

⁶⁷ See 19 CFR 351.403(c).

⁶⁸ See China Steel Corp. v. United States, 264 F. Supp. 2d 1339, 1367 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004) (citing Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 76 FR 55352, 55355 (September 7, 2011) ("Mexican Pipe")).

⁶⁹ See Dongkuk/Union IQR-BC at B-18, and Hyundai IQR-BC at B-19.

claim additional adjustments for other expenses relating to the sales at issue. Thus, provided that a respondent has accurately reported its claimed differences in circumstances of sale, along with other expenses and price adjustments relating to the reported sales, the arm's-length test will account for such differences between sales to affiliates and non-affiliates. Pursuant to 19 CFR 351.403(c) and, in accordance with the Department's practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade, we determined that the sales made to the affiliated party were at arm's length. Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.⁷⁰

C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department 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).⁷¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁷² 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),⁷³ we consider the starting prices to be the gross unit prices less all discounts and rebates. 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.⁷⁴

When the Department 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, the Department may compare the U.S. sale 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 a 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), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁷⁵

⁷⁰ See section 771(15) of the Act and 19 CFR 351.102(b).

⁷¹ See 19 CFR 351.412(c)(2).

⁷² *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), and accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

⁷³ 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).

⁷⁴ See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

⁷⁵ See, e.g., OJ from Brazil at Comment 7.

In this investigation, we obtained information from Dongkuk/Union and Hyundai regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.⁷⁶ Our LOT findings are summarized below.

Dongkuk/Union

In the home market, Dongkuk/Union sells merchandise under consideration through one channel of distribution. In connection with those sales, Dongkuk/Union performed five categories of selling functions: 1) engineering and warranty services; 2) packing; 3) inventory maintenance; 4) delivery arrangement; and 5) sales and marketing (sales forecasting, strategic/economic planning, advertising, sales promotion, procurement/sourcing services, order input/processing, market research, technical assistance, and after-sales services).⁷⁷ Further, Dongkuk/Union reported that those selling functions do not vary by customer category. As Dongkuk/Union performed the same selling functions at the same relative level of intensity for all of its home market sales, we preliminarily determine that all home market sales are at the same LOT.⁷⁸

For the U.S. market, Dongkuk/Union made sales of the subject merchandise through three channels of distribution: Channel 1 is the EP sales made to unaffiliated U.S. distributors; Channel 2 is the EP sales made through a domestic customer to a U.S. customer; Channel 3 is CEP sales made through its affiliated reseller in the U.S., Dongkuk International, Inc. (DKA), to unaffiliated U.S. distributors or end users.⁷⁹

In connection with EP sales made through Channel 1 and Channel 2, Dongkuk/Union performed same selling functions: 1) engineering and warranty services; 2) packing; 3) inventory maintenance; 4) delivery arrangement; and 5) sales and marketing (sales forecasting, strategic/economic planning, advertising, sales promotion, procurement/sourcing services, order input/processing, market research, technical assistance, and after-sales services) at the same relative level of intensity.⁸⁰ Thus, we preliminarily determined that Dongkuk/Union's U.S. sales through these two channels are made at the same LOT.

For its CEP sales made through Channel 3, Dongkuk/Union only performed delivery arrangement, and sales and marketing (sales forecasting, strategic/economic planning, procurement/sourcing services, and order input/processing). Our analysis indicates that for its Channel 3 sales, Dongkuk/Union performed fewer selling functions at lower level of intensity than it did for sales made in Channel 1 and Channel 2, therefore, we have determined that that Dongkuk/Union's sales made in the Channel 3 were made at different LOT than its sales in Channel 1 and Channel 2.

⁷⁶ See Dongkuk/Union IQR at 20-21 and Appendixes A-10, A-11, Section A supplemental response at 8 and Appendix SA-12; and Hyundai IQR-A at A-20-26 and Exhibits A-10-12.

⁷⁷ See Dongkuk/Union's August 25, 2015 response at 17; *see also*, Dongkuk/Union's September 22, 2015 response at B-19 and B-28; *see also*, Dongkuk/Union's October 22, 2015 response at Appendix SA-6.

⁷⁸ Id.

⁷⁹ See Dongkuk/Union's August 25, 2015 response at 17; *see also*, Dongkuk/Union's September 22, 2015 response at C-17 and C-27; *see also*, Dongkuk/Union's October 22, 2015 response at Appendix SA-6.

⁸⁰ See Dongkuk/Union's October 22, 2015 response at Appendix SA-6.

We then we compared the LOT for Channel 1 and Channel 2 sales to the home market LOT and found that the selling functions Dongkuk/Union performed for its home market customers are virtually the same as those performed for its U.S. customers at a similar level of intensity. The only difference is that Dongkuk coordinates international freight for the Channel 1 and Channel 2 sales. This difference is not sufficient to determine that Dongkuk/Union's LOT for Channel 1 and Channel 2 is different from the home market LOT. Therefore, we preliminarily determine that home market sales and the U.S. sales made in the Channel 1 and Channel 2 were made at the same LOT, and that no LOT adjustment was warranted.

We then compared the LOT for Channel 3 sales to the home market LOT, and found that Dongkuk/Union performed more selling activities in the home market LOT at higher level of intensity than it did for sales made in Channel 3, which indicates that it made home market sales at a different, more advanced LOT than its sales made in Channel 3. Therefore, we could not match Dongkuk/Union's U.S. CEP sales to the home market sales at the same LOT. Moreover, since Dongkuk/Union made home market sales at one LOT, we could not determine a LOT adjustment or if there is a pattern of consistent price differences. Further, no other information on the record would provide an appropriate basis for determining a LOT adjustment. Consequently, as the home market sales were made at a higher LOT than U.S. Channel 3 sales and no appropriate basis for making LOT adjustment exists, we find it is appropriate to make a CEP offset to normal value in accordance with section 773(a)(7)(B) of the Act.

Hyundai

In the home market, Hyundai reported that it made sales through one channel of distribution (*i.e.*, direct shipments to end-users or distributors). Hyundai reported that it performed the following selling functions for sales to all home market customers: sales forecasting; strategic/economic planning; personnel training/exchange; advertising; sales promotion; packing; inventory maintenance; order input/processing; direct sales personnel; sales/marketing support; market research; technical assistance; warranty service; and freight and delivery arrangements.

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Hyundai performed sales and marketing, freight and delivery services, and warranty and technical support for its reported sales to affiliated and unaffiliated customers in the home market. Because Hyundai performed the same selling functions at the same relative level of intensity for all of its home market sales, we determine that all home market sales are at the same LOT.

With respect to the U.S. market, Hyundai reported that it made sales through three channels of distribution: EP sales through unaffiliated Korean distributors (Channel 1); CEP sales through its HSA to unaffiliated processors (Channel 2); and CEP sales through its affiliates Hyundai Corporation and HCUSA⁸¹ (Channel 3).⁸²

⁸¹ See Hyundai IQR-A at A-26. Hyundai and Hyundai Corporation are affiliated through familial relationship. During the POI Hyundai made one sale of subject merchandise to a U.S. customer through these companies.

With respect to the U.S. LOT for Channel 1 and Channel 3 sales (EP sales to unaffiliated Korea distributors and CEP sales to HCUSA, respectively), Hyundai reported that it performed the following selling functions for its sales to the United States: sales forecasting; strategic/economic planning; personnel training/exchange; advertising; sales promotion; packing; inventory maintenance; order input/processing; direct sales personnel; sales/marketing support; market research; technical assistance; provide warranty service (Channel 3 only);⁸³ and freight and delivery arrangements.

Based on the selling function categories noted above, we find that with respect to Channels 1 and 3, Hyundai performed sales and marketing, freight and delivery services, technical services, and inventory management for U.S. sales. Because Hyundai performed the same selling functions at the same relative level of intensity (same or low/medium or medium/high) for its U.S. sales in Channel 1 and Channel 3 (with the exception of sales/marketing support, which is provided with different intensity in Channel 1 and Channel 3), we find the differences between Channel 1 and Channel 3 are too insignificant to warrant two different LOTs. Thus, we determine that Hyundai's U.S. sales through Channel 1 and Channel 3 are made at the same LOT.

With respect to the U.S. Channel 2 (CEP sales through its U.S. affiliate, HSA, which sold subject merchandise to the United States through the affiliate U.S. subsidiary to affiliated processors (Channel 2) and through affiliated processors to unaffiliated processors (Channel 2)), Hyundai reported that it performed the following selling functions for its sales to the United States: inventory maintenance; order input/processing; direct sales personnel; and freight and delivery arrangements.

Based on the selling function categories noted above, we find that with respect to Channel 2, Hyundai performed sales and marketing, freight and delivery services, and inventory management for U.S. sales; however, while Hyundai provided selling functions in three of the four categories of selling functions, and those performed at the same level of intensity as in Channels 1 and 2, it did not provide eight of the selling functions included in Channels 1 and 3, and none in category 4, warranty and technical support.⁸⁴ Because Hyundai provided notably fewer selling functions in Channel 2 than it did in Channels 1 and 3, we determine Channel 2 to be at another, less advanced LOT than Channels 1 and 3.

We compared the EP (Channel 1) and the CEP (Channel 3) LOT to the home market LOT and found that the selling functions Hyundai performed for its home market customers are virtually the same as those performed for its U.S. customers at the same relative level of intensity. The only difference is that Hyundai provides warranty services for home market customers and does not provide this service for EP sales. This difference is not sufficient to determine that

⁸² *Id.* Hyundai IQR-A at Exhibit A-12; Hyundai IQR-BC at C-16, and Hyundai's Second Supplemental Questionnaire Response to Section A, dated November 13, 2015 (Hyundai SQR2-A) at 3-4. Note: Exhibit A-12 states that Hyundai's sales through HAS are through Channel 3 and its sales through Hyundai Corporation and HCUSA are through Channel 2, however, the U.S. sales data confirms that Hyundai's sales through HSA are made through Channel 2.

⁸³ See Hyundai Exhibit A-12; Hyundai reports those expenses to be captured in indirect selling expenses.

⁸⁴ *Id.*; Sales forecasting, strategic/economic planning, personnel training, advertising, sales promotion, packing, sales/marketing support, and market research, and category 4: Technical assistance and provide warranty services.

Hyundai's EP LOT is different from the home market LOT. Therefore, based on the totality of the facts and circumstances, we preliminarily determine that sales to the home market during the POI were made at the same LOT as Hyundai's EP sales through Channel 1 and its CEP sales (Channel 3). Consequently, we matched EP sales (Channel 1) and CEP sales (Channel 3) to home market sales at the same LOT, and no LOT adjustment was warranted.

We also compared the CEP LOT (Channel 2) to the home market LOT and found that the selling functions Hyundai performed for its home market customers are at a more advanced stage of distribution than those performed for its U.S. customers in that channel of trade. That is, while the selling functions performed in both channels are of the same intensity, there is a broader range and number of selling functions performed for home market sales than for CEP sales through Channel 2.⁸⁵ Therefore, based on the totality of the facts and circumstances, we preliminarily determine that home market sales during the POI were made at a different LOT than CEP sales. Because Hyundai's home market LOT is at a more advanced stage of distribution than its CEP LOT through Channel 2, and no LOT adjustment is possible, a CEP offset is warranted. Accordingly, we granted a CEP offset pursuant to section 773(a)(7)(B) of the Act.

D. Cost of Production Analysis

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 ("TPEA"), which made numerous amendments to the AD and CVD law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than cost of production.⁸⁶ The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC.⁸⁷ Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request constructed value and cost of production information from respondent companies in all AD proceedings.⁸⁸ Accordingly, the Department requested this information from Dongkuk/Union and Hyundai.⁸⁹ We preliminarily determined that Dongkuk/Union and Hyundai made sales in the home market during the POI that were below their respective COPs.

⁸⁵ These selling functions, which are performed for sales in the home market but not for Hyundai's U.S. sales through channel 2, include sales forecasting, strategic/economic planning, personnel training/exchange, advertising, sales promotion, packing, sales/marketing support, market research, technical assistance, and warranty services.

⁸⁶ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

⁸⁷ See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015) ("Applicability Notice").

⁸⁸ Id., 80 FR at 46794-95.

⁸⁹ The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>; see also the Petition.

1. 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) expenses and interest expenses.⁹⁰

Dongkuk/Union

We relied on the COP information provided by Union/Dongkuk in its questionnaire response.⁹¹

Hyundai

We relied on the COP data submitted by Hyundai in its Section D and supplemental Section D questionnaire responses.⁹²

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COPs to the home market sales prices of the foreign like product, in order to determine whether the sales 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 applicable billing adjustments, movement charges, actual direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

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

⁹⁰ See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

⁹¹ See Dongkuk/Union's Preliminary Cost Calculation Memo.

⁹² See Hyundai Preliminary Cost Calculation Memo.

for the recovery of costs within a reasonable period of time. We, therefore, excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

E. Calculation of NV Based on Comparison Market Prices

Dongkuk/Union

We increased, where appropriate, the starting price to account for late payment fees in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight, under section 773(a)(6)(B)(ii) of the Act.

For comparisons made to EP sales (Dongkuk/Union U.S. sales Channel 1 and Channel 2), we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act. We made COS adjustments by deducting direct selling expenses incurred for home-market sales (e.g., imputed credit) and adding U.S. direct selling expenses (e.g., imputed credit), where appropriate.

For comparisons to CEP sales (Dongkuk/Union U.S. sales Channels 3), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses (e.g., 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 on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP for Dongkuk/Union's U.S. sales through Channel 3.

For comparisons to both EP and 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. When comparing U.S. sales with home market sales of similar merchandise, we also 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.⁹³

Hyundai

We calculated NV based on prices to unaffiliated customers. We increased, where appropriate, the starting price to account for late payment fees in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight, under section 773(a)(6)(B)(ii) of the Act.

For comparisons made to EP sales (Hyundai U.S. sales Channel 1), we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act. We made COS adjustments by deducting direct selling expenses incurred for home-market sales (e.g., imputed credit) and adding U.S. direct selling expenses (e.g., imputed credit), where appropriate.

⁹³ See 19 CFR 351.411(b).

For comparisons to CEP sales (Hyundai U.S. sales Channels 2 and 3), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses (e.g., imputed credit). For U.S. CEP sales through Channel 2, 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 on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP for Hyundai's U.S. sales through Channel 2.

For comparisons to both EP and 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. When comparing U.S. sales with home market sales of similar merchandise, we also 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.⁹³

XII. 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.

XIII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

21 DECEMBER 2015

Date

⁹³ See 19 CFR 351.411(b).