



DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-876]

Welded Line Pipe from the Republic of Korea: Notice of Court Decision Not in Harmony with the Amended 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 January 4, 2021, the U.S. Court of International Trade (CIT) sustained the Department of Commerce's (Commerce's) second remand results pertaining to the first administrative review of the antidumping duty order on welded line pipe (WLP) from the Republic of Korea (Korea) covering the period of review (POR) of May 22, 2015 through November 30, 2016. Commerce is notifying the public that the CIT's final judgment in this case is not in harmony with Commerce's amended final results in the first administrative review of WLP from Korea. Consistent with the CIT's final judgment, Commerce is amending the weighted-average dumping margins calculated for Hyundai Steel Company/Hyundai HYSCO (Hyundai Steel), SeAH Steel Corporation (SeAH), and the 22 non-selected companies

DATES: Applicable January 14, 2021.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Joshua Tucker, AD/CVD Operations Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 and (202) 482-2044, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 2018, Commerce published its *Final Results* in the first administrative review of WLP from Korea.¹ Subsequently, on August 10, 2018, Commerce published its *Amended Final Results*.² As reflected in the *Amended Final Results*, Commerce calculated weighted-average dumping margins of 18.77 percent for Hyundai Steel, 14.39 percent for SeAH, and 16.58 percent for the 22 companies receiving the review-specific average rate.³

Hyundai Steel, SeAH, NEXTEEL Co., Ltd. (NEXTEEL), and Husteel Co., Ltd. appealed Commerce's *Final Results*, as amended by the *Amended Final Results*, to the CIT. On January 3, 2020, the CIT remanded for Commerce to explain or reconsider its: (1) rejection of SeAH's third country sales to calculate normal value (NV); (2) finding of a particular market situation (PMS) in the Korean market for the hot-rolled coil input; and (3) PMS adjustment to the respondents' cost of production (COP) for the purposes of the sales-below-cost test.⁴ On April 1, 2020, Commerce issued the First Remand Results, in which, under protest, it: (1) relied on SeAH's third-country sales to calculate NV; (2) determined that there is no PMS that distorts the COP of WLP; and (3) recalculated the weighted-average dumping margins for Hyundai Steel and SeAH without the PMS adjustment to the COP for the sales-below-cost test.⁵ As a result, Commerce calculated revised weighted-average dumping margins for Hyundai Steel and SeAH of 9.24 percent and 4.70 percent, respectively. In addition, as a result of Commerce's recalculation of the weighted-average dumping margins for the mandatory respondents, Commerce revised the review-specific average rate applied to the non-selected respondents to 6.97 percent.

¹ See *Welded Line Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 33919 (July 18, 2018) (*Final Results*).

² See *Welded Line Pipe from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 39682 (August 10, 2018) (*Amended Final Results*).

³ *Id.*, 83 FR at 39682-83.

⁴ See *Husteel Co., Ltd. et al. v. United States*, 426 F. Supp. 3d 1376 (CIT 2020).

⁵ See *Final Results of Redetermination Pursuant to Court Remand*, Consol. Court No. 18-00169, dated April 1, 2020 (*First Remand Results*), at 1-2.

The CIT sustained Commerce’s First Remand Results with respect to these issues.⁶ In addition, the CIT granted Commerce’s request for a remand to consider whether to apply a constructed export price (CEP) offset to SeAH’s Canadian sales.⁷ On September 16, 2020, Commerce issued its Second Remand Results, in which it: (1) granted SeAH a CEP offset; (2) calculated a revised weighted-average dumping margin for SeAH of 4.23 percent; and (3) and revised the review-specific average rate applied to the non-selected respondents to 6.74 percent.⁸ On January 4, 2021, the CIT sustained Commerce’s Second Remand Results.

Timken Notice

In its decision in *Timken*,⁹ as clarified by *Diamond Sawblades*,¹⁰ the Court of Appeals for the Federal Circuit 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 “conclusive” court decision.¹¹ The CIT’s January 4, 2021 judgment in this case constitutes a final decision of that court that is not in harmony with Commerce’s *Final Results*, as amended by the *Amended Final Results*. This notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

Amended Final Results

Because there is now a final court decision, Commerce is amending its *Amended Final Results* with respect to the weighted-average dumping margins for Hyundai Steel, SeAH, and the non-selected respondents.¹² The revised weighted-average dumping margins are as follows:

⁶ See *Husteel Co., Ltd. et al. v. United States*, 463 F. Supp. 3d 1334 (CIT 2020) (*Husteel II*).

⁷ See *Husteel II*, 463 F. Supp. 3d at 1343-1344.

⁸ See Final Results of Redetermination Pursuant to Second Court Remand, Consol. Court No. 18-00169, dated September 16, 2020 (Second Remand Results).

⁹ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

¹⁰ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹¹ See sections 516A(c) and (e) of the Act.

¹² The review-specific average rate is based on the simple average margin for those companies selected for individual review. Because we cannot apply our normal methodology of calculating a weighted-average margin due to requests to protect business proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for the mandatory respondents. See *Ball Bearings and Parts Thereof from France, et*

Exporter/Producer	Weighted-Average Dumping Margin (percent)
Hyundai Steel Company/Hyundai HYSCO	9.24
SeAH Steel Corporation	4.23
AJU BESTEEL CO., Ltd.	6.74
Daewoo International Corporation	6.74
Dong Yang Steel Pipe	6.74
Dongbu Incheon Steel Co.	6.74
Dongbu Steel Co., Ltd	6.74
Dongkuk Steel Mill	6.74
EEW Korea Co, Ltd.	6.74
HISTEEL Co., Ltd.	6.74
Husteel Co., Ltd.	6.74
Keonwood Metals Co., Ltd.	6.74
Kolon Global Corp.	6.74
Korea Cast Iron Pipe Ind. Co., Ltd.	6.74
Miju Steel MFG Co., Ltd.	6.74
MSTEEL Co., Ltd.	6.74
NEXTEEL Co., Ltd.	6.74
Poongsan Valinox (Valtimet Division)	6.74
POSCO	6.74
Sam Kang M&T Co., Ltd.	6.74
Sin Sung Metal Co., Ltd.	6.74
Soon-Hong Trading Company	6.74
Steel Flower Co., Ltd.	6.74
TGS Pipe	6.74

Cash Deposit Requirements

Because there have been subsequent administrative reviews involving Hyundai Steel, SeAH, and the non-selected respondents covered by the review-specific average rate, the cash deposit rates for these exporters will remain the rate established in the most recently-completed administrative review in which they received a cash deposit rate.

Liquidation of Suspended Entries

In the event that the CIT's final judgment is not appealed or, if appealed, is upheld by a final and conclusive court decision, Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on unliquidated entries of subject merchandise based on the

al.: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53663 (September 1, 2010).

importer-specific assessment rates recalculated for: (1) Hyundai Steel in the First Remand Results; and (2) SeAH and the non-selected respondents covered by the review-specific average rate (subject to this litigation) in the Second Remand Results.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Hyundai Steel or SeAH 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.¹³

Finally, during the pendency of litigation, including any appeal, Commerce remains enjoined by Court order from liquidating entries: (1) produced and/or exported by Hyundai Steel, SeAH, NEXTEEL, or Husteel; (2) the subject of *Final Results*, as amended by the *Amended Final Results*; (2) entered, or were withdrawn from warehouse, for consumption on or after May 22, 2015, up to and including November 30, 2016; and (3) remain unliquidated as of the date the Court issued the applicable statutory injunction.

Notification to Interested Parties

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

Dated: January 8, 2021.

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

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¹³ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).