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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-580-809

Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Notice of Court Decision Not in Harmony with Final Results of Administrative Review and Notice of Amended Final Results of Administrative Review; 2008-2009

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On September 25, 2013, the United States Court of International Trade (Court or CIT) issued its final judgment affirming the Department of Commerce's (the Department's) final results of the remand redetermination[1] concerning the 2008-2009 administrative review of the antidumping duty order on circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea).[2] Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co., v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), as clarified by *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*), the Department is notifying the public that the final CIT judgment in this case is not in harmony with the Department's final results of administrative review and is amending its final results of the administrative review of the antidumping duty order on CWP from Korea covering the period of review (POR) of November 1, 2008, through

[1] *See* "Final Results of Redetermination Pursuant to Remand: SeAH Steel Corporation and Kurt Orban Partners, LLC v. United States (Defendant) and Allied Tube Conduit et al. (Defendants-Intervenors), Consol. Court No. 11-00226" (January 11, 2012) (Remand Results).

[2] *See SeAH Steel Corporation and Kurt Orban Partners, LLC v. United States and Allied Tube and Conduit, TMK IPSCO Tubular, and United States Steel Corporation*, Consol. Court No. 11-00226, Slip Op. 13-124 (CIT September 25, 2013) (*SeAH v. United States*).

October 31, 2009, with respect to the weighted-average dumping margin calculated for SeAH Steel Corporation (SeAH).

EFFECTIVE DATE: October 5, 2013

FOR FURTHER INFORMATION CONTACT: Nancy Decker or Joshua Morris, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0196 or (202) 482-1779, respectively.

SUPPLEMENTARY INFORMATION:

The Department published the final results of the 2008-2009 administrative review of the antidumping duty order on CWP from Korea on June 21, 2011.[3] SeAH, a Korean producer and exporter of CWP, and Kurt Orban Partners, LLC, a U.S. importer of the same merchandise, timely filed complaints with the CIT to challenge the Department's application of its zeroing methodology in the *Final Results*. SeAH also challenged the cost recovery analysis the Department employed in the *Final Results.* On October 13, 2011, the Court remanded the Department to reconsider its position with regard to its zeroing methodology in the underlying administrative review in light of the decision of the Federal Circuit in *JTEKT Corp. v. United States*, 642 F.3d 1378 (Fed. Cir. 2011) (*JTEKT*), while also granting the Department's request for a voluntary remand to reconsider its cost-recovery analysis in light of *SeAH Steel Corp. v. United States*, 764 F. Supp. 2d 1322 (CIT 2011) (*SeAH II*).[4] On January 11, 2012, the Department filed the *Remand Results* with the CIT, in which the Department altered its cost-recovery analysis to comply with the decision in *SeAH II* and provided its explanation supporting

[3] *See Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of the Antidumping Duty Administrative Review*, 76 FR 36089 (June 21, 2011) (*Final Results*).
[4] *See SeAH Steel Corporation and Kurt Orban Partners, LLC v. United States (Defendant) and Allied Tube Conduit et al. (Defendants-Intervenors)*, Court No. 11-00226 (CIT October 13, 2011).

its position to deny offsets for non-dumped sales in administrative reviews when using the average-to-transaction comparison method. Accordingly, the Department recalculated SeAH's weighted-average dumping margin from 4.99 percent to 3.87 percent. On September 25, 2013, the Court affirmed the Department's *Remand Results*.[5]

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. The Court's September 25, 2013, judgment constitutes a final decision of the CIT that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the publication requirement of *Timken*. The period of appeal expired, and the court decision is now final and conclusive.

Amended Final Results

Because there is now a final court decision with respect to this case, the Department is amending its *Final Results* with respect to SeAH's weighted-average dumping margin for this POR. The revised weighted-average dumping margin is as follows:

Producer or Exporter	Weighted-Average Dumping Margin
SeAH Steel Corporation	3.87 %

Since the CIT's ruling is final and has not been appealed, the Department will instruct United State Customs and Border Protection (CBP) to liquidate entries of subject merchandise from SeAH during the POR based on the revised assessment rates calculated by the Department

[5] *See SeAH v. United States*, Slip Op. 13-124 at 23.

in the Remand Results. Since the *Final Results*, the Department established a new cash deposit rate for SeAH. Therefore, the case deposit rate for SeAH will remain the company-specific rate established for the subsequent and most recent period for a completed administrative review during which SeAH was reviewed.[6]

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

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Paul Piquado
Assistant Secretary
for Enforcement and Compliance

April 15, 2014
Date

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[6] *See Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of the Antidumping Duty Administrative Review*, 77 FR 34344, 34345 (June 11, 2012).