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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-867]

Large Power Transformers from the Republic of Korea: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*].

SUMMARY: The Department of Commerce (the Department) preliminarily determines that large power transformers from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated dumping margins are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to requests from interested parties, we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

FOR FURTHER INFORMATION CONTACT: David Cordell or Brian Davis, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0408 or (202) 482-7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 2011, the Department initiated the antidumping duty investigation on large power transformers from Korea.[1] Petitioners in this investigation are ABB Inc., Delta Star, Inc., and Pennsylvania Transformer Technology Inc. (collectively, petitioners). The Department set aside a period of time for parties to raise issues regarding product coverage and invited all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.[2] The Department also set aside a time for parties to comment on product characteristics for use in the antidumping duty questionnaire.[3] Since the *Initiation Notice*, the following events have occurred.

On August 10, 2011, the Department notified all interested parties of its intent to select mandatory respondents for this investigation based on U.S. import data obtained from U.S. Customs and Border Protection (CBP) and set aside a period of time for parties to comment on the potential respondent selection. Parties were invited to submit comments within five calendar days from the date of that memorandum.[4]

On August 29, 2011, and August 30, 2011, Department officials visited Canonsburg, Pennsylvania to meet with officials of Pennsylvania Transformer Technology Inc., a petitioner in this proceeding, and their legal counsel, and also toured their facility.[5]

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[1] *See Large Power Transformers from the Republic of Korea: Initiation of Antidumping Duty Investigation*, 76 FR 49439 (August 10, 2011) (*Initiation Notice*).
[2] *See Initiation Notice*, 76 FR at 49440; *see also Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).
[3] *See Initiation Notice*, 76 FR at 49440; *see also Preamble*, 62 FR at 27323.
[4] *See* Memorandum from Angelica Mendoza, Program Manager, to All Interested Parties, dated August 10, 2011.
[5] *See* Memorandum to the File, "Antidumping Duty Investigation of Large Power Transformers from the Republic of Korea: Department Visit to Pennsylvania Transformer Technology Inc.," dated September 1, 2011.

On September 2, 2011, the United States International Trade Commission (USITC) published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, by reason of imports from Korea of large power transformers.[6]

On September 16, 2011, we selected Hyundai Heavy Industries Co., Ltd. (Hyundai) and Hyosung Corporation (Hyosung) as the mandatory respondents in this investigation and issued the Department's antidumping duty questionnaire to both respondents on September 28, 2011.[7]

Hyundai and Hyosung submitted responses to section A of the Department's antidumping duty questionnaire on November 2, 2011 and on November 16, 2011, both respondents submitted their responses to sections B (*i.e.*, the section covering comparison market sales) and C (*i.e.*, the section covering U.S. sales) of the Department's antidumping duty questionnaire. Also on November 16, 2011, Hyosung voluntarily reported a response to section D of the questionnaire (*i.e.*, the section covering the cost of production (COP) and constructed value (CV)).

On November 23, 2011, petitioners made a timely request pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e) for a 50-day postponement of the preliminary determination and on December 6, 2011, the Department postponed the preliminary determination of this investigation until February 9, 2011.[8]

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[6] *See* 76 FR 54790 (September 2, 2011); *see also* USITC Publication 4526 (September 2011), titled "Large Power Transformers from Korea: Investigation No. 731-TA-1189 (Preliminary)."

[7] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary, from Richard O. Weible, Director, Office 7, titled "Antidumping Duty Investigation of Large Power Transformers from the Republic of Korea ("Korea"): Respondent Selection Memorandum," dated September 16, 2011.

[8] *See Large Power Transformers from the Republic of Korea: Postponement of Preliminary Determination of Antidumping Duty Investigation*, 76 FR 76146 (December 6, 2011).

Hyosung

On November 30, 2011, the Department received an allegation from petitioners that home market sales made by Hyosung were made at prices below the cost of production and on December 9, 2011, the Department initiated a sales-below-cost of production investigation with respect to Hyosung.[9]

On November 21, 2011, the Department issued a supplemental questionnaire concerning Hyosung's section A-C responses. On December 12, and 19, 2011, Hyosung submitted its response to this supplemental questionnaire. On December 14, 2011, the Department issued a supplemental questionnaire regarding Hyosung's section D response

On December 29, 2011, the Department issued a second supplemental questionnaire covering Hyosung's section A-C and supplemental responses. On January 6, 2012, we received the supplemental cost (*i.e.*, section D) response from Hyosung and on January 19, 2012, we received Hyosung's response to our December 29, 2011, supplemental questionnaire. On January 6, 2012, we issued a third sales supplemental questionnaire and on January 20, 2012, Hyosung submitted its response to this supplemental questionnaire. On February 2, 2012, we requested that Hyosung provide an updated U.S. sales database which includes actual shipment dates for all sales that have been shipped regardless of whether or not they have been invoiced, and on February 3, 2012, Hyosung submitted this revised U.S. sales database. Also on February 3, 2012, we requested that Hyosung provide an updated home market sales database which includes actual shipment dates for all sales that have been shipped regardless of whether they

[9] *See* Memorandum to Richard O. Weible, Director, Office 7, titled, "Petitioners' Allegation of Sales Below the Cost of Production for Hyosung Corporation," from the Team (Hyosung Cost Initiation Memo), dated December 9, 2011.

have been invoiced and on February 6, 2012, Hyosung submitted this revised home market sales database.

Hyundai

On November 21, 2011, the Department issued a supplemental questionnaire concerning Hyundai's section A-C responses. On December 12, 2011, Hyundai responded to this questionnaire. Also on December 12, 2011, Hyundai filed its response to the constructed value sections of the section D questionnaire.

On December 23, 2011, the Department issued a supplemental questionnaire to Hyundai covering Hyundai's section B-D responses. Hyundai responded to this supplemental questionnaire on January 13, and 18, 2012. On January 9, 2012, the Department issued a third sales supplemental questionnaire as well as a second supplemental cost questionnaire to which Hyundai responded on January 23, 2012.

On December 30, 2011, the Department received an allegation from petitioners that home market sales made by Hyundai were made at prices below the cost of production and on February 9, 2012, the Department decided not to initiate a sales-below-cost of production investigation.[10]

Deadline for Submission of Updated Information

With regard to cost estimates provided by respondents thus far, the Department will accept updated information for actual costs through and including December 31, 2011, where available. Further, with regard to estimates in the sales database, the Department will accept the corresponding actual sales information only through December 31, 2011. The Department does

[10] *See* Memorandum to the File titled, "Petitioners' Allegation of Sales Below the Cost of Production for Hyundai Heavy Industry Co., Ltd.," from the Team to Richard Weible dated February 8, 2012, (Hyundai Sales Below Cost Allegation Memorandum).

not expect to request updated information on sales or cost estimates for dates subsequent to December 31, 2011.

Period of Investigation

The period of investigation (POI) is July 1, 2010, to June 30, 2011. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The scope of this investigation covers large liquid dielectric power transformers (LPTs) having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete.

Incomplete LPTs are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of LPTs. The "active part" of the transformer consists of one or more of the following when attached to or otherwise assembled with one another: the steel core or shell, the windings, electrical insulation between the windings, the mechanical frame for an LPT.

The product definition encompasses all such LPTs regardless of name designation, including but not limited to step-up transformers, step-down transformers, autotransformers, interconnection transformers, voltage regulator transformers, rectifier transformers, and power rectifier transformers.

The LPTs subject to this investigation are currently classifiable under subheadings 8504.23.0040, 8504.23.0080 and 8504.90.9540 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Scope Comments

In accordance with the preamble to the Department's regulations, *see Preamble*, 62 FR at 27323, in our *Initiation Notice* we set aside a period of time for parties to raise issues regarding product coverage, and invited all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*.

On August 23, 2011, we received comments from Hyundai and Hyosung concerning the scope of this investigation. In their submissions, both Hyundai and Hyosung request that the scope language be modified expressly to exclude spare parts when imported individually, or when imported with a complete LPT (whether assembled or unassembled) or with a subassembly, because they are not integral to the start-up or operation of an LPT.

On September 2, 2011, petitioners filed rebuttal comments regarding the scope comments by Hyundai and Hyosung. In their rebuttal comments, petitioners state that Hyundai and Hyosung failed to demonstrate the necessity for any exclusionary language and that the scope language published in the Department's *Initiation Notice* is clear and does not require modification. Petitioners state that the scope correctly does not exclude spare parts as this exclusion could be used to evade or circumvent any antidumping duty order that may be in place.

We preliminarily find that the language of the scope of the order is clear and does not require amendment.

Product Comparisons

We have considered the comments that were submitted by the interested parties concerning product-comparison criteria. In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the "Scope of Investigation" section, above, and sold in Korea during the period of investigation are

considered to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We have relied on the following 18 criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product: (1) number of phases; (2) maximum MVA rating; (3) transformer technology; (4) high line voltage; (5) high voltage winding basic insulation level; (6) number of windings in transformer; (7) type of tap changer and percentage regulation; (8) low line voltage; (9) impedance at maximum MVA rating; (10) type of core steel; (11) type of transformer; (12) low voltage winding basic insulation level; (13) load loss at maximum MVA rating; (14) no-load loss; (15) cooling class designation; (16) overload requirement; (17) decibel rating; and (18) frequency. We compared U.S. sales to sales of the next most similar foreign like product on the basis of the characteristics listed above, which were made in the ordinary course of trade. Where we were unable to find a home market match of such or similar merchandise, in accordance with section 773(a)(4) of the Act, we based NV on CV. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

Date of Sale

19 CFR 351.401(i) 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.[11] The Department has explained that, "in situations involving large custom-made merchandise in which the parties engage in formal negotiation and contracting

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

procedures, the Department usually will use a date other than the date of invoice." *Preamble*, 62 FR at 27349. The Court of International Trade ("CIT") has stated that "a party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisfy' the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale."[12] Alternatively, the Department may exercise its discretion to rely on a date other than invoice date if the Department "provides a rational explanation as to why the alternative date 'better reflects' the date when 'material terms' are established."[13] The date of sale is generally the date on which the parties establish the material terms of the sale. This normally includes the price, quantity, delivery terms and payment terms.[14]

In this case, Hyosung argued that the date of sale should be the purchase order date. *See* Hyosung's letter to the Department dated October 11, 2011. Hyosung also asked the Department to modify its reporting period to "permit Hyosung to report all U.S. sales that were invoiced during the POI (*i.e.*, between July 1, 2010 and June 30, 2011), even if the purchase order date falls before July 1, 2010." Hyundai filed a similar request on October 12, 2011. Petitioners initially urged the Department to have respondents report all sales based upon purchase order date and noted that Hyosung concedes that "sales terms do not change after the purchase order is issued," and that "the purchase order date satisfies the Department's definition of the date of sales because purchase orders nearly always memorialize all material terms," quoting Hyosung's October 11, 2011, letter at 3. Petitioners concluded that "thus, the date of the purchase order, not the invoice date, is the proper date of sale in this proceeding." *See* Petitioners letter dated

[12] *See Allied Tube,* 132 F. Supp. 2d at 1090-1092.
[13] *SeAH Steel Corp. v. United States*, 25 C.I.T. 133, 135 (Ct. Int'l Trade 2001).
[14] *See USEC Inc. v. United States*, 31 C.I.T. 1049, 1055 (Ct. Int'l Trade 2007).

October 14, 2011, at 3. The Department issued a letter to all parties on October 17, 2011, noting that "no party to this proceeding has placed any information on the record to call in to question the fact that purchase order date satisfies the Department's definition of the date of sale," and that "based upon what is currently on the record, it appears that material terms of sale for sales of large power transformers are established at the purchase order date." *See* Letter to all interested parties from the Department entitled "Antidumping Duty Investigation of Large Power Transformers from the Republic of Korea ("Korea"): Request for Modified Reporting Period" dated October 17, 2011.

Since that time, petitioners have raised concerns about the reported date of sale, arguing that we should "rely on the *earliest* document in the sales process that establishes the essential elements of a sale" and that in this case this "is either the date of the alliance (or other relevant descriptor, *e.g.*, 'blanket,' 'long-term,' etc.) contract, the date on which the customer transmits a blanket purchase order to Hyundai or Hyosung, or the date on which the customer transmits its production order forecast to the respondents." *See* Petitioners letter to the Department dated January 20, 2012, at 2. Petitioners claim "the respondents have withheld complete documentation that would allow Commerce to establish accurately the date of sale," and that "Commerce should find that record evidence indicates that the correct date of sale is established at a point earlier in the sales transaction process than the 'purchase order' date identified by respondents." *Id.* at 23-24.

For the purposes of this preliminary determination, we are using the purchase order date as the date of sale because record evidence currently demonstrates that this date best reflects the date upon which the material terms of sale were established. However, we are excluding from our analysis those sales which are known to be based on long term contracts executed prior to the

POI because it is unclear whether the material terms of these sales were set during the POI. We will further examine whether there is other information that denotes a more appropriate date of sale as it is unclear from the record whether the material terms of these sales were set prior to the POI. We intend to issue one final supplemental questionnaire to each respondent regarding the date of sale issue.

Fair Value Comparisons

To determine whether respondents' sales of large power transformers from Korea to the United States were made at LTFV, we compared the constructed export price (CEP) to normal value (NV) or constructed value, as appropriate and as described in the "Constructed Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average CEPs to POI weighted-average NVs or constructed values, as appropriate.

Constructed Export Price

For the price to the United States, we used CEP, in accordance with section 772(b) of the Act. 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. *See* section 772(b) of the Act. We based CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale.

In accordance with section 772(b) of the Act, we calculated CEP where the record established that sales made by Hyundai and Hyosung were made in the United States after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

Hyundai

In accordance with section 772(c)(2)(A) of the Act, and where appropriate, we made deductions from the starting price for certain billing adjustments, early payment discounts, quantity discounts, and certain other discounts, including rebates. We also made further deductions to price for certain movement expenses where appropriate, for foreign inland freight, inland insurance, foreign brokerage, U.S. inland freight, certain other transportation expenses, U.S. customs duties and U.S. brokerage and handling expenses, pursuant to section 772(c)(2)(A) of the Act.

Pursuant to section 772(d)(1) of the Act, we made additional adjustments to CEP for commissions, credit expenses, bank charges, direct selling expenses associated with costs incurred in the United States, and other indirect selling expenses in the United States associated with economic activity in the United States. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. For a detailed discussion of these adjustments, *see* Memorandum to the file, through Angelica Mendoza, Program Manager, from David Cordell and Brian Davis, International Trade Analysts, titled "Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Large Power Transformers from the Republic of Korea: Hyundai Heavy Industries Co., Ltd.," dated February 9, 2012 (Hyundai Preliminary Analysis Memorandum).

Hyosung

In accordance with section 772(c)(2)(A) of the Act, and where appropriate, we made deductions from the starting price for certain movement expenses, foreign inland freight, foreign brokerage, foreign inland insurance, U.S. inland freight, international freight, marine insurance, and U.S. brokerage and handling expenses, pursuant to section 772(c)(2)(A) of the Act. Pursuant

to section 772(d)(1) of the Act, we made additional adjustments to CEP for commissions, credit expenses, warranty expenses, inventory carrying costs incurred in Korea, direct selling expenses associated with costs incurred in the United States (*i.e.*, oil and installation expenses), and indirect selling expenses. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. For a detailed discussion of these adjustments, *see* Memorandum to the file, through Angelica Mendoza, Program Manager, from David Cordell and Brian Davis, International Trade Analysts, titled "Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Large Power Transformers from the Republic of Korea: Hyosung Corporation," dated February 9, 2012 (Hyosung Preliminary Analysis Memorandum).

Normal Value

A. Home Market Viability and Comparison-Market Selection

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared respondents' volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise. *See* section 773(a)(1)(C) of the Act. Based on this comparison, we determined that both respondents had a viable home market during the POI. Consequently, we based NV on home market sales. Although Hyundai has argued that we should base NV on CV, based on the record of the case, the Department is following its normal methodology and invites parties to comment on the matches under a price-to-price comparison in their briefs.

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

Pursuant to its regulations, the Department may use prices from sales made to affiliated parties if the price is comparable to the price at which the exporter or producer sold the foreign like product to a non-affiliate. *See* 19 CFR 351.403(c). During the POI, Hyundai sold foreign like product to an affiliated customer for its own use and not for resale. To test whether the sales made by Hyundai were made at arm's-length prices, and thus comparable to the prices for non-affiliates, we compared, on a product-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all applicable billing adjustments, discounts and rebates, movement charges, direct selling expenses and packing expenses. Where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c); *see also Stainless Steel Sheet and Strip in Coils From Japan: Preliminary Results of Antidumping Duty Administrative Review,* 74 FR 39615 (August 7, 2009), unchanged in *Stainless Steel Sheet and Strip in Coils From Japan: Final Results of Antidumping Duty Administrative Review,* 75 FR 6631 (February 10, 2010). 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 them to be outside the ordinary course of trade and thus not appropriate for determining normal value. *See* section 771(15) of the Act and 19 CFR 351.102(b)(35).

C. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the export price or CEP. *See also* section 773(a)(7) of the Act. Pursuant to 19 CFR

351.412(c)(1)(iii), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on constructed value, the starting price of the sales from which we derive selling, general and administrative expenses, and profit. For CEP sales (which constituted all sales by both Hyundai and Hyosung), the U.S. LOT is based on the starting price of the U.S. sales, as adjusted under section 772(d) of the Act, which is from the exporter to the importer. *See* 19 CFR 351.412(c)(1)(ii).

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *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) (applying the CEP offset analysis under section 773(a)(7)(B)).

In this investigation, we obtained information from Hyundai and Hyosung regarding the marketing stages involved by both parties making their reported home market and U.S. market sales, including a description of the selling activities performed by the respondents and/or their affiliates for each channel of distribution. *See* Hyundai's AQR at pages A-16 through A-21 and Attachment A-12; *see also* Hyundai's TSQR dated January 23, 2012, at pages 1 through 2 and

Exhibit 1 (selling activities chart); and Hyosung's AQR at pages A-17 through A-18; *see also* Hyosung's SQR at pages SA-11 through SA-17 and Exhibit SA-6 (selling activities chart). We did not make an LOT adjustment under section 773(a)(7)(A) of the Act and 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 to reduce normal value by the appropriate amount of indirect selling expenses for both Hyundai and Hyosung because the NV sales for each company are at a more advanced LOT than the LOT for their U.S. CEP sales.

For a detailed description of our LOT methodology and a summary of the company-specific LOT findings for this preliminary determination, *see* Hyundai Preliminary Analysis Memorandum and Hyosung Preliminary Analysis Memorandum.

D. Cost of Production Analysis

Based on the Department's analysis of the Petitioners' allegation, we initiated a sales-below-cost investigation to determine whether Hyosung had sales that were made at prices below their COP pursuant to section 773(b) of the Act. *See* Hyosung Cost Initiation Memo. As stated in the "Background" section of this notice, above, we declined to initiate such an investigation for Hyundai. *See* Hyundai Sales Below Cost Allegation Memorandum.

1. Calculation of Cost of Production

We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative (SG&A) expenses and packing, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by respondents except where noted below. Based on the review of record evidence, respondents

did not appear to experience significant changes in the cost of manufacturing during the period of investigation. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

Hyosung

We reclassified certain selling, G&A and other non-operating income and expense items that appeared not to be properly classified by Hyosung and revised Hyosung's calculation of the G&A expense ratio. For additional details, *see* Memorandum to Neal M. Halper from Sheikh M. Hannan titled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Hyosung Corporation" dated February 9, 2012 (Hyosung Preliminary Cost Calculation Memorandum).

Hyundai

We excluded unconsolidated foreign exchange gains and losses from Hyundai's G&A expenses and included the corresponding consolidated gains and losses in the calculation of the financial expense ratio according to our normal practice. We disallowed the offset to Hyundai's G&A expense for certain miscellaneous income items. For additional details, *see* Memorandum to Neal M. Halper from Ernest Z. Gziryan titled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination - Hyundai Heavy Industries Co., Ltd. and Hyundai Corporation, USA" dated February 9, 2012 (Hyundai Preliminary Cost Calculation Memorandum).

2. Test of Comparison Market Prices

With respect to Hyosung, on a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, in order to determine whether the sale prices were below the COP. For

purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices were net of billing adjustments, movement charges, discounts, direct and indirect selling expenses and packing expenses, where appropriate. *See* Hyosung Preliminary Analysis Memorandum.

3. Results of COP Test

Section 773(b)(1) provides that where sales made at less than the COP "have been made within an extended period of time in substantial quantities" and "were not at prices which permit recovery of all costs within a reasonable period of time" the Department may disregard such sales when calculating NV. Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in "substantial quantities," *i.e.,* where less than 20 percent of sales of a given product were at prices less than the COP. We disregarded below-cost sales when they were made in substantial quantities, *i.e.,* where 20 percent or more of a respondent's sales of a given product were at prices less than the COP and where "the weighted average per unit price of the sales . . . is less than the weighted average per unit cost of production for such sales." *See* section 773(b)(2)(C)(ii) of the Act. Finally, based on our comparison of prices to the weighted-average COPs for the POR, we considered whether the prices would permit the recovery of all costs within a reasonable period of time. *See* section 773(b)(2)(D) of the Act.

Therefore, for Hyosung, 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* Hyosung Preliminary Analysis Memorandum.

E. Calculation of Normal Value Based on Comparison-Market Prices

We calculated NV for Hyundai and Hyosung based on the reported packed, ex-factory or delivered prices to comparison market customers. We made deductions from the starting price,

where appropriate, for billing adjustments, early payment and certain other discounts, other revenues received, inland freight and insurance, and warehousing expenses, pursuant to section 773(a)(6)(B)(ii) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made, where appropriate, circumstance-of-sale adjustments (*i.e.*, bank charges for Hyosung). We added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. Finally, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses incurred on the home market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign-like product and subject merchandise. *See* 19 CFR 351.411(b).

F. Price-to-CV Comparison

Where we were unable to find a home market match of such or similar merchandise, in accordance with section 773(a)(4) of the Act, we based NV on CV. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

G. Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Hyundai's and Hyosung's respective material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the COP component of CV as described above in the "Cost of

Production Analysis" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondents in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act and 19 CFR 351.415(a) based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information relied upon in making our final determination for Hyundai and Hyosung.

Preliminary Determination

The weighted-average dumping margins are as follows:

Manufacturer/Exporter	Weighted-Average Margin (percent)
Hyundai Heavy Industries Co., Ltd.	21.79
Hyosung Corporation	38.07
All-Others	29.93

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct CBP to suspend liquidation of all entries of large power transformers from Korea that are entered, or withdrawn

from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. We will also instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margins, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

All Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated "All Others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Hyundai and Hyosung are the only respondents in this investigation for which the Department has calculated a company-specific rate that is not zero or *de minimis*. Therefore, for purposes of determining the "all others" rate and pursuant to section 735(c)(5)(A) of the Act, we are using the simple average of the dumping margins calculated for Hyundai and Hyosung for the "all others" rate, as referenced in the "Suspension of Liquidation" section, above. *See Seamless Refined Copper Pipe and Tube From Mexico: Final Determination of Sales at Less Than Fair Value*, 75 FR 60723, 60724 (October 1, 2010) (using a simple average to determine the "All Others" rate when there only two relevant weighted-average dumping margins because use of a weighted average risks disclosure of business proprietary information).[15]

[15] While Hyosung provided ranged data of their quantities and values in its public version, Hyundai provided indexed data and thus the Department cannot disclose a weighted-average dumping margin for the all other's rate.

Disclosure

The Department will disclose to parties the calculations performed in connection with this preliminary determination within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters, who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On December 22, 2011, and January 5, 2012, Hyosung and Hyundai, respectively, requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (135 days after publication of the preliminary determination) and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a six-month period. In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting producers/exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the *Federal Register*.

Suspension of liquidation will be extended accordingly. We are also granting the request to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period.

USITC Notification

In accordance with section 733(f) of the Act, we have notified the USITC of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the USITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of large power transformers from Korea are materially injuring, or threatening material injury to, the U.S. industry. *See* section 735(b)(2) of the Act. Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, the USITC will make its final determination no later than 45 days after our final determination.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and 19 CFR 351.309(d)(2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Interested parties, who wish to comment on the preliminary determination must file briefs electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System

("IA ACCESS"). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time.

In accordance with section 774(1) of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. *See also* 19 CFR 351.310. Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using IA ACCESS, as noted above. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

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Paul Piquado
Assistant Secretary
for Import Administration

__February 9, 2012_____
Date

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