



## 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 Final Results of the Antidumping Duty Administrative Review; Notice of Amended Final Results**

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

**SUMMARY:** On July 14, 2023, the U.S. Court of International Trade (CIT) issued its final judgment in *NEXTEEL Co., Ltd. et al. v. United States*, Slip. Op. 23-103, Consol. Court No. 20-03898 (CIT 2023), sustaining the U.S. Department of Commerce's (Commerce) second final results of redetermination pertaining to the administrative review of the antidumping duty order on welded line pipe (WLP) from the Republic of Korea (Korea) covering the period of review (POR) December 1, 2017, through November 30, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's *Final Results* of the administrative review and that Commerce is amending the *Final Results* with respect to the dumping margins assigned to NEXTEEL Co., Ltd. (NEXTEEL), SeAH Steel Corporation (SeAH), and non-selected respondents Husteel Co., Ltd. (Husteel) and Hyundai Steel Company/Hyundai HYSCO (Hyundai Steel).

**DATES:** Applicable July 24, 2023.

**FOR FURTHER INFORMATION CONTACT:** Adam Simons, AD/CVD Operations,  
Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department  
of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-  
6172.

## SUPPLEMENTARY INFORMATION:

### Background

On November 30, 2020, Commerce published its final results in the 2017-2018 antidumping duty administrative review of WLP from Korea.<sup>1</sup> Commerce calculated weighted-average dumping margins of 15.07 percent for NEXTEEL, 9.33 percent for SeAH, and 11.60 percent for the non-selected respondents.<sup>2</sup>

Husteel, Hyundai Steel, NEXTEEL, and SeAH appealed Commerce's *Final Results*. On April 19, 2022, the CIT remanded the *Final Results* to Commerce regarding its: (1) particular market situation (PMS) determination and resulting adjustment to the reported cost of production (COP) for WLP for SeAH and for purposes of calculating constructed value (CV) for NEXTEEL; (2) application of the PMS adjustment to SeAH for purposes of the sales-below COP test; (3) adjustment to NEXTEEL's CV to account for sales of non-prime products; (4) reclassification of NEXTEEL's reported losses relating to the suspended production of certain product lines; (5) denial of a constructed export price (CEP) offset for SeAH; and (6) calculation of the rate assigned to non-examined companies in light of any adjustments made to the calculations for either of the mandatory respondents stemming from the remand.<sup>3</sup>

In its *First Remand Results*, issued on July 18, 2022, Commerce recalculated NEXTEEL and SeAH's weighted-average dumping margins without making a PMS adjustment.<sup>4</sup> In addition, Commerce recalculated NEXTEEL's weighted-average margin based on the actual costs of prime and non-prime merchandise reported by NEXTEEL. The revised weighted-average dumping margins for NEXTEEL and SeAH were 1.12 percent and zero percent,

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<sup>1</sup> See *Welded Line Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 76517 (November 30, 2020) (*Final Results*), and accompanying Issues and Decision Memorandum.

<sup>2</sup> *Id.*

<sup>3</sup> See *NEXTEEL Co., Ltd. et al. v. United States*, 569 F. Supp. 3d 1354 (CIT 2022).

<sup>4</sup> See *Final Results of Remand Redetermination Pursuant to Court Remand, NEXTEEL Co., Ltd. et al. v. United States*, Consol. Court No. 20-03898, Slip Op. 22-37 (CIT April 19, 2022), dated July 15, 2022 (*First Remand Results*), available at <https://access.trade.gov/resources/remands/22-37.pdf>.

respectively, and the resulting review-specific rate for the non-selected respondents was 1.12 percent.<sup>5</sup>

The CIT sustained Commerce’s *First Remand Results* on all issues except for the reclassification of NEXTEEL’s reported losses relating to the suspended production of certain product lines.<sup>6</sup> The CIT again remanded the *Final Results* to Commerce for: (1) clarification on whether NEXTEEL suspended production on the lines in question for all or only part of the POR; and (2) explanation of why NEXTEEL’s costs as reported for those lines would not be “reasonably reflective of the cost associated with the production and sale of merchandise,” if NEXTEEL suspended production for only part of the POR, consistent with section 773(f)(1)(A) of the Tariff Act of 1930, as amended (the Act).<sup>7</sup> In its *Second Remand Results*, issued on March 3, 2023, Commerce provided clarification on the period of suspension for certain of NEXTEEL’s production lines and explanation of why it is appropriate to include the suspension losses as part of NEXTEEL’s general and administrative expenses. Because Commerce made no changes to the calculation of the weighted-average dumping margin for NEXTEEL, the weighted-average dumping margin for NEXTEEL did not change from that presented in the *First Remand Results* (i.e., 1.12 percent).<sup>8</sup> The CIT sustained Commerce’s *Second Remand Results* on July 14, 2023.<sup>9</sup>

#### Timken Notice

In its decision in *Timken*,<sup>10</sup> as clarified by *Diamond Sawblades*,<sup>11</sup> the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision.

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<sup>5</sup> *Id.* at 2.

<sup>6</sup> See *NEXTEEL Co., Ltd. et al. v. United States*, 601 F. Supp. 3d 1373 (CIT 2022).

<sup>7</sup> *Id.*

<sup>8</sup> See *Final Results of Remand Redetermination Pursuant to Court Remand, NEXTEEL Co., Ltd. et al. v. United States*, Consol. Court No. 20-03898, Slip Op. 22-135 (CIT December 6, 2022), dated March 3, 2023 (*Second Remand Results*), available at <https://access.trade.gov/resources/remands/22-135.pdf>, at 2.

<sup>9</sup> See *NEXTEEL Co., Ltd. et al. v. United States*, Slip. Op. 23-103, Consol. Court No. 20-03898 (CIT 2023).

<sup>10</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>11</sup> See *Diamond Sawblades Mfrs. Coal. v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

The CIT's July 14, 2023, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

### Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Husteel, Hyundai Steel, NEXTEEL, and SeAH for the period December 1, 2017, through November 30, 2018, as follows:

<b>Producer or Exporter</b>	<b>Weighted-Average Dumping Margin (percent)</b>
NEXTEEL Co., Ltd.	1.12
SeAH Steel Corporation	0.00
<b>Review-Specific Average Rate Applicable to the Following Companies:<sup>12</sup></b>	
Husteel Co., Ltd.	1.12
Hyundai Steel Company/Hyundai HYSCO	1.12

### Cash Deposit Requirements

Because NEXTEEL, SeAH, and the non-selected companies Husteel and Hyundai Steel have a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rates for those exporters/producers.

### Liquidation of Suspended Entries

Because the CIT's ruling has not been appealed, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and/or exported by NEXTEEL, SeAH, and the non-selected companies, Husteel and Hyundai Steel, in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment

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<sup>12</sup> This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis*, or based entirely on facts available. See section 735(c)(5)(A) of the Act. Husteel and Hyundai Steel are the only two companies not selected for individual review in this administrative review that have unliquidated entries subject to this litigation. Commerce has already liquidated entries for the other non-selected respondents in this administrative review.

rate is not zero or *de minimis*. Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>13</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

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

Dated: October 4, 2023.

**Lisa W. Wang,**

*Assistant Secretary*

*for Enforcement and Compliance.*

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<sup>13</sup> See 19 CFR 351.106(c)(2).