

outside the Seoul Metropolitan area). The loans are not tied to particular export transactions. However, a company, along with the financing application, must provide its export performance periodically for review by KEXIM. Further, any loan agreement may only cover an amount ranging from 50 to 90 percent of the company's export performance up to 30 billion won.

Hynix carried a balance on a loan under this program during the POR and provided documentation (e.g. loan application, approval document, and loan agreement), as well as data regarding the loan amount and interest paid during the POR. See Hynix's February 25, 2010 questionnaire response at Exhibits 10, 12, and 18. Based on Hynix's submitted interest payment information for this loan, we preliminarily determine that the interest Hynix paid was greater than the interest Hynix would have paid under the benchmark interest rate. Thus, we preliminarily determine that Hynix received no benefit from these loans during the POR.

#### B. Export Insurance

At pages 22–25 of its February 25, 2010, questionnaire response, Hynix reported that it purchased short-term export insurance from the Korea Export Insurance Corporation ("KEIC") during the POR. On page 1 of its supplemental questionnaire response dated June 3, 2010, Hynix stated that it received no insurance payouts from the KEIC during the POR and otherwise made no claims on KEIC insurance.

Under 19 CFR 351.520(a)(2), the Department will normally calculate the benefit from an export insurance program as the difference between the amount of premiums paid by the firm and the amount received by the firm under the insurance program. Because Hynix stated that it did not receive any payouts from the KEIC during the POR, we preliminarily determine that Hynix received no benefit from this program during the POR.

#### IV. Programs Previously Found Not To Have Been Used or Provided No Benefits

We preliminarily determine that the following programs were not used during the POR:

A. Reserve for Research and Human Resources Development (formerly Technological Development Reserve) (Article 9 of the Restriction of Special Taxation Act ("RSTA")/formerly, Article 8 of Tax Reduction and Exemption Control Act ("TERCL"))

B. Tax Credit for Investment in Facilities for Productivity Enhancement

(Article 24 of RSTA/Article 25 of TERCL)

C. Tax Credit for Investment in Facilities for Special Purposes (Article 25 of RSTA)

D. Reserve for Overseas Market Development (formerly, Article 17 of TERCL)

E. Reserve for Export Loss (formerly, Article 16 of TERCL)

F. Tax Exemption for Foreign Technicians (Article 18 of RSTA)

G. Reduction of Tax Regarding the Movement of a Factory That Has Been Operated for More Than Five Years (Article 71 of RSTA)

H. Tax Reductions or Exemption on Foreign Investments under Article 9 of the Foreign Investment Promotion Act ("FIPA")/FIPA (Formerly Foreign Capital Inducement Law)

I. Duty Drawback on Non-Physically Incorporated Items and Excessive Loss Rates

J. Electricity Discounts Under the Requested Load Adjustment ("RLA") Program

K. Import Duty Reduction for Cutting Edge Products

L. System IC 2010 Project

M. Operation G–7/HAN Program

#### Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for Hynix, the producer/exporter covered by this administrative review. We preliminarily determine that the total estimated net countervailable subsidy rate for Hynix for the POR is 2.94 percent *ad valorem*.

If these preliminary results are adopted in our final results of this review, 15 days after publication of the final results of this review the Department will instruct CBP to liquidate shipments of DRAMS by Hynix entered or withdrawn from warehouse, for consumption from January 1, 2008, through August 10, 2008, at 2.94 percent *ad valorem* of the entered value.

On October 3, 2008, the Department published a **Federal Register** notice that, *inter alia*, revoked this order, effective August 11, 2008. See *Dynamic Random Access Memory Semiconductors From the Republic of Korea: Final Results of Sunset Review and Revocation of Order*, 73 FR 57594 (October 3, 2008). As a result, CBP is no longer suspending liquidation for entries of subject merchandise occurring after the revocation. Therefore, there is no need to issue new cash deposit instructions in the final results of this administrative review.

#### Public Comment

Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date of filing the case briefs. Parties who submit briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Interested parties may request a hearing within 30 days after the date of publication of this notice. Unless otherwise specified, the hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs.

The Department will publish a notice of the final results of this administrative review within 120 days from the publication of these preliminary results.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 7, 2010.

**Ronald K. Lorentzen,**  
Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–22889 Filed 9–13–10; 8:45 am]

BILLING CODE 3510–DS–P

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A–580–816]

#### Certain Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Notice of Preliminary Results of the Sixteenth Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to timely requests, the Department of Commerce (the Department) is conducting the sixteenth administrative review of the antidumping order on corrosion-resistant carbon steel flat products (CORE) from the Republic of Korea (Korea).<sup>1</sup> This review covers eight manufacturers and/or exporters (collectively, the respondents) of the subject merchandise: LG Chem., Ltd. (LG Chem); Haewon MSC Co. Ltd. (Haewon); Dongbu Steel Co., Ltd.,

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 48224, 48225 (September 22, 2009) (*Initiation Notice*).

(Dongbu); Hyundai HYSCO (HYSCO); Pohang Iron & Steel Co., Ltd. (POSCO) and Pohang Coated Steel Co., Ltd. (POCOS) (collectively, POSCO); Dongkuk Industries Co., Ltd. (Dongkuk); LG Hausys, Ltd. (Hausys); and Union Steel Manufacturing Co., Ltd. (Union). The period of review (POR) is August 1, 2008, through July 31, 2009. We preliminarily determine that Union and Dongbu made sales of subject merchandise at less than normal value (NV). We preliminarily determine that HYSCO and POSCO have not made sales below NV.

In addition, based on the preliminary results for the respondents selected for individual review, we have preliminarily determined a margin for those companies that were not selected for individual review. If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR.

**DATES:** *Effective Date:* September 14, 2010.

**FOR FURTHER INFORMATION CONTACT:** Jolanta Lawska (HYSCO), Victoria Cho (POSCO), Dennis McClure (Union) or Christopher Hargett (Dongbu), AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-8362, (202) 482-5075, (202) 482-5973, and (202) 482-4161, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 19, 1993, the Department published the antidumping order on CORE from Korea. *See Antidumping Duty Orders on Certain Cold-Rolled Carbon Steel Flat Products and Certain Corrosion-Resistant Carbon Steel Flat Products from Korea*, 58 FR 44159 (August 19, 1993) (*Orders on Certain Steel from Korea*). On August 3, 2009, we published in the **Federal Register** the *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 74 FR 38397 (August 3, 2009). On August 31, 2009, respondents and petitioners<sup>2</sup> requested a review of Dongbu, HYSCO, POSCO, Union, Dongkuk, Haewon, Hausys, and LG Chem. The Department initiated a

review of each of the companies for which a review was requested. *See Initiation Notice*, 74 FR at 48225.

On December 7, 2008, the Department selected Dongbu, POSCO, HYSCO and Union as mandatory respondents in this review. *See Memorandum from Dennis McClure, International Trade Compliance Analyst, through James Terpstra, Program Manager, to Melissa Skinner, Director, Office 3, entitled "2008-2009 Antidumping Duty Administrative Review of Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Selection of Respondents for Individual Review,"* dated December 7, 2009. The Department indicated that it would calculate a weighted-average of the mandatory respondents' margins to apply to those companies not selected for individual examination.

During the most recently completed segments of the proceeding in which HYSCO, Dongbu, POSCO and Union participated,<sup>3</sup> the Department disregarded sales below the cost of production (COP) for each of these companies. Therefore, pursuant to section 773(b)(2)(A)(ii) of the Tariff Act of 1930, as amended (the Act), we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of NV in this review were made at prices below the COP. We instructed HYSCO, Dongbu, POSCO and Union to respond to sections A through E of the initial questionnaire,<sup>4</sup> which we issued on December 7, 2009.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. *See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorms,"* dated

<sup>3</sup> *See Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Fifteenth Administrative Review*, 75 FR 13490 (March 22, 2010) (*CORE 15 Final Results*); *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of the Fourteenth Administrative Review and Partial Rescission*, 74 FR 11082 (March 16, 2009) (*CORE 14 Final Results*).

<sup>4</sup> Section A: Organization, Accounting Practices, Markets and Merchandise; Section B: Comparison Market Sales; Section C: Sales to the United States; Section D: Cost of Production and Constructed Value; Section E: Further Manufacturing.

February 12, 2010. As a result of this tolling, the revised deadline for the preliminary results of this review became May 10, 2010.

On May 10, 2010, the Department published a notice extending the time period for issuing the preliminary results of the sixteenth administrative review to September 7, 2010.<sup>5</sup>

**HYSCO**

On January 27, 2010, HYSCO submitted its section A response to the Department's initial questionnaire. On February 12, 2010, HYSCO submitted its sections B through D response to the Department's initial questionnaire. HYSCO submitted its response to the Department's supplemental questionnaires for sections A through C on June 23, 2010, and August 11, 2010. HYSCO submitted its response to the Department's supplemental questionnaires for section D on June 23, 2010, June 25, 2010, August 4, 2010, August 11, 2010, August 18, 2010, and August 23, 2010.

**Union**

On January 21, 2010, Union submitted its section A response to the initial questionnaire. On February 4, 2010, Union submitted its response to sections B and C and D of the Department's questionnaire. On May 28, 2010, and July 15, 2010, Union submitted its responses to the Department's supplemental questionnaires for sections A through C. On June 7, 2010, Union submitted its response to the Department's supplemental questionnaire for section D regarding the purchase of major inputs from POSCO. On June 11, 2010, Union submitted its response to the Department's supplemental questionnaire for sections A and D. On July 20, 2010, Union submitted its response to an additional supplemental questionnaire for section D. On August 18, 2010, Union submitted a response to an additional supplemental questionnaire for section D.

**POSCO**

On January 20, 2010, POSCO submitted its sections A through D response to the Department's initial questionnaire. On June 14, 2010, POSCO submitted its response to the Department's first supplemental questionnaire for sections A through D. On August 10, 2010, POSCO submitted its response to the Department's second

<sup>5</sup> *See Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 25841 (May 10, 2010).

<sup>2</sup> Petitioners are the United States Steel Corporation (U.S. Steel), Nucor Corporation (Nucor), and Mittal Steel USA ISG, Inc. (Mittal Steel USA).

supplemental questionnaire for section D. On August 25, 2010, POSCO submitted a voluntary correction to exhibit 25 of its June 14, 2010, first supplemental section D response.

#### Dongbu

On January 13, 2010, and February 3, 2010, Dongbu submitted its section A and sections B through D responses to the Department's initial questionnaire. Dongbu submitted its response to the Department's supplemental questionnaires for sections A through D on May 18, 2010, and July 16, 2009, and August 3, 2010. Dongbu submitted a reconciliation of its home market and U.S. sales databases on August 17, 2010.

#### Period of Review

The POR covered by this review is August 1, 2008, through July 31, 2009.

#### Scope of the Order

This order covers flat-rolled carbon steel products, of rectangular shape, 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 or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable 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, 7210.49.0090, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 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, 7212.60.0000, 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, and 7217.90.5090. Included in the order are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process including products which have

been beveled or rounded at the edges (*i.e.*, products which have been "worked after rolling"). Excluded from this order are 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 nonmetallic substances in addition to the metallic coating. Also excluded from this order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this order are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

These HTSUS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all CORE products produced by the respondents, covered by the scope of the order, and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to CORE sold in the United States.

Where there were no sales in the ordinary course of trade of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the Appendix V physical characteristics reported by each respondent.

#### Normal Value Comparisons

To determine whether sales of CORE by the respondents to the United States were made at less than NV, we compared the Export Price (EP) or Constructed Export Price (CEP) to the NV, as described in the "Export Price/Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions. Regarding HYSCO, Union

and Dongbu, because we are using quarterly costs, we have not made price-to-price comparisons outside of a quarter to lessen the potential distortion to sales prices which result from significantly changing costs.<sup>6</sup>

#### Export Price/Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. We calculated EP when the merchandise was sold by the producer or exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and when CEP was not otherwise warranted based on the facts on the record. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. We based EP and CEP on the packed prices and the applicable delivery terms to the first unaffiliated customer in, or for exportation to, the United States.

In accordance with section 772(a) of the Act, we calculated EP for a number of Union's U.S. sales because these sales were made before the date of importation and were sales directly to unaffiliated customers in the United States, and because CEP methodology was not otherwise indicated. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where

<sup>6</sup> See Memorandum from Jolanta Lawska through James Terpstra, Program Manager Office 3, to the File, entitled "Preliminary Results in the 16th Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea: Calculation Memorandum for Hyundai HYSCO," dated September 7, 2010 (HYSCO Calc Memo); Memorandum from Victoria Cho through James Terpstra, Program Manager Office 3, to the File, entitled "Preliminary Results in the 16th Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea: Calculation Memorandum for Pohang Iron & Steel Company, Ltd. (POSCO) and Pohang Coated Steel Co., Ltd. (POCOS) (collectively, the POSCO Group)," dated September 7, 2010 (POSCO Calc Memo); Memorandum from Dennis McClure through James Terpstra, Program Manager Office 3, to the File, entitled "Preliminary Results in the 16th Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea: Calculation Memorandum for Union Steel Manufacturing Inc.," dated September 7, 2010 (Union Calc Memo); and Memorandum from Christopher Hargett through James Terpstra, Program Manager Office 3, to the File, entitled "Preliminary Results in the 16th Administrative Review on Corrosion-Resistant Carbon Steel Flat Products from Korea: Calculation Memorandum for Dongbu Steel," dated September 7, 2010 (Dongbu Calc Memo) (collectively "Calculation Memos for the 16th Review"), the public versions of which are on file in the Central Record Unit, Room 7046, of the main Department building.

appropriate, foreign inland freight to the port, foreign brokerage, international freight, marine insurance, U.S. inland freight from the port to warehouse, U.S. warehouse expenses, U.S. inland freight from the warehouse to the unaffiliated customer, U.S. brokerage and handling expenses, and U.S. customs duty.

In accordance with section 772(b) of the Act, we calculated CEP where the record established that sales made by HYSCO, POSCO, Dongbu, and Union were made in the United States after importation. HYSCO's, POSCO's, Dongbu's and Union's respective affiliates in the United States (1) took title to the subject merchandise and (2) invoiced and received payment from the unaffiliated U.S. customers for their sales of the subject merchandise to those U.S. customers. Thus, where appropriate, the Department determined that these U.S. sales should be classified as CEP transactions under section 772(b) of the Act. Where appropriate, we made deductions from the starting price for foreign inland freight to the port, foreign brokerage, international freight, marine insurance, U.S. inland freight from the port to warehouse, U.S. warehouse expenses, U.S. inland freight from the warehouse to the unaffiliated customer, U.S. brokerage and handling expenses, U.S. customs duty, credit expenses, warranty expenses, commissions, inventory carrying costs incurred in the United States, and other indirect selling expenses in the United States associated with economic activity in the United States. *See* sections 772(c)(2)(A) and 772(d)(1) of the Act. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. Where appropriate, we added interest revenue to the gross unit price.

#### **HYSCO's Entries of Subject Merchandise That Were Further Manufactured and Sold as Non-Subject Merchandise in the United States**

In its section A questionnaire response, HYSCO requested that the Department excuse it from reporting information for certain POR sales of subject merchandise imported by its wholly owned U.S. subsidiary, HYSCO America Company (HAC), that were further manufactured after importation and sold as non-subject merchandise in the United States, claiming that determining CEP for sales through HAC would be unreasonably burdensome.

Section 772(e) of the Act provides that when the value added in the United States by an affiliated party is likely to exceed substantially the value of the subject merchandise, the Department shall use one of the following prices to determine CEP if there is a sufficient

quantity of sales to provide a reasonable basis of comparison and the use of such sales is appropriate: (1) The price of identical subject merchandise sold by the exporter or producer to an unaffiliated person; or (2) the price of other subject merchandise sold by the exporter or producer to an unaffiliated person.

The record evidence shows that the value added by the affiliated party to the subject merchandise after importation in the United States was significantly greater than the 65 percent threshold we use in determining whether the value added in the United States by an affiliated party substantially exceeds the value of the subject merchandise. *See* 19 CFR 351.402(c)(2). We then considered whether there were sales of identical subject merchandise or other subject merchandise sold in sufficient quantities by the exporter or producer to an unaffiliated person that could provide a reasonable basis of comparison. In addition to the sales to HAC that were further manufactured, HYSCO also had CEP sales of similar, but not identical, subject merchandise to unaffiliated customers in the United States in back-to-back transactions through another HYSCO affiliate in the United States, Hyundai HYSCO USA (HHU).

The appropriate methodology for determining the CEP for sales whose value has been substantially increased through U.S. further manufacturing generally must be made on a case-by-case basis. In this instance, we find that there is a reasonable quantity of sales of subject merchandise to an unaffiliated person for comparison purposes. *See* HYSCO Calc Memo. Furthermore, there is no other reasonable methodology for determining CEP for HAC's CEP sales. Therefore, we relied on HYSCO's other sales of similar merchandise to unaffiliated parties in the United States as the basis for calculating CEP for HYSCO's sales through HAC, which is consistent with the four previous administrative reviews of CORE from Korea.<sup>7</sup>

#### **Normal Value**

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the

quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade. We increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act.

Where appropriate, we deducted inland freight from the plant to distribution warehouse, warehouse expense, inland freight from the plant/warehouse to customer, and packing, pursuant to section 773(a)(6)(B) of the Act. Additionally, we made adjustments to NV, where appropriate, for credit and warranty expenses, in accordance with section 773(a)(6)(C)(iii) of the Act. Where appropriate, we added interest revenue and applied billing adjustments to the gross unit price.

We also made adjustments for Union, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred in the home market or the United States where commissions were granted on sales in one market but not in the other. Specifically, where commissions are incurred in one market, but not in the other, we will limit the amount of such allowance to the amount of either the selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less. *See* 19 CFR 351.401(e).

For purposes of calculating NV, section 771(16) of the Act defines "foreign like product" as merchandise which is either (1) identical or (2) similar to the merchandise sold in the United States. When no identical products are sold in the home market, the products which are most similar to the product sold in the United States are identified. For the non-identical or most similar products which are identified based on the Department's product matching criteria, an adjustment is made to the NV for differences in cost attributable to differences in the actual physical differences between the products sold in the United States and the home market. *See* 19 CFR 351.411 and section 773(a)(6)(C)(ii) of the Act.

#### **Cost of Production**

As stated above, in the most recently completed segments of the proceeding in which HYSCO, POSCO, Dongbu and Union participated, the Department found and disregarded sales that failed the cost test for each of these

<sup>7</sup> *See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of the Antidumping Duty Administrative Review*, 74 FR 46110, 46112 (September 8, 2009) (unchanged in *CORE 15 Final Results*); *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of the Antidumping Duty Administrative Review*, 73 FR 52267, 52270 (September 9, 2008) (unchanged in *CORE 14 Final Results*).

companies. Therefore, for this review, the Department has reasonable grounds to believe or suspect that sales of the foreign like products under consideration for the determination of NV may have been made at prices below the COP as provided by section 773(b)(2)(A)(ii) of the Act. Pursuant to section 773(b)(1) of the Act, the Department conducted a COP investigation of sales in the home market by HYSCO, POSCO, Dongbu and Union.

#### A. Cost Reporting Period

The Department's normal practice is to calculate an annual weighted-average cost for the POR. *See, e.g., Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (December 13, 2000), and accompanying Issues and Decision Memorandum at Comment 18, and *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada*, 71 FR 3822 (January 24, 2006), and accompanying Issues and Decision Memorandum at Comment 5 (explaining the Department's practice of computing a single weighted-average cost for the entire period). However, the Department recognizes that possible distortions may result if we use our normal annual-average cost method during a period of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, the Department evaluates the case-specific record evidence using two primary factors: (1) The change in the cost of manufacturing (COM) recognized by the respondent during the POR must be deemed significant; (2) the record evidence must indicate that sale prices during the shorter averaging periods could be reasonably linked with the COP or constructed value (CV) during the same shorter averaging periods. *See Stainless Steel Sheet and Strip in Coils From Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (*SSSS from Mexico*), and accompanying Issues and Decision Memorandum at Comment 6 and *Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) (*SSPC from Belgium*), and accompanying Issues and Decision Memorandum at Comment 4.

#### 1. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high- and low-quarter COM) for determining that the changes in COM

are significant enough to warrant a departure from our standard annual-cost approach. *See SSPC from Belgium* at Comment 4. In the instant case, record evidence shows that Union, Dongbu, and HYSCO experienced significant changes (*i.e.*, changes that exceeded 25 percent) between the high and low quarterly COM during the POR for the selected products (*i.e.*, CONNUMs) with the highest sales volumes. This change in COM is primarily attributable to the price volatility for substrate inputs used in the manufacture of CORE. Substrate is the major input consumed in the production of CORE. We found that prices for substrate changed significantly throughout the POR and, as a result, directly affected the cost of the material inputs consumed by Union, Dongbu, and HYSCO.<sup>8</sup>

#### 2. Linkage Between Cost and Sale Price Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR. *See, e.g., SSSS from Mexico* at Comment 6, and *SSPC from Belgium* at Comment 4. The Department's definition of "linkage" does not require direct traceability between specific sales and their specific production costs, but rather relies on whether there are elements that would indicate a reasonable correlation between the underlying costs and the final sales prices levied by the company. *See SSPC from Belgium* at Comment 4. These correlative elements may be measured and defined in a number of ways depending on the associated industry and the overall production and sales processes. To determine whether a reasonable correlation existed between the sales prices and their underlying costs during the POR for each respondent, we compared weighted-average quarterly prices to the corresponding quarterly COM for the

five CONNUMs with the highest volume of sales in each of the comparison market and the United States market. Our comparison reveals that sale prices and costs for each of the sample CONNUMs generally trended in the same direction and indicated that there is linkage between changing costs and sale prices during the POR. The inventory records for HYSCO, Union and Dongbu demonstrate that the raw material and finished goods inventory are relatively low, indicating a minimal time lag between material purchase, production and sale dates. *See Union, HYSCO and Dongbu Cost Calculation Memos*. After reviewing this information and determining that there is a trend of sale prices and costs for the majority of the POR, we preliminarily determine that there is linkage between HYSCO, Union and Dongbu's changing costs and sales prices during the POR. *See, e.g., SSSS from Mexico* at Comment 6 and *SSPC from Belgium* at Comment 4.

Because we have found significant cost changes in COM as well as reasonable linkage between costs and sales prices, we have preliminarily determined that the use of quarterly cost leads to more appropriate comparisons in our antidumping duty calculation for HYSCO, Union and Dongbu.

#### B. Calculation of Cost of Production

Before making any comparisons to NV, we conducted a quarterly COP analysis of HYSCO, Union and Dongbu's sales pursuant to section 773(b)(3) of the Act to determine whether HYSCO, Union and Dongbu's comparison market sales were made at prices below the COP. For these preliminary results, the Department used the quarterly cost database submitted on August 18, 2010, for HYSCO, the quarterly cost database submitted on August 18, 2010, for Union, and the quarterly COP database submitted on August 3, 2010, for Dongbu.

For POSCO, we conducted an annual COP analysis pursuant to section 773(b)(1)(A) and (B) of the Act to determine whether POSCO's comparison market sales were made at prices below the COP. We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for SG&A expenses and packing, in accordance with section 773(b)(3) of the Act.

Except as noted below, the Department relied on the COP data submitted by HYSCO, POSCO, Union and Dongbu and their supplemental section D questionnaire responses for the COP calculation. Union provided

<sup>8</sup> *See* Memorandum from Kristen Case to Neal M. Halper, Director of Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Union Steel Co., Ltd.," dated September 7, 2010 ("Union Cost Calculation Memo"); Memorandum from Laurens Van Houten to Neal M. Halper, Director of Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Dongbu Steel," dated September 7, 2010 ("Dongbu Cost Calculation Memo"); and Memorandum from Ji Young Oh to Neal M. Halper, Director of Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Hyundai HYSCO" (HYSCO Cost Calculation Memo), dated September 7, 2010, the public versions of which are on file in the Central Record Unit, Room 7046, of the main Department building.

information in its questionnaire responses showing that it purchased substrate from affiliated parties. We consider substrate to be a major input and therefore have applied the major-input rule to value such purchases. Accordingly, pursuant to section 773(f)(3) of the Act and 19 CFR 351.407(b), we adjusted Union's substrate costs. Additionally, for the purposes of calculating Union's general and administrative (G&A) expense ratio, we excluded an item of non-operating income. See Union Cost Calculation Memo at 3.

For POSCO we excluded the gains related to the disposition and valuation of trading securities from the calculation of the G&A expense ratio because these gains are related to the company's investment activities. See Memorandum from Sheikh M. Hannan, Senior Accountant to Neal M. Halper, Director, Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—POSCO," dated September 7, 2010 ("POSCO Cost Calculation Memo").

HYSCO provided information in its questionnaire responses showing that it purchased substrate from affiliated parties. We consider substrate to be a major input and therefore have applied the major-input rule to value such purchases. Accordingly, pursuant to section 773(f)(3) of the Act and 19 CFR 351.407(b), we adjusted HYSCO's substrate costs. Additionally, we adjusted the cost of goods sold denominator used in the G&A expense ratio and financial expense ratios to reflect the major input adjustment. See HYSCO Cost Calculation Memo.

#### *Application of Facts Available*

Section 776(a) of the Act provides that 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.

In the current review, multiple CONNUMs in HYSCO's submitted cost file contained negative values for certain cost fields. The Department requested on two different occasions that HYSCO provide an explanation for these negative values. See the Department's Section D supplemental questionnaire,

dated May 19, 2010, and July 21, 2010, respectively. However, HYSCO's responses to date have not provided an adequate explanation of how negative POR production costs could be incurred to produce products. See HYSCO's section D supplemental questionnaire responses, dated June 23, 2010, and August 4, 2010, respectively. Accordingly, the Department determines that it lacks the information necessary to calculate accurate production costs for certain CONNUMs in these preliminary results. Therefore, we determine that application of partial facts available is warranted pursuant to sections 776(a)(1) and (2)(A) of the Act and have used the weighted-average value for each of those cost fields. See HYSCO Cost Calculation Memo. The Department intends to seek further explanation from HYSCO for the negative values in its cost file and will analyze any new data in the final results.

Furthermore, HYSCO did not provide hot-rolled coil cost for CONNUMs sold, but not produced, during the POR. For CONNUMs sold but not produced during the POR, we selected as partial facts available pursuant to sections 776(a)(1) and (2)(A) of the Act the next similar CONNUM, in accordance with the product characteristics as defined in the Department's questionnaire, to use as the surrogate to compute the costs for these CONNUMs. See HYSCO Cost Calculation Memo.

#### *C. Test of Comparison Market Sales Prices*

As required under section 773(b)(2) of the Act, we compared the quarterly or POR, as appropriate, weighted-average COP to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses (also subtracted from the COP), and packing expenses.

#### *D. Results of the COP Test*

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial

quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because: (1) They were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the indexed POR or POR, as appropriate, weighted-average COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Therefore, for HYSCO, POSCO, Union and Dongbu, we disregarded below-cost sales of a given product of 20 percent or more and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. See HYSCO, POSCO, Union and Dongbu Cost Calculation Memos.

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

For those comparison products for which there were sales at prices above the COP for HYSCO, POSCO, Union and Dongbu, we based NV on home market prices. In these preliminary results, we were able to match all U.S. sales to contemporaneous sales, made in the ordinary course of trade, of either an identical or a similar foreign like product, based on the matching characteristics identified in Appendix V of the original questionnaire. We calculated NV based on free on board (FOB) mill or delivered prices to unaffiliated customers, or prices to affiliated customers which were determined to be at arm's length (see discussion below regarding these arm's-length sales). We made deductions, where appropriate, from the starting price for billing adjustments, discounts, rebates, and inland freight. Additionally, we added interest revenue. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs. See Calculation Memos for the 16th Review.

In accordance with section 773(a)(6)(C)(iii) of the Act, we adjusted for differences in the circumstances of sale. These circumstances included differences in imputed credit expenses and other direct selling expenses, such as the expense related to bank charges and factoring. *Id.* We also made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

### Arm's-Length Sales

Dongbu, Union, HYSCO and POSCO also reported that they made sales in the home market to affiliated parties. The Department calculates 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 producer or exporter, *i.e.*, sales at arm's length. See 19 CFR 351.403(c).

To test whether these sales were made at arm's length, we compared the reported home market prices of sales to affiliated and unaffiliated customers with applied billing adjustments, including interest revenue and net of all movement charges, direct selling expenses, discounts, rebates, and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we considered the sales to be at arm's-length prices. See *Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative: Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 71 FR 45017, 45020 (August 8, 2006) (unchanged in *Notice of Final Results of the Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 72 FR 7011 (February 14, 2007)); 19 CFR 351.403(c). Conversely, where we found that the sales to an affiliated party did not pass the arm's-length test, then all sales to that affiliated party have been excluded from the NV calculation. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002); see also Calculation Memos for the 16th Review.

### Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP sales, to the extent possible. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT.

Pursuant to 19 CFR 351.412, to determine whether EP or CEP sales and NV sales were at different LOTs, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's-

length) customers. If the comparison market sales are at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined, we will make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV LOT is at a more advanced stage of distribution than the CEP LOT and the data available do not provide an appropriate basis to determine an LOT adjustment, we will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732–33 (November 19, 1997).

We did not make an LOT adjustment under 19 CFR 351.412(e) because, there was only one home market LOT for each respondent and we were unable to identify a pattern of consistent price differences attributable to differences in LOTs. See 19 CFR 351.412(d). Under section 773(a)(7)(B) of the Act and 19 CFR 351.412(f), we are preliminarily granting a CEP offset for HYSCO, POSCO, Dongbu, and Union because the NV sales for each company are at a more advanced LOT than the LOT for the U.S. CEP sales.

For a detailed description of our LOT methodology and a summary of company-specific LOT findings for these preliminary results, see Calculation Memos for the 16th Review.

### Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.

### Preliminary Results of the Review

As a result of this review, we preliminarily find that the following weighted-average dumping margins exist:

Manufacturer/exporter	Percent margin
HYSCO .....	*.22
POSCO .....	*.04
Union .....	2.27
Dongbu .....	3.89
Review-Specific Average Rate applicable to the following companies: <sup>9</sup> LG Chem, Haewon, Hausys, and Dongkuk .....	3.08

\*(De minimis).

### Public Comment

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties to this proceeding in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(ii). Rebuttal briefs are limited to issues raised in the case briefs and may be filed no later than five days after the time limit for filing the case briefs. See 19 CFR 351.309(d). Parties submitting arguments in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities, in accordance with 19 CFR 351.309(d)(2). Further, parties submitting case and/or rebuttal briefs are requested to provide the Department with an additional electronic copy of the public version of any such comments on a computer diskette. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

An interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, ordinarily will be held two days after the due date of the rebuttal briefs in accordance with 19 CFR 351.310(d)(1). The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results, unless extended. See section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

### Assessment Rate

Upon completion of the final results of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department will calculate importer-specific assessment rates for each respondent based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. Where the respondent did not report the entered value for U.S. sales, we have calculated importer-specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each

<sup>9</sup> This rate is based on the margins calculated for those companies that were selected for individual review, excluding *de minimis* margins or margins based entirely on adverse facts available.



importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* rates based on the estimated entered value. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (i.e., less than 0.50 percent). The Department intends to issue assessment instructions directly to CBP 15 days after publication of the final results of this review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondents subject to this review for which the reviewed companies did not know that the merchandise which it sold to an intermediary (e.g. a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. For a full discussion of this clarification, see *id.*

### Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of CORE from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither

the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 17.70 percent, the all-others rate established in the LTFV. *See Orders on Certain Steel from Korea*. These cash deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 7, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Request for Comments on Vaccine Production and Additional Planning for Future Possible Pandemic Influenza

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice and request for comments.

**SUMMARY:** The International Trade Administration invites submission of comments from the public and relevant industries on vaccine production and additional planning for future possible pandemic influenza.

**DATES:** Written comments must be submitted on or before October 1, 2010. Comments should be no more than 15 pages. Business-confidential information should be clearly identified as such.

**ADDRESSES:** You may submit comments by any of the following methods:

*E-mail:*

*Vaccine.Comments@trade.gov.*

*Fax:* (202) 482-1975 (Attn.: Jane Earley).

*Mail or Hand Delivery/Courier:* Jane Earley, U.S. Department of Commerce, Office of Health and Consumer Goods, Room 1015, 1401 Constitution Avenue, NW., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** For questions on the submission of comments, please contact Jane Earley by phone at (202) 482-2561 or Andrea Cornwell at (202) 482-0998.

**SUPPLEMENTARY INFORMATION:** Written comments are sought in light of the announced end of the H1N1 influenza pandemic (see World Health Organization announcement of August 10, 2010) and the need to plan for future pandemics. The facts and information obtained from written submissions will be used to inform the participation of the United States Department of Commerce in the interagency process to prepare for United States participation in international meetings and negotiations on pandemic planning, such as the meeting of the World Health Organization (WHO) Pandemic Influenza Preparedness Open Ended Working Group (PIP-OEWG) December 13-17, 2010.

The Department of Commerce invites comments from the pharmaceutical and medical technology industries and interested members of the public on a number of issues regarding vaccine production for pandemic influenza.

The Department of Commerce invites written submissions on the following topics:

1. *Manufacturers' experiences during the 2009 H1N1 pandemic.* What issues could have been better handled by industry, governments and the WHO? What is realistic and unrealistic to expect from governments, vaccine manufacturers, the WHO and others during a mild pandemic such as the 2009 H1N1 pandemic? How might expectations be different for a more severe pandemic?

2. *The emergency response process.* Based on the H1N1 pandemic experience, what changes in operational procedures or practices should be made to prepare for the next influenza pandemic? What additional consultation and decisional processes (within industry and among governments and the WHO) for pandemic preparedness are needed? What are the most critical deficiencies that need to be overcome in the present system to mount a more effective and robust response to pandemic influenza?

3. *Improving availability for developing countries.* How can we support and stimulate demand for seasonal flu vaccine in middle and lower income countries? Are there other