



DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-879]

Certain Corrosion-Resistant Steel Products from the Republic of Korea: Notice of Court Decision Not in Harmony with the Final Results of Countervailing Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On February 20, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *Hyundai Steel Co. v. United States*, Court No. 21-00304, sustaining the U.S.

Department of Commerce (Commerce)'s remand results pertaining to the administrative review of the countervailing duty (CVD) order on certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea) covering the period January 1, 2018, through December 31, 2018 (POR). 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 countervailable subsidy rate assigned to Hyundai Steel Company (Hyundai).

DATES: Applicable March 1, 2024.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2371.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2021, Commerce published its *Final Results* of the 2018 CVD administrative review of CORE from Korea.¹ Commerce determined that Hyundai received countervailable subsidies from the Government of Korea (GOK) under various programs, including the Reduction for Sewerage Fees program and the Provision of Port Usage Rights at the Port of Incheon program.² With respect to the sewerage fees program, we found that Hyundai's reduced sewerage bill reflected revenue forgone, and we calculated a 0.01 percent *ad valorem* subsidy rate for the program.³ With respect to the Port of Incheon program, we found that Hyundai received a financial contribution in the form of revenue forgone, because the GOK gave Hyundai the right to collect berthing income and harbor facility usage fees which otherwise would have been collected by the GOK. We calculated a 0.01 percent *ad valorem* subsidy rate for the Port of Incheon program.⁴

Hyundai appealed Commerce's *Final Results*. On January 11, 2022, the CIT, at Commerce's request, remanded Commerce's determination related to the sewerage fees program.⁵ Thus, in its first remand redetermination, issued April 11, 2022, Commerce reexamined the Reduction for Sewerage Fees program and determined that the program was not countervailable. On September 26, 2023, the CIT sustained Commerce's first remand determination, and further remanded Commerce's final determination that the Port of Incheon program conferred a benefit.⁶ In its second remand redetermination, issued January 24, 2024, Commerce reexamined the Port of Incheon program and determined that the program does not provide a measurable benefit. As a result of these two remand redeterminations, we adjusted the

¹ See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2018*, 86 FR 29237 (June 1, 2021) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

² See *Final Results* IDM at Comments 2 and 3.

³ *Id.* at 6-7 and Comment 3.

⁴ *Id.* at 7 and Comment 2.

⁵ See *Hyundai Steel Co. v. United States*, Court No. 21-00304, ECF No. 26 (CIT January 11 2022).

⁶ *Hyundai Steel Co. v. United States*, 658 F. Supp. 3d 1331 (CIT September 26, 2023).

final subsidy rate calculation from the previous rate of 0.51 percent for Hyundai to a new subsidy rate of 0.49 percent.⁷ On February 20, 2024, the CIT sustained Commerce’s second remand redetermination.⁸

Timken Notice

In its decision in *Timken*,⁹ as clarified by *Diamond Sawblades*,¹⁰ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (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. The CIT’s February 20, 2024, 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 the subsidy rate assigned to Hyundai as follows:

Company	Subsidy Rate (percent <i>ad valorem</i>)
Hyundai Steel Company	0.49 (<i>de minimis</i>)

Cash Deposit Requirements

Because Hyundai has 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 rate for Hyundai.

Liquidation of Suspended Entries

⁷ See *Final Results of Redetermination Pursuant to Court Remand, Hyundai Steel Co. v. United States*, Court No. 21-00304 (CIT January 11, 2022), dated April 11, 2022; see also, *Final Results of Redetermination Pursuant to Court Remand, Hyundai Steel Co. v. United States*, Court No. 21-00304, Slip Op. 23-142 (CIT September 26, 2023), dated January 23, 2024.

⁸ See *Hyundai Steel Company v. United States*, Court No. 21-00304, ECF No. 60 (CIT Feb. 20, 2024).

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

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

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced and/or exported by Hyundai Steel Co., Ltd., (a/k/a Hyundai Steel Company or Hyundai Steel), and were entered, or withdrawn from warehouse, for consumption during the period January 1, 2018, through December 31, 2018. 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 countervailing duties on unliquidated entries of subject merchandise produced and/or exported by Hyundai Steel in accordance with 19 CFR 351.212(b). We will instruct CBP to assess countervailing duties on all appropriate entries covered by this review when the *ad valorem* rate is not zero or *de minimis*. Where an *ad valorem* subsidy rate is zero or *de minimis*,¹¹ we will instruct CBP to liquidate the appropriate entries without regard to countervailing 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: March 6, 2024.

Ryan Majerus,

Deputy Assistant Secretary

for Policy and Negotiations,

performing the non-exclusive functions and duties

of the Assistant Secretary for Enforcement and Compliance.

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¹¹ See 19 CFR 351.106(c)(2).