



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 Results of Antidumping Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On December 18, 2023, the U.S. Court of International Trade (the Court or CIT) issued its final judgment in *Hyundai Steel Company v. United States*, Consol. Court No. 22-00138, Slip Op. 23-183, sustaining the U.S. Department of Commerce's (Commerce) remand results pertaining to the administrative review of the antidumping duty (AD) order on certain oil country tubular goods (OCTG) from the Republic of Korea (Korea) covering the period September 1, 2019, through August 31, 2020. 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 margin assigned to AJU Besteel Co., Ltd. (AJU Besteel), Husteel Co., Ltd. (Husteel), Hyundai Steel Company (Hyundai Steel), and NEXTEEL Co., Ltd. (NEXTEEL).

DATES: Applicable December 18, 2023.

FOR FURTHER INFORMATION CONTACT: Mike Heaney or Mark Flessner, 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) 482-4475 or (202) 482-6312, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 2022, Commerce published its *Final Results* in the 2019-2020 AD administrative review of OCTG from Korea.¹ In this administrative review, Commerce selected two mandatory respondents for individual examination: Hyundai Steel and SeAH Steel Corporation (SeAH). Commerce calculated weighted-average dumping margins of 19.54 percent for Hyundai Steel, 3.85 percent for SeAH, and 11.70 percent for the non-examined companies in the *Final Results*.² Hyundai Steel, AJU Besteel, Husteel, and NEXTEEL challenged the *Final Results* on multiple grounds.³

In its *Remand Order*, the Court sustained Commerce's determination with respect to three issues: the use of proprietary third-country sales information pertaining to SeAH in calculations related to Hyundai Steel;⁴ adjustments of reported general and administrative expenses of Hyundai Steel and its U.S. affiliate, Hyundai Steel USA, Inc.;⁵ and the application of neutral facts available to adjust Hyundai Steel's reported further manufacturing costs to account for yield loss.⁶ However, the Court remanded three of Commerce's determinations for Commerce to reconsider the issues and reexamine the administrative record:

1. The calculation of Hyundai Steel's constructed export price (CEP) profit (for which Commerce requested a voluntary remand).⁷
2. The calculation of Hyundai Steel's constructed value (CV) profit and selling expenses.⁸
3. The calculation of Hyundai Steel's CV profit cap.⁹

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; 2019-2020*, 87 FR 20815 (April 8, 2022) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

² *Id.*, 87 FR at 20816.

³ See *Hyundai Steel Company v. United States*, 639 F. Supp. 3d 1325 (CIT 2023) (*Remand Order*).

⁴ *Id.* at 11-14.

⁵ *Id.* at 16-20.

⁶ *Id.* at 21-24.

⁷ *Id.* at 16.

⁸ *Id.*

⁹ *Id.*

In its final results of redetermination pursuant to the *Remand Order* issued on July 16, 2021, Commerce reconsidered the three determinations listed above.¹⁰ In the Redetermination, Commerce:

1. Revised the methodology of calculation of CEP profit to rely on Hyundai Steel’s actual sales data.¹¹
2. Continued to use SeAH’s third-country market sales to Kuwait in calculating the CV profit and selling expenses.¹²
3. Continued to use SeAH’s third-country market sales to Kuwait in calculating the CV profit cap.¹³

As a result, Commerce recalculated the weighted-average dumping margin for Hyundai Steel, which changed from 19.54 percent to 9.63 percent.¹⁴ Consequently, the dumping margin applicable to the non-examined companies AJU Besteel, Husteel, and NEXTEEL changed from 11.70 percent to 6.74 percent.¹⁵

On December 18, 2023, the CIT issued its final judgment in *Hyundai Steel Company v. United States*, Consol. Court No. 22-00138, Slip Op. 23-183, fully sustaining Commerce’s Redetermination.¹⁶

Timken Notice

In its decision in *Timken*,¹⁷ as clarified by *Diamond Sawblades*,¹⁸ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive”

¹⁰ See *Final Results of Redetermination Pursuant to Court Remand, Hyundai Steel Co. et al. v. United States*, Consolidated Court No. 22-00138, Slip Op. 23-87 (CIT June 9, 2023), dated August 15, 2023 (Redetermination).

¹¹ *Id.* at 7–10 and 20-21.

¹² *Id.* at 10-16 and 21-32.

¹³ *Id.* at 17–19 and 33-40.

¹⁴ *Id.* at 40.

¹⁵ *Id.*

¹⁶ See *Hyundai Steel Company v. United States*, Consol. Court No. 22-00138, Slip Op. 23-183 (CIT December 18, 2023).

¹⁷ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

¹⁸ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

court decision. The Court’s December 18, 2023, judgment sustaining the Redetermination 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 requirement of *Timken*.

Amended Final Results

Because there is now a final court decision, Commerce is amending the *Final Results* with respect to AJU Besteel, Husteel, Hyundai Steel, and NEXTEEL for the period September 1, 2019, through August 31, 2020. The revised dumping margins are as follows:

| Exporter or Producer | Weighted-Average Dumping Margin (percent) |
|-----------------------------|--|
| Hyundai Steel Company | 9.63 |
| AJU Besteel Co., Ltd. | 6.74 |
| Husteel Co., Ltd. | 6.74 |
| NEXTEEL Co., Ltd. | 6.74 |

Cash Deposit Requirements

Because AJU Besteel, Husteel, Hyundai Steel, and NEXTEEL have each had 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.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced and exported by AJU Besteel, Husteel, Hyundai Steel, or NEXTEEL, and were entered, or withdrawn from warehouse, for consumption during the period September 1, 2019, through August 31, 2020. Liquidation of these entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT’s ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess ADs on unliquidated

entries of subject merchandise produced and exported by AJU Besteel, Husteel, Hyundai Steel, or NEXTEEL, in accordance with 19 CFR 351.212(b). We will instruct CBP to assess ADs on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*,¹⁹ we will instruct CBP to liquidate the appropriate entries without regard to ADs.

Notification to Interested Parties

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

Dated: December 21, 2023.

James Maeder,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations.

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¹⁹ See 19 CFR 351.106(c)(2).