



DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-870]

Certain Oil Country Tubular Goods from the Republic of Korea: Notice of Court Decision Not in Harmony with the Final Results in the Antidumping Duty Administrative Review and Notice of Amended Final Results

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

SUMMARY: On October 16, 2020, the United States Court of International Trade (CIT) issued its final judgment in *NEXTEEL v. United States*, Court No. 18-00083, sustaining the Department of Commerce (Commerce)'s remand redetermination concerning the final results in the antidumping duty (AD) administrative review of certain oil country tubular goods (OCTG) from the Republic of Korea (Korea), covering the period of review (POR) September 1, 2015 through August 31, 2016. Commerce is notifying the public that the CIT's final judgment in this case is not in harmony with Commerce's final results in the administrative review of OCTG from Korea. Pursuant to the CIT's final judgment, Commerce is amending the weighted-average dumping margin calculated for SeAH Steel Corporation (SeAH), NEXTEEL Co., Ltd. (NEXTEEL), and non-examined companies.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Chelsey Simonovich, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482-1979.

SUPPLEMENTARY INFORMATION:

Background

On April 18, 2018, Commerce published the *Final Results*.¹ NEXTEEL and SeAH challenged the *Final Results* before the CIT. On June 17, 2019, the CIT remanded Commerce's determination, instructing Commerce to reconsider: (1) the application of adverse facts available (AFA) to NEXTEEL; the finding of a particular market situation (PMS); (2) the classification of proprietary SeAH grades; and (3) the deduction of general and administrative (G&A) expenses as U.S. selling expenses.² Commerce issued a redetermination on remand, reversing its application of AFA, and providing further explanation of its finding of a PMS, the classification of SeAH's proprietary grade products, and the deduction of G&A expenses.³ On May 18, 2020, the CIT remanded Commerce's determination of a PMS, finding that the determination was unsupported by record evidence.⁴ Commerce issued a second redetermination on remand, and, under protest, reversed its determination of a PMS and recalculated the margins of the mandatory respondents and non-examined companies.⁵ On October 16, 2020, the CIT sustained the *Remand Results*.⁶

Timken Notice

In its decision in *Timken*,⁷ as clarified by *Diamond Sawblades*,⁸ the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a

¹ See *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016*, 83 FR 17146 (April 18, 2018), and accompanying Issues and Decision Memorandum (IDM) (*Final Results*).

² See *Nesteel Co., Ltd. v. United States*, Consolidated Court No. 18-00083, Slip. Op. 19-73 (June 17, 2019).

³ See *Final Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea Nexteel Co. v. United States* Consolidated Court No. 18-00083, Slip. Op. 19-73 (CIT June 17, 2019), dated November 5, 2019.

⁴ See *Nesteel Co. v. United States*, Consolidated Court No. 18-00083, Slip Op. 20-69 (May 18, 2020).

⁵ See *Final Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea Nexteel Co. v. United States*, Consolidated Court No. 18-00083, Slip Op. 20-69 (CIT May 18, 2020), dated August 3, 2020 (*Remand Results*).

⁶ See *NEXTEEL v. United States*, Consolidated Court No. 18-00083, Slip Op. 20-145 (CIT October 16, 2020), at 4.

⁷ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

⁸ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F. 3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

“conclusive” court decision. The CIT’s October 16, 2020 judgment in this case constitutes a final decision of the court that is not in harmony with Commerce’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court decision, Commerce is amending its *Final Results*. Commerce finds that the revised weighted-average dumping margins are 3.40 percent for SeAH, 18.29 percent for NEXTEEL, and 10.85 percent for the non-examined companies.

Cash Deposit Requirements

The cash deposit rates calculated in the 2015-2016 administrative review for SeAH, NEXTEEL, and the non-examined companies subject to this litigation have been superseded by cash deposit rates calculated in subsequent administrative reviews of the AD order on OCTG from Korea.⁹ Thus, we are not implementing the amended cash deposit rates for these companies.

Liquidation of Suspended Entries

If the CIT’s final judgment is not appealed, or if it is appealed and upheld, Commerce will instruct CBP to terminate the suspension of liquidation, and to liquidate and to assess duties at the margins shown above for unliquidated entries made during the POR that were produced and exported by SeAH and NEXTEEL. Consistent with Commerce’s assessment practice, for entries of subject merchandise during the POR produced by SeAH and NEXTEEL for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹⁰

Finally, during the pendency of litigation, including any appeal, Commerce remains enjoined by Court order from liquidating entries that: (1) were the subject of the administrative

⁹ See *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016–2017*, 84 FR 24085 (May 24, 2019).

¹⁰ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

determination published in the *Final Results*;¹¹ (2) were produced and/or exported by any of the following: SeAH and NEXTEEL; (3) were entered, or were withdrawn from warehouse, for consumption on or after September 1, 2015 through August 31, 2016; and (4) remain unliquidated as of 5:00 p.m. Eastern Time on April 19, 2018 for NEXTEEL and June 19, 2018 for SeAH.

Dated: October 27, 2020.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

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¹¹ See *Final Results*.