Public Version

UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN OIL COUNTRY TUBULAR GOODS FROM KOREA

(WT/DS488)

RESPONSES OF THE UNITED STATES OF AMERICA TO THE PANEL'S QUESTIONS FOLLOWING THE SECOND SUBSTANTIVE MEETING OF THE PANEL WITH THE PARTIES

November 22, 2016

TABLE OF EXHIBITS

EXHIBIT NUMBER	FULL CITATION
USA-44	U.S. Regulations (19 C.F.R. §§ 351.104, 351.225(k), 351.301, 351.309) and Statute (19 U.S.C. § 1516a(b)(2)(A)(i))
USA-45	Petition, Part III
USA-46	NEXTEEL Supplemental Section D Questionnaire response, including NEXTEEL and POSCO [[ ]] (**BCI**)
USA-47	USDOC, Definition of Factual Information and Time Limits for Submission of Factual Information

TABLE OF REPORTS

Short Title	Full Case Title and Citation
China – Raw Materials (AB)	Appellate Body Reports, *China – Measures Related to the Exportation of Various Raw Materials*, WT/DS394/AB/R / WT/DS395/AB/R / WT/DS398/AB/R, adopted 22 February 2012
EC – Approval and Marketing of Biotech Products	Panel Reports, *European Communities – Measures Affecting the Approval and Marketing of Biotech Products*, WT/DS291/R / WT/DS292/R / WT/DS293/R / Add.1 to Add.9 and Corr.1, adopted 21 November 2006
EC – Fasteners (AB)	Appellate Body Report, *European Communities – Definitive Anti- Dumping Measures on Certain Iron or Steel Fasteners from China*, WT/DS397/AB/R, adopted 28 July 2011
EC – Selected Customs Matters (AB)	Appellate Body Report, *European Communities – Selected Customs Matters*, WT/DS315/AB/R, adopted 11 December 2006
EC – Tube or Pipe Fittings (AB)	Appellate Body Report, *European Communities – Anti-Dumping Duties on Malleable Cast Iron Tube or Pipe Fittings from Brazil*, WT/DS219/AB/R, adopted 18 August 2003
EU – Biodiesel (Panel)	Panel Report, *European Union – Anti-Dumping Measures on Biodiesel from Argentina*, WT/DS473/R and Add.1, adopted 26 October 2016, as modified by Appellate Body Report WT/DS473/AB/R
EU – Biodiesel (AB)	Appellate Body Report, *European Union – Anti-Dumping Measures on Biodiesel from Argentina*, WT/DS473/AB/R and Add.1, adopted 26 October 2016
Guatemala – Cement I (AB)	Appellate Body Report, *Guatemala – Anti-Dumping Investigation Regarding Portland Cement from Mexico*, WT/DS60/AB/R, adopted 25 November 1998
US – Carbon Steel (AB)	Appellate Body Report, *United States – Countervailing Duties on Certain Corrosion-Resistant Carbon Steel Flat Products from Germany*, WT/DS213/AB/R and Corr.1, adopted 19 December 2002
US – Countervailing and Anti-Dumping Measures (Panel)	Panel Report, *United States – Countervailing and Anti-Dumping Measures on Certain Products from China*, WT/DS449/R and Add.1, adopted 22 July 2014, as modified by Appellate Body Report WT/DS449/AB/R

USDOC'S REMAND DETERMINATION

Question 40. The Panel understands from paragraphs 179 and 181 of Korea's second written submission, as well as paragraph 88 of its opening statement at the second substantive meeting, that Korea challenges only the following aspects of the USDOC's remand determination dated 22 February 2016:

a. The USDOC's alleged refusal to use actual data pertaining to the sales of the like product in the ordinary course of trade, contrary to the chapeau of Article 2.2.2 of the Anti-Dumping Agreement;

b. The USDOC's reliance on an allegedly impermissibly narrow definition of the "same general category of products", contrary to Articles 2.2.2 (i) and (iii) of the Anti-Dumping Agreement;

c. The USDOC's calculation of a profit cap based on the average of the profit rates in the 2012 financial statement of Tenaris and the profit rates of another Russian producer/exporter of OCTG, OAO TMK, contrary to Article 2.2.2 (iii) of the Anti-Dumping Agreement; and

d. The USDOC acted inconsistently with Article 2.4 of the Anti-Dumping Agreement because instead of rejecting Tenaris's financial data or accounting for the differences between Tenaris and the Korean respondents, the USDOC averaged Tenaris's profit rate with that of another foreign producer that suffered from the same flaws as Tenaris.

To the United States: Does the United States object to the requests set out in paragraphs a-d above?

1. The United States objects to Korea's requests with respect to USDOC's Final Redetermination Pursuant to Court Remand ("redetermination") as set out in Question 40, paragraphs a-d. As explained below, USDOC's redetermination did not exist at the time the Panel was established. Pursuant to Articles 6 and 7 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes* ("DSU"), USDOC's redetermination is not a measure before the Panel and any claims in respect of the redetermination fall outside the Panel's terms of reference.

2. A panel's terms of reference are set out in DSU Articles 7.1 and 6.2. Specifically, when the Dispute Settlement Body ("DSB") establishes a panel, the panel's terms of reference under Article 7.1 are (unless otherwise decided) "[t]o examine . . . the matter referred to the DSB" by the complainant in its panel request. Under DSU Article 6.2, the "matter" to be examined by the DSB consists of "the specific measures at issue" and "brief summary of the legal basis of the complaint."[1] As the Appellate Body recognized in *EC – Chicken Cuts*, "[t]he term 'specific measures at issue' in Article 6.2 suggests that, as a general rule, the measures included in a

[1] *See US – Carbon Steel (AB)*, para. 125; *Guatemala – Cement I (AB)*, para. 72.

panel's terms of reference must be measures that are in existence at the time of the establishment of the panel."[2]

3. In *EC – Selected Customs Matters*, the panel and Appellate Body were presented with the precise question of what legal situation a panel is called upon, under DSU Article 7.1, to examine. The panel and Appellate Body both concluded that, under the DSU, the task of a panel is to determine whether the measures at issue are consistent with the relevant obligations "*at the time of establishment of the Panel.*"[3] It is thus the challenged measures, as they existed at the time of the Panel's establishment, when the "matter" was referred to the Panel, that are properly within the Panel's terms of reference and on which the Panel should make findings.

4. The measures that are within the Panel's terms of reference are those that were set out in the Korea's panel request, as they existed at the time of the Panel's establishment. USDOC's redetermination, issued on February 22, 2016, was not the subject of consultations and did not exist at the time the Panel was established. USDOC's redetermination thus is not a measure before the Panel and any claims in respect of the redetermination fall outside the Panel's terms of reference.

5. Korea's claims regarding the redetermination relate to a measure that not only came into effect after the establishment of the panel but also involves substantively different conduct on the part of USDOC than in the determination within the Panel's terms of reference. For example, in its panel request, Korea claimed that USDOC's determination to decline to examine whether the profit rate it calculated exceeded the profit cap was inconsistent with Article 2.2.2(iii).[4] The claim now raised by Korea under paragraph (c) of the Panel's question regarding USDOC's redetermination relates to substantively different conduct on the part of USDOC in a later measure – the calculation and application of a profit cap from two OCTG producers (Tenaris and OAO TMK). Similarly, Korea claimed in its panel request that USDOC's determination regarding alleged differences between Tenaris and the Korean respondents was inconsistent with Article 2.4.[5] The claim now raised by Korea under paragraph (d) of the Panel's question regarding USDOC's redetermination relates to substantively different conduct – the averaging of Tenaris's profit data with another OCTG producer. Thus, not only was the redetermination not in existence at the time of the panel's establishment, but the conduct complained of is substantively different from the conduct in the determination that is within the Panel's terms of reference. The Panel therefore should reject Korea's claims regarding the 2016 redetermination as outside its terms of reference.

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[2] *EC – Chicken Cuts (AB)*, para. 156.

[3] *See, e.g.*, *EC – Selected Customs Matters (AB)*, para. 187 (finding that the panel's review of the consistency of the challenged measure with the covered agreements properly should "have focused on these legal instruments as they existed and were administered at the time of establishment of the Panel"); *see also China – Raw Materials (AB)*, para. 264; *EC – Approval and Marketing of Biotech Products*, para. 7.456.

[4] Korea Panel Request, Section II, para. 4 (Feb. 23, 2015).

[5] Korea Panel Request, Section II, para. 6 (Feb. 23, 2015).

6. Korea also failed to invoke USDOC's redetermination in this dispute in a timely manner, prejudicing the U.S. ability to respond to Korea's claims regarding the redetermination. According to the Panel's Working Procedures, "[b]efore the first substantive meeting of the Panel with the parties, each party shall submit a written submission in which it presents the facts of the case and its arguments . . . ."[6] Korea mentioned the redetermination in its opening statement *at* the first substantive meeting of the Panel, *not* before it, and just briefly as "Factual Background."[7] Korea did not argue in its opening statement that it wanted the Panel to consider the redetermination as part of this dispute,[8] but rather waited until its closing statement to make this request, and even then, its two-sentence request failed to argue with specificity why the Panel should consider the redetermination as part of this dispute.[9]

7. Korea could, as required by the Panel's Working Procedures, have presented before the first substantive meeting the facts of the case and its arguments with respect to USDOC's redetermination. USDOC issued its redetermination on February 22, 2016. The first substantive meeting of the Panel began on July 20, 2016. Thus if Korea considered these issues to be within the Panel's terms of reference, it had five months to present the facts of the case and its arguments with respect to USDOC's redetermination before the first substantive meeting. Korea, however, waited until its second written submission to argue that USDOC's redetermination should be considered as part of this dispute.[10] By failing to put forward its position at the first opportunity (i.e., before the first substantive meeting), Korea has left the United States in the untenable position of trying to respond to cryptic claims about the redetermination following the second substantive meeting. The Working Procedures are designed to ensure a fair and orderly conduct of this dispute settlement proceeding. Thus, in addition to being outside the Panel's terms of reference, Korea's failure to present before the first substantive meeting its claims and arguments with respect to USDOC's redetermination violated those procedures and denied the United States an adequate opportunity to respond.

THE CHAPEAU OF ARTICLE 2.2.2 OF THE ANTI-DUMPING AGREEMENT

Question 43. To the United States. The Panel understands the United States to argue that the USDOC could not have based its profit determination on "actual data pertaining to production and sales in the ordinary course of trade of the like product by the exporter or producer under investigation" because the Korean respondents HYSCO and NEXTEEL made no sales of the like product in the Korean domestic market.[11] Hence, the USDOC

[6] Working Procedures of the Panel (adopted on 30 October 2015).

[7] Korea Opening Statement at the First Panel Meeting, Section II: Factual Background, para. 18. Korea otherwise never mentioned the redetermination in its responses to Panel questions, even though the Panel specifically asked Korea to comment on claims under Article 2.2.2. *See* Korea Responses to Panel Questions Following the First Panel Meeting, paras. 20-70.

[8] Korea Opening Statement at the First Panel Meeting, Section II: Factual Background, para. 18.

[9] Korea Closing Statement at the First Panel Meeting, para. 10.

[10] Korea Second Written Submission ("SWS"), paras. 179-184.

[11] *See, e.g.*, U.S. First Written Submission ("FWS"), para. 89.

could not have determined CV profit using the preferred method in the chapeau of Article 2.2.2.

Please point to the relevant parts of the record where the USDOC attributed its inability to determine CV profit using the preferred method in the chapeau of Article 2.2.2 to the absence of actual data pertaining to HYSCO and NEXTEEL's sales of the foreign like product in the domestic market during the POI.

8. The United States would first like to reiterate that Korea has failed to establish that USDOC acted inconsistently with the chapeau of Article 2.2.2 when it determined that CV profit, absent a viable domestic market, could not be calculated based on the preferred method.[12] Article 2.2.2 begins with the introductory phrase "[f]or the purpose of paragraph 2." According to recent guidance provided by the Appellate Body, this introductory phrase compels that Article 2.2.2 be read in tandem with Article 2.2.[13] Article 2.2 stipulates that a low volume of sales in the domestic market of the exporting country do not permit a proper comparison.[14] Therefore, when an investigating authority determines under Article 2.2 to construct normal value because sales in the domestic market are *not* viable, Article 2.2.2 does not require the use of data from such sales for the calculation of constructed value.

9. USDOC's determination that it could not calculate CV profit based on the preferred method outlined in the chapeau of Article 2.2.2 initially appeared in the preliminary determination. There, USDOC determined that, "[i]n the absence of a comparison market we are unable to use our 'preferred method' for calculating CV profit, and must instead rely on one of the three alternatives outlined in sections 773(e)(2)(B)(i) through (iii) of the Act [(i.e., the alternatives that appear in Article 2.2.2, subparagraphs (i)-(iii)]."[15] Neither the Korean respondents, nor any other interested party, argued in a case brief that USDOC should reconsider its preliminary determination and base CV profit on the preferred method.[16] As a result, USDOC's preliminary determination to calculate CV profit based on an alternative method became its final determination for purposes of the Korea OCTG investigation.

10. We also note that Korea has repeatedly referenced a statement by the Appellate Body in *EC – Tube or Pipe Fittings*[17] for the proposition that Article 2.2.2 imposes an obligation to use actual data pertaining to production and sales in the ordinary course of trade when determining CV profit. As noted above, since that finding, the Appellate Body in *EU – Biodiesel (AB)* has

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[12] U.S. FWS, paras. 72-86.

[13] *EU – Biodiesel (AB)*, para. 6.23 (finding that the introductory phrase "[f]or the purpose of paragraph 2" impacted the interpretation of Article 2.2.1.1 such that Article 2.2.1.1 must be interpreted in a manner consistent with Article 2.2).

[14] Article 2.2, AD Agreement.

[15] Preliminary Decision Memo, p. 21 (Exhibit KOR-05).

[16] *See* Final Decision Memo, pp. 3-14 (Exhibit KOR-21) (summarizing arguments made by the Korean respondents and other interested parties regarding the calculation of CV profit).

[17] *E.g.*, Korea FWS, paras. 72-76 (citing *EC – Tube or Pipe Fittings (AB)*, paras. 97-98 and 101).

provided more pertinent guidance about the interpretation of the relationship between Articles 2.2 and 2.2.2.[18] In this regard, the United States has demonstrated that, if Article 2.2.2 were interpreted as Korea suggests, it would obligate an investigating authority to collect data regarding home and third-country sales for purposes of Article 2.2.2 that it determined should *not* be collected under Article 2.2.[19] Such an interpretation is not workable in practice, is not consistent with the recent guidance set out in *EU – Biodiesel (AB)*, and should be rejected by the Panel as not consistent with the text and context of Article 2.2 as a whole.

Question 44. To the United States. In paragraph 50 of its written response to the Panel's questions at the first substantive meeting, Korea asserts that the USDOC made no determination that HYSCO and NEXTEEL's sales of the like product in the domestic market were not in the ordinary course of trade. Assuming that the United States does not agree with this assertion by Korea, please refer to the relevant part of the record where this determination was made by the USDOC.

11. Korea's assertion is based on an inaccurate premise. HYSCO and NEXTEEL *did not sell* the like product in Korea during the period of investigation.[20] Given that fact, it is erroneous for Korea to assert that USDOC could have made the determination in question. No investigating authority can make a determination about whether sales of the like product in the domestic market were in ordinary course of trade *if no such sales exist*.

12. The United States further disagrees with the legal basis of Korea's assertion. As explained in previous submissions and at the substantive meetings of this Panel, when an investigating authority determines pursuant to Article 2.2 that the low volume of the sales in the domestic market do not permit a proper comparison, the investigating authority is not required to collect data about such sales.[21]

Question 45. To the United States. Noting that the chapeau of Article 2.2.2 stipulates that the amount for "profits" shall be based on actual data pertaining to production and sales in the ordinary course of trade of the like product by the exporter or producer under investigation, the United States contends that if the exporter or producer under investigation makes a loss rather than a profit, an investigating authority is not required to use that loss amount to construct the normal value. Please point to the relevant parts of the

[18] *EU – Biodiesel (AB)*, para. 6.23.

[19] U.S. Oral Statement at the Second Panel Meeting, paras. 18-23. Also, as noted in the U.S. First Written Submission, the Appellate Body's statement in *EC – Tube or Pipe Fittings* about the "use" of actual data was not necessary to the resolution of the question before it on appeal, and its brief discussion of Article 2.2.2 failed to address the phrase "shall be based on," which limits the utility of its statement about the meaning of Article 2.2.2 to this dispute. U.S. FWS, paras. 84-85.

[20] U.S. Responses to Panel Questions Following the First Panel Meeting, paras. 9-10, 21-24, 26-28; U.S. Oral Statement at the Second Panel Meeting, paras. 25-29.

[21] *E.g.*, U.S. Oral Statement at the Second Panel Meeting, paras. 11-23.

record where the USDOC made a determination that it could not use the Korean respondents' actual data because their profit rate was [[ ]] rather than [[ ]].

13. Korea has failed to establish that USDOC acted inconsistently with the chapeau of Article 2.2.2 when it determined that CV profit, absent a viable domestic market, could not be calculated based on the preferred method.[22] For this reason, USDOC was not required to determine whether it should use data that Korea alleges is actual data pertaining to production and sales in the ordinary course of trade of the like product by the Korean respondents, because the data have been deemed under Article 2.2 as inappropriate for the calculation of normal value.

14. In addition, as the United States has demonstrated, the term "profit" is defined as a financial "gain."[23] A [[ ]] profit rate is not a profit, it is a [[ ]]. And since, as the Panel notes in its question, "the chapeau of Article 2.2.2 stipulates that the *amount for 'profits'* shall be based on actual data pertaining to production and sales in the ordinary course of trade of the like product by the exporter or producer under investigation,"[24] the chapeau of Article 2.2.2 does not obligate consideration of a factor that is not ipso facto a profit.[25]

Question 46. <u>To the United States</u>. The Panel refers to paragraph 26 of the United States' opening statement at the second substantive meeting. Is it the United States' position that, if a respondent designates its product as something other than the like product, regardless of whether it factually falls within the description of the like product established by the investigating authority, an investigating authority is limited to the respondent party's designation of the product at the time of sale?

15. An investigating authority is not bound by a respondent's designation of the product as something other than the like product. For example, in the Korea OCTG investigation, USDOC asked the Korean respondents to provide a complete list of all products sold during the period of investigation and explain how they segregated the like product subject to the scope of the investigation for all other products it produces.[26] USDOC then thoroughly examined all facets of the Korean respondent's "like product" designation to ensure that they had properly accounted for all products included within the scope of the investigation and has properly reported all product characteristics.[27]

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[22] U.S. FWS, paras. 72-86.

[23] U.S. Responses to Panel Questions Following the First Panel Meeting, paras. 51-57; U.S. SWS, paras. 17-19.

[24] Emphasis added.

[25] *See* NEXTEEL Cost Verification Exhibit, p. 31 (Exhibit USA-29) (**BCI)** (finding that all of NEXTEEL's sales in Korea, including sales of so-called non-prime OCTG, were made at a [[ ]]); U.S. Responses to Panel Questions Following the First Panel Meeting, paras. 37-39 (citing Exhibit KOR-27, Ex. CV-15, pp. 16-17 (**BCI**), which demonstrate that both NEXTEEL and HYSCO sold so-called non-prime OCTG in Korea at a [[ ]]).

[26] *See* Verification of the Sales Response of NEXTEEL, p. 14 (Exhibit USA-09).

[27] *E.g.* Verification of the Sales Response of NEXTEEL, pp. 15-21 (Exhibit USA-09).

Referring to paragraph 29 of that statement, could the United States please indicate where in the description of the like product (or the scope of the investigation) is the designation of products as OCTG set out as a relevant descriptive element?

16. As the Panel notes in Question 49, USDOC's description of the like product is co-extensive with its definition of the scope of the investigation. This definition appeared in numerous documents throughout the Korea OCTG investigation, including USDOC's notice of initiation,[28] preliminary decision memorandum,[29] preliminary determination,[30] and final determination.[31] A detailed description of the product subject to the Korea OCTG investigation also is set forth in USDOC's questionnaire, which required the Korean respondents to report each OCTG product according to 10 physical characteristics (welding, type, grade, coupling, upset end, threading, nominal outside diameter, length, heat treatment, and nominal wall thickness) so that USDOC could match the subject merchandise sold in the United States to the foreign like product.[32]

ARTICLES 2.2.2(i) AND (iii) OF THE ANTI-DUMPING AGREEMENT

Question 49. To the United States. On page 19 of its final determination, the USDOC defined the same general category of products by reference to the functionality of the like product. In particular, the USDOC stated that:

> While we do not consider line pipe and standard pipe to be in the same general category of products as OCTG, we do find that the general category of products that encompass the subject casing and tubing would not be limited to just the foreign like product. Rather it would include other tubular products that go into the exploration and production of oil and gas. **These would be products that would exhibit the same fundamental characteristics for downhole applications**, and they would include subject OCTG, non-scope OCTG such as stainless steel tubular products, and drill pipes.

The Panel understands from the United States' statement, in footnote 55 to paragraph 28 of its second written submission, that the scope of the underlying investigation was co-extensive with the foreign like product. In light of that statement, could the United States please explain on what basis it contends that the foreign like product must exhibit

[28] Initiation Notice, p. 45512 (Exhibit KOR-02). USDOC in its initiation notice invited interested parties to raise issues about the products covered by the Korea OCTG investigation (Initiation Notice, p. 45506 (Exhibit KOR-02)) and addressed issues raised by the interested parties about the products covered by the Korea OCTG investigation as part of its determination (Preliminary Decision Memo, pp. 9-10 (Exhibit KOR-07)).

[29] Preliminary Decision Memo, pp. 8-9 (Exhibit KOR-05).

[30] Preliminary Determination FR, p. 10482 (Exhibit KOR-07).

[31] Final Determination FR, p. 41985 (Exhibit KOR-24).

[32] Preliminary Decision Memo, pp. 10-11 (Exhibit KOR-07).

characteristics for downhole applications when the scope of the underlying investigation itself made no mention of these characteristics?

17. When examining whether a particular product falls within the scope of an antidumping duty order, USDOC examines the scope language of the order at issue and the description of the product contained in the petition, the initial investigation, and the determinations of USDOC and the U.S. International Trade Commission.[33]

18. The petition filed by the U.S. OCTG industry that led USDOC to initiate the Korea OCTG investigation defined OCTG as "either carbon or alloy tubular steel products used in oil and gas wells and include both casing and tubing"[34] and indicated that "most of the OCTG covered by this investigation falls into two major categories: casing and tubing."[35]

19. The petition defined OCTG casing as "a circular pipe that serves as the structural retainer for the walls of the well . . . used in the drill hole to provide a firm foundation for a drill string by supporting the walls of the hole to prevent caving while drilling is taken place and after the well is completed."[36] "Casing must be sufficiently strong to carry its own weight and to resist both external pressure and pressure within the well . . . [and] several sizes of casing may be set inside the well after it has been drilled, with the larger sizes set at the top of the well and the smaller sizes set toward the bottom."[37]

20. The petition defined OCTG tubing as "typically as smaller-diameter pipe (between 1.05 to 4.5 inches in O.D.) installed inside a larger-diameter casing that is used to conduct the oil or gas from the subsurface strata to the surface either through natural flow of through pumping."[38] The petition explained that "substances (such as lubricant) are also pumped into the well through the tubing for well treatment . . . [and that] tubing must be strong enough to support its own weight, that of the oil or gas, and that of any pumping equipment suspended on the string."[39]

21. The petition further indicated that "because OCTG is used in demanding down-hole applications in both vertical and horizontal drilling applications, the hot-rolled coil used to produce welded OCTG must be able to withstand torsional forces and high pressure gradients."[40] Accordingly, "only certain grades of hot-rolled coil may be used to produce welded OCTG, and

[33] *See* 19 CFR § 351.225(k)(1) (Exhibit USA-44).

[34] Petition, Part I, p. 8 (Exhibit USA-01).

[35] Petition, Part I, p. 9 (Exhibit USA-01); Amendment to the Petition, Exhibit I-56 (Exhibit USA-02).

[36] Petition, Part I, p. 9 (Exhibit USA-01).

[37] Petition, Part I, p. 10 (Exhibit USA-01).

[38] Petition, Part I, p. 10 (Exhibit USA-01).

[39] Petition, Part I, p. 10 (Exhibit USA-01).

[40] Petition, Part III, p. 4 and Attachment W (Exhibit USA-45).

each of these grades has specific chemistries and performance characteristics, which are set forth in relevant API 5CT standards."[41]

22. Therefore, based on the written descriptions included in the U.S. OCTG industry's petition in particular, USDOC appropriately determined that the foreign like product as well as the same general category of products in the investigation should exhibit characteristics for down-hole applications.

Question 50. To the United States. In paragraph 29 of its second written submission, the United States asserts that the Korean respondents did not sell "pipe products" in the Korean market as OCTG, and hence, the USDOC excluded these pipe products from its definition of the "same general category of products". Please point to the relevant parts of the record which show that this determination was made by the USDOC.

23. We direct the Panel to pages 16-19 of USDOC's Final Decision Memorandum, which describes in detail USDOC's reasoned and adequate explanation for its determination that the downgraded pipe products that the Korean respondents sold in Korea should be excluded from its definition of the "same general category of products."

24. Specifically, HYSCO confirmed in its responses to questions that all the products it sold in Korea that it had listed in its records as "OCTG" were not OCTG pipe products, but downgraded pipe products that were "not marketed to the customer as OCTG" but sold "for structural purposes."[42] NEXTEEL similarly confirmed in its responses to questions that all the products it sold in Korea that it had listed in its records as "OCTG" were not OCTG pipe products, but downgraded pipe products that "were sold to customers as standard pipes."[43] Indeed, at verification, USDOC asked NEXTEEL if "it considered the concept of 'non-prime OCTG' to be a meaningful one,"[44] and the company answered that it did not:

> The company stated that it was *attempting* to produce some pipes to a specific API 5CT grade, but the resulting product did not meet all of the requirements for the specification (including those of the grade in question), [and thus] the product would very likely not meet the requirements of the specification such that it could be classified under one of the other API 5CT grades. Therefore, the company noted, *it would routinely downgrade such pipe*, and typically would sell it as standard pipe. The company clarified that it initially used the term "standard pipe" to apply to a limited number of products, such as water pipe and some

[41] Petition, Part III, p. 4 and Attachment W (Exhibit USA-45).

[42] HYSCO Sales Verification Report, p. 25 (Exhibit USA-08); *see* U.S. Responses to Panel Questions Following the First Panel Meeting, para. 23.

[43] NEXTEEL Sales Verification Report, pp. 20-21 (Exhibit USA-09); *see* U.S. Responses to Panel Questions Following the First Panel Meeting, para. 24.

[44] NEXTEEL Sales Verification Report, p. 16 (Exhibit USA-09).

structural pipes, but it now uses the term more loosely to mean pipes other than OCTG or line pipe.[45]

25. USDOC stated at page 16 of its final determination that, "[i]n weighing the available information and determining which source to use under both alternative (i) and (iii), we first determined which products fit within 'the same general category of products as the subject merchandise.' . . . In this regard, we considered whether subject merchandise and other pipe products such as line pipe, structural pipe, standard pipe, and *downgraded pipe* are similar enough to OCTG to be considered within the same general category of products."[46]

26. USDOC then stated at page 17 of its final determination that, with respect to this determination regarding which products fit within the same general category of products, it considered "[d]ifferences between the physical characteristics of products, differences in production processes, quality, testing and certification requirements, how the products will be used, and the market conditions associated with the industries and customers who purchase and use the different products. . . . [A]fter careful consideration, we find that line, structural and standard and *downgraded pipe products* are not in the same general category of products as OCTG."[47] Pages 17-19 of its final determination explain in detail how it arrived at this determination. Therefore, the record in this investigation demonstrates that USDOC fully addressed in its final determination why it excluded the downgraded pipe products that the Korean respondents sold in Korea from its definition of the "same general category of products."

Question 52. <u>To the United States</u>. At page 21 of the rebuttal brief filed by the Korean respondent NEXTEEL to the USDOC (Exhibit USA-23), NEXTEEL noted that "limited service OCTG and line pipe are often used in the same applications i.e. transporting oil and gas". Please point to the relevant parts of the USDOC's record where it examined this statement by NEXTEEL, and considered or explained why line pipe was not used in the same applications as OCTG.

27. We direct the Panel to page 17 of USDOC's Final Decision Memorandum, which shows that USDOC considered NEXTEEL's statement that "limited service OCTG and line pipe are often used in the same applications i.e. transporting oil and gas."

28. Specifically, on page 10 of its Final Decision Memorandum, USDOC summarizes HYSCO and NEXTEEL's claim that non-OCTG pipe products should be considered in the same general category of products because, in part, "limited service OCTG and line pipes have the same application and are used in the oil and gas industry for transporting oil and gas."[48] USDOC then addresses this claim on page 17 of its Final Decision Memorandum and concluded that, "even though certain non-OCTG pipe (*i.e.*, line pipe), can be used in the oil and gas industry, line pipe is used to transport oil and gas from the point of production and to distribute to consumers,

[45] NEXTEEL Sales Verification Report, p. 16 (Exhibit USA-09) (emphasis added).

[46] Final Decision Memo, p. 16 (Exhibit KOR-21) (emphasis added).

[47] Final Decision Memo, p. 17 (Exhibit KOR-21) (emphasis added).

[48] Final Decision Memo, p. 10 (Exhibit KOR-21).

while OCTG is used in down hole applications for oil and gas exploration and extraction."[49] USDOC further described the differences between limited service OCTG and line pipes on pages 17-19 of its Final Decision Memorandum. Therefore, the record in this proceeding demonstrates that USDOC fully addressed NEXTEEL's statement about limited service OCTG and line pipe in its final determination and explained why it excluded line pipe from its definition of the "same general category of products."

Question 54. To the United States. At page 53 of its remand determination, the USDOC, referring to its analysis of possible sources for CV profit in its final determination, stated that "we determined it more important to use a source that reflects the high end premium nature of the subject merchandise rather than a source that is specific to Korea". However, Article 2.2 as a whole is concerned with constructing a normal value, that is, a proxy or surrogate for the price of the like product sold in the ordinary course of trade in Korea, and Article 2.2.2 is concerned with the determination of, *inter alia*, the amount of profits to be used in that construction. Could the United States please explain how the USDOC's approach is consistent with this purpose of Article 2.2?

29. As noted in our response to Question 40, USDOC's Final Redetermination Pursuant to Court Remand is outside the terms of reference of this dispute pursuant to DSU Articles 6 and 7. Korea has failed to demonstrate that its claims regarding USDOC's redetermination relate to the challenged measures as they existed at the time of the Panel's establishment. The Panel thus should deny Korea's request to expand this dispute to include late claims raised by Korea in its Second Written Submission regarding USDOC's redetermination.

30. As explained in the U.S. Second Written Submission, Article 2.2.2 contemplates that there may *not* exist information in the record of an investigation that would allow an investigating authority to base CV profit on profits associated with sales in the domestic market of the exporting country and provides an alternative method on which to base CV profit when this situation occurs. If actual domestic market data does not exist for the purposes of the chapeau of Article 2.2.2, subparagraphs (i) and (ii) of Article 2.2.2 provide for two alternatives that draw on broader domestic market data sets. Subparagraph (iii) of Article 2.2.2 provides for a third alternative that is broader still – "any other reasonable method" – and "[t]his context, together with absence of any additional guidance in Article 2.2.2(iii) on what the "method" chosen should entail in terms of either the source or scope of the data or procedures, suggests . . . a broad and non-prescriptive understanding of the term."[50]

31. It is not uncommon to find a situation in which products are manufactured just for export.[51] In such a situation, it makes sense, both legally and factually under Article 2.2.2(iii), for an investigating authority to be able to calculate CV profit based on "any other reasonable

[49] Final Decision Memo, p. 17 (Exhibit KOR-21) (footnote omitted).

[50] *EU – Biodiesel (Panel)*, para. 7.333.

[51] Indeed, the information in the record of this investigation indicates that the Korean respondents did not sell OCTG in Korea during the period of investigation. U.S. Responses to Panel Questions Following First Meeting, paras. 9-10, 21-24, 26-28; U.S. Oral Statement at the Second Panel Meeting, paras. 25-29

method." Therefore, if an investigating authority selects pursuant to Article 2.2.2(iii) a CV profit margin that is based on a reasoned consideration of the evidence before it, rationally directed at approximating what the profit of a producer of the like product would have been if the like product had been sold in the ordinary course of trade in the domestic market of the exporting country – as USDOC did here – the use of such a profit margin by an investigating authority is consistent with the obligations set out in Article 2.2.2.

Question 55. To the United States. Could the United States please indicate whether there is information in the record regarding:

a. The percentage of Tenaris's sales that were of OCTG?

b. The percentage of Tenaris's sales that were of the same type of OCTG as that sold by the Korean exporters?

c. The percentage of Tenaris's sales of OCTG, or of products in the same general category of products as OCTG that was made in Korea?

d. What percentage of Tenaris's actual profits was realised on sales in Korea, and what percentage of those profits was realized on sales of OCTG?

32. The exact percentage of Tenaris's sales that were OCTG does not appear in the Tenaris financial statement, but the financial statement does indicate that the percentage of such sales are high given that "[d]emand for our products and services from the global oil and gas industry, particularly for tubular products and services used in drilling operations, represents a substantial majority of our total sales."[52]

33. The exact percentage of Tenaris's sales that were of the same type of OCTG as that sold by the Korean respondents, or of products in the same general category of products as OCTG made in Korea, also does not appear in the Tenaris financial statement, but the Tenaris financial statement indicates that Tenaris has likely sold the same models of OCTG as Korean respondents given that Tenaris offers "a comprehensive range of products," "a full product range," and manufactures its products "in a wide range of specifications."[53]

34. The exact percentage of Tenaris's actual profits realized on sales in Korea does not appear in the Tenaris financial statement, but the statement does indicate that Tenaris maintains commercial offices in Seoul, Korea.[54]

Question 56. To the United States. In paragraph 42 of its opening statement at the second substantive meeting, the United States comments on the meaning of "normally" in Article 2.2.2(iii). However, from its presentation, it appears that the United States is reading the

[52] U.S. Steel Submission, Exhibit P, p. 19 (Exhibit KOR-19).

[53] U.S. Steel Submission, Exhibit P, pp. 10-11 (Exhibit KOR-19).

[54] U.S. Steel Submission, Exhibit P, p. 8 (Exhibit KOR-19).

provision as follows: "any other reasonable method, provided that the amount for profit so established shall not normally exceed the profit realized by other exporters or producers…"

Could the United States please explain how its reading of the provision as indicated above relates to the text of the provision, which states "provided that the amount for profit so established shall not exceed the profit normally realized by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin."?

35. The United States does not consider that it is reading the profit cap proviso in a manner that has the word "normally" modify the word "exceed."

36. It is the U.S. position that the adverb "normally," by modifying the verb "realized," indicates that the drafters of the proviso recognized that there may be cases in which *no* profits are realized by other exporters or producers on sales of products of the same general category in the domestic market. The most obvious case is when no such other exporters or producers exist in that domestic market, which is precisely the situation present in the Korea OCTG investigation. In this case, if the profits exist (i.e., are realized), the proviso is operative to establish a cap; but if these profits do not exist (i.e., are *not* realized), the proviso is not operative because there is no such "profit normally realized."[55]

ARTICLE 2.4 OF THE ANTI-DUMPING AGREEMENT

Question 59. To the United States. In its opening statement at the second substantive meeting the United States indicates that Korea should have requested and substantiated an adjustment for differences in profit. Bearing in mind that the Korean exporters had asked the USDOC to reject the Tenaris's data because it was not properly on the record, and considering that the USDOC had failed to respond to that request, on what basis does the United States propose that the Korean respondents should have made a specific request for adjustment?

37. As explained in the U.S. response to Questions 71 and 72, a submission is on the record of an antidumping investigation until it is rejected or removed. An objection about the inclusion of a document on the record does not, in and of itself, remove the document.

38. Both HYSCO and NEXTEEL in their case briefs argued that USDOC should not base CV profit on the Tenaris financial statement[56] while they continued to maintain a procedural objection to the inclusion of the statement in the record of the Korea OCTG investigation.[57] Accordingly, HYSCO and NEXTEEL in their case brief could have similarly argued that due allowance should be made under Article 2.4 for differences between the products they sold in the

[55] U.S. Oral Statement at the Second Panel Meeting, paras. 38-44; U.S. FWS, paras. 115.

[56] NEXTEEL Case Brief, pp. 40-51 (Exhibit USA-22); HYSCO Case Brief, pp. 41-53 (Exhibit USA-24).

[57] NEXTEEL Case Brief, pp. 9-18 (Exhibit KOR-41) (**BCI**); HYSCO Case Brief, pp. 8-19 (Exhibit KOR-39) (**BCI**).

U.S. market and products sold by Tenaris while they continued to maintain the same objection to the inclusion of the Tenaris financial statement in the record. They did not do so. Therefore, as indicated in *EC – Fasteners (AB)*, "if it is not demonstrated to the authorities that there is a difference affecting price comparability, there is no obligation to make an adjustment."[58]

ARTICLE 2.3 OF THE ANTI-DUMPING AGREEMENT

Question 62. To the United States. In paragraph 245 of its second written submission, Korea states that the "Customer testified that [[ ]] is not directly or indirectly involved in the negotiation or sale of OCTG Products between NEXTEEL and the Customer".

Did the USDOC examine whether, because of the lack of POSCO's direct or indirect involvement in the negotiation or sale of OCTG products, NEXTEEL's export price remained unaffected by NEXTEEL's alleged association between NEXTEEL and POSCO?

If so, please identify the relevant parts of the USDOC's record where this examination was made.

39. Based on verified record evidence, USDOC found that, contrary to [[ ]] statement, POSCO was so involved in the production and sale of NEXTEEL's OCTG that it had the ability to exercise control over NEXTEEL.[59] In the final USDOC Affiliation Memorandum, the USDOC concluded that "the combination of [POSCO's] involvement on both the production and sales side creates a unique situation where POSCO is operationally in a position to exercise restraint or direction over NEXTEEL in a manner that affects the pricing, production, and sale of OCTG."[60] Thus, USDOC examined the evidence and reached a conclusion on the effect of the relationship between POSCO and NEXTEEL on NEXTEEL's decisions concerning the "pricing, production, and sale of OCTG."

40. The USDOC Affiliation Memorandum laid out the factual findings that led to this conclusion based on positive evidence. Specifically, USDOC found the following:

- POSCO sourced hot-rolled coil accounted for [[ ]] percent of NEXTEEL's total purchases used for OCTG production, and accounted for [[ ]] percent of NEXTEEL's consumption for OCTG production.[61] This is of particular importance because POSCO's hot-rolled coil accounted for [[ ]] percent of NEXTEEL's total cost of manufacturing OCTG.[62] Thus, through the sale of the primary input, POSCO was

[58] *EC – Fasteners (AB)*, para. 488.

[59] USDOC Affiliation Memorandum, p. 3 (Exhibit KOR-43) (**BCI**).

[60] USDOC Affiliation Memorandum, p. 4 (Exhibit KOR-43) (**BCI**).

[61] USDOC Affiliation Memorandum, p. 3 (Exhibit KOR-43) (**BCI**).

[62] USDOC Affiliation Memorandum, p. 3 (Exhibit KOR-43) (**BCI**).

in a position to exercise restraint or control over NEXTEEL's cost of producing OCTG and, in turn, affect the sales price.

- [[ ]] to NEXTEEL for the production of OCTG.[63] Through [[ ]], POSCO was in a position to exercise restraint or control over NEXTEEL's cost of producing OCTG and, in turn, affect the sales price.

- POSCO provided marketing support to NEXTEEL, and POSCO and NEXTEEL shared technology and market information related to OCTG.[64]

- [[ ]].[65]

41. USDOC explained that "being in a position to establish the primary input cost and [[ ]] enables POSCO to influence the cost of inputs and additionally to [[ ]]"[66] Thus, USDOC thoroughly examined POSCO's ability to influence NEXTEEL's pricing, production, and sale of OCTG.

Question 66. <u>To the United States</u>. In its affiliation memorandum, the USDOC stated that "POSCO continues to provide marketing support to NEXTEEL, and POSCO and NEXTEEL share technology and marketing information pertaining to OCTG". The USDOC cited to NEXTEEL's 24 December 2013 supplemental Section D response at Exhibit SD-30 in support of this statement. The Panel understands that this response by NEXTEEL is presented as Exhibit KOR-31.

Please identify the relevant parts of this response made by NEXTEEL which support this statement made by the USDOC.

42. We provide at Exhibit USA-46 the [[ ]] between NEXTEEL and POSCO, which was submitted as Exhibit SD-30 in NEXTEEL's December 24, 2013, supplemental section D questionnaire response. As the Panel's question correctly observes, USDOC cited to this [[ ]] for the factual findings that POSCO provided marketing support to NEXTEEL, and that POSCO and NEXTEEL share technology and marketing information related to OCTG.

43. The following statements in the [[ ]] support USDOC's factual findings:

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[63] USDOC Affiliation Memorandum, p. 3 (Exhibit KOR-43) (**BCI**).

[64] USDOC Affiliation Memorandum, p. 3 (Exhibit KOR-43) (**BCI**).

[65] USDOC Affiliation Memorandum, p. 3 (Exhibit KOR-43) (**BCI**).

[66] USDOC Affiliation Memorandum, p. 4 (Exhibit KOR-43) (**BCI**).

- [[ ]][67]
- [[ ]][68]
- [[ ]][69]
- [[ ]][70]

These statements support USDOC's conclusion that "POSCO continues to provide marketing support to NEXTEEL, and POSCO and NEXTEEL share technology and marketing information pertaining to OCTG."[71]

ARTICLES 6.2 AND 6.4 OF THE ANTI-DUMPING AGREEMENT

Question 70. The Panel understands from the answers given by the United States at the second substantive meeting that USDOC regulations allow for the submission of sur-rebuttal evidence within seven days of the submission of factual evidence submitted to rebut, clarify, or correct evidence submitted in supplemental questionnaire responses.

a. To the United States. Please identify and provide a copy of the US regulation referred to at the second substantive meeting pursuant to which, in the United States' view, the Korean respondents would have been able to submit factual evidence to rebut, clarify, or correct evidence of the Tenaris financial statements within seven days of the submission of those statements by the domestic industry petitioner.

44. The regulation under which NEXTEEL was permitted to submit factual evidence intended to rebut, clarify, or correct the factual information placed on the record by the petitioners is 19 C.F.R. § 351.301(c)(1)(v). A copy of this regulation appears as part of Exhibit USA-44.

[67] NEXTEEL and POSCO [[ ]], p. 1 (Exhibit USA-46) (**BCI**).

[68] NEXTEEL and POSCO [[ ]], p. 1 (Exhibit USA-46) (**BCI**).

[69] NEXTEEL Supplemental Section D Response, p. 24 (Exhibit USA-46) (**BCI**).

[70] NEXTEEL and POSCO [[ ]], p. 2 (Exhibit USA-46) (**BCI**).

[71] USDOC Affiliation Memorandum, p. 3 (Exhibit KOR-43) (**BCI**).

45. Section 351.301(c)(1) sets out the deadlines for the submission of factual information that is submitted in response to USDOC questionnaires. Subsections (i) through (iv) of that regulation pertain to submission of factual information by respondents. Subsection (v) pertains to the submission of factual information intended to rebut, clarify, or correct factual information submitted as part of a respondent's questionnaire response.

46. In the Korea OCTG investigation, U.S. Steel submitted factual information to "rebut, clarify, or correct evidence that was submitted by NEXTEEL in its response to the Third Supplemental Section D Questionnaire."[72] Under such circumstances, pursuant to 19 C.F.R. § 351.301(c)(1)(v), the respondent may submit factual information to rebut, clarify, or correct such factual information within seven days. Therefore, under USDOC's procedures, NEXTEEL could have filed factual information to rebut, clarify, or correct the factual information submitted by U.S. Steel.

47. HYSCO and other Korean respondents also could have filed factual information generally under 19 C.F.R. § 351.301 in response to rebut the factual information submitted by U.S. Steel. When it promulgated the procedures set forth in section 351.301, USDOC indicated that "parties can argue at any point that the record is deficient on a particular issue and urge [USDOC] to request or gather additional information."[73] USDOC also indicated that section 351.301 "does not limit the parties' ability to argue that the record is deficient on a particular issue and urge the Department to request and/or collect additional factual information as to that issue."[74] Therefore, under USDOC's procedures, at any time during the proceeding, HYSCO and the other Korean respondents could have filed factual information in response to the factual information submitted by U.S. Steel.

Question 71. To the United States. At paragraph 68 of its opening statement at the second meeting, the United States asserts that the Korean respondents were informed of the additional Tenaris data at the same time as Commerce, "when the data was placed on the record". However, Korea's arguments are premised on the contention that the Korean respondents were not informed of any decision by Commerce accepting this submission on the record, notwithstanding a specific request that Commerce remove this submission from the record as untimely filed. Is it the United States' position that, notwithstanding US regulations, the US Steel Submission was on the record, and Korean respondents knew or should have known it was on the record, before USDOC's final determination?

48. Yes, it is the U.S. position that the U.S. Steel submission containing the Tenaris financial statement was on the record the moment it was filed. As discussed in response to Question 72, a submission is considered on the record of a USDOC antidumping investigation unless and until it is specifically rejected or removed from the record after being submitted. Indeed, NEXTEEL's

[72] *See* U.S. Steel Submission, p. 1 (Exhibit KOR-19).

[73] *Definition of Factual Information and Time Limits for Submission of Factual Information*, 78 Fed. Reg. 21,246, 21,249 (Exhibit USA-47).

[74] *Definition of Factual Information and Time Limits for Submission of Factual Information*, 78 Fed. Reg. 21,246, 21,249 (Exhibit USA-47).

request that USDOC "remove" this submission from the record, or "reject" it, indicates that it understood that the U.S. Steel submission would remain on the record until USDOC took an affirmative step to remove it.[75] Accordingly, the Korean respondents knew, or should have known, that the U.S. Steel's submission was on the record prior to USDOC's final determination.

Question 72. To the United States. Is it the USDOC's practice that a submission is presumptively on the record unless it is specifically rejected or removed from the record after being submitted? Does the USDOC notify parties of the acceptance of information or submissions on the record? If not, could the United States please explain why this was done in the Turkish investigation with respect to the Tenaris data?

49. USDOC's regulations provide that "the official record [will include] all factual information, written argument, or other material developed by, presented to, or obtained by the [USDOC] during the course of a proceeding that pertains to the proceeding."[76] Similarly, the U.S. statute that addresses domestic judicial review of USDOC proceedings provides that the record of a proceeding before USDOC consists of "a copy of all information presented to or obtained by [USDOC] … during the course of the administrative proceeding."[77] As the Tenaris financial statement was presented to USDOC by U.S. Steel during the course of the Korea OCTG investigation, it was on the official record of the Korea OCTG investigation absent a USDOC decision to remove it.

50. The factual circumstances in the separate investigation regarding Turkey are not relevant to the Panel's analysis of the Korea OCTG investigation under Article 6.2 and 6.4 of the AD Agreement. However, we note that the placement of the Tenaris financial statement on the record in the Korea OCTG investigation differs from its placement on the record of the Turkish OCTG investigation.

51. Specifically, as discussed in response to Question 70a, U.S. Steel, an interested party, placed the Tenaris financial statement on the record of the Korea OCTG investigation in order to "rebut, clarify, or correct evidence that was submitted by NEXTEEL in its response to the Third Supplemental Section D Questionnaire."[78] Accordingly, the placement of the Tenaris financial statement on the record was governed by 19 C.F.R. § 351.301(c)(1)(v), which pertains to "[f]actual information submitted [by an interested party] to rebut, clarify, or correct questionnaire responses."[79] This section sets an automatic deadline of seven days for the original submitter of

[75] *See* NEXTEEL's Request to Reject US Steel's Submission, pp. 2, 4-6 (Exhibit KOR-20) (requesting that USDOC remove the U.S. Steel submission from the record or reject it).

[76] *See* 19 C.F.R. § 351.104(a)(1) (Exhibit USA-44).

[77] *See* 19 U.S.C. § 1516a(b)(2)(A)(i) (Exhibit USA-44).

[78] *See* U.S. Steel Submission, p. 1 (Exhibit KOR-19).

[79] 19 C.F.R. § 351.301(c)(1)(v) (Exhibit USA-44).

the questionnaire response to submit factual information to sur-rebut, clarify, or correct the information that was placed on the record by the interested party.[80]

52. In contrast, USDOC as opposed to an interested party placed the Tenaris financial statement on the record of the Turkish OCTG investigation.[81] Because USDOC placed the Tenaris financial statement on the record, the placement of this document on the record was governed by a different regulation – 19 C.F.R § 351.301(c)(4) – which pertains to "[f]actual information placed on the record of the proceeding by [USDOC]."[82] Under this section, USDOC "may place factual information on the record of the proceeding at any time"[83] and is required to allow interested parties an opportunity to submit factual information to rebut, clarify, or correct that information by a specified date.[84] In the Turkish OCTG investigation, USDOC set a deadline of seven days for interested parties to submit factual information to rebut, clarify, or correct the information that USDOC placed on the record.[85]

53. Based on the factual record, USDOC thus did *not* treat the Korean respondents different from the Turkish respondents regarding an opportunity to submit factual information to rebut, clarify, or correct the Tenaris financial statement. In both investigations, interested parties had the same amount of time – seven days – to provide factual information rebutting, clarifying, or correcting the Tenaris financial statement. The only difference is that, under section 351.301(c)(1)(v), the deadline was set automatically for the Korean respondents, while under section 351.301(c)(4), the deadline for the Turkish respondents had to be set by USDOC.

[80] 19 C.F.R. § 351.301(c)(1)(v) (Exhibit USA-44).

[81] *See* Placement of Tenaris Financial Statement on Turkey OCTG Record, p. 1 (Exhibit KOR-49).

[82] 19 C.F.R. § 351.301(c)(4) (Exhibit USA-44).

[83] 19 C.F.R. § 351.301(c)(4) (Exhibit USA-44).

[84] 19 C.F.R. § 351.301(c)(4) (Exhibit USA-44).

[85] Placement of Tenaris Financial Statement on Turkey OCTG Record, p. 1 (Exhibit KOR-49) (referencing that USDOC was placing the statement on the record "in accordance with 19 C.F.R. § 351.301(c)(4)").