



A-580-870

Investigation

POI: 07/01/2012-06/30/2013

Public Document

AD/CVD Operations, Office VI: DS/VC

DATE: February 14, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman
Senior Advisor
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Negative Preliminary
Determination of Sales at Less Than Fair Value, Negative
Preliminary Determination of Critical Circumstances, and
Postponement of Final Determination in the Less-Than-Fair-Value
Investigation of Certain Oil Country Tubular Goods from the
Republic of Korea

SUMMARY

The Department of Commerce (the Department) preliminarily determines that certain oil country tubular goods (OCTG) from the Republic of Korea (Korea) is not being, or is not likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

BACKGROUND

On July 2, 2013, the Department received an antidumping duty (AD) petition concerning imports of OCTG from Korea filed in proper form on behalf of United States Steel Corporation (U.S. Steel), Vallourec Star L.P., TMK IPSCO, Energex (division of JMC Steel Group), Northwest Pipe Company, Tejas Tubular Products, Welded Tube USA Inc., Boomerang Tube LLC, and Maverick Tube Corporation (Maverick) (collectively, Petitioners).¹ On July 8, 2013, the Department requested additional information and clarification of certain areas of the petition.²

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam, dated July 2, 2013.

² See Letter from the Department to Petitioners, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Oil Country Tubular Goods from India and the Republic of Turkey and Antidumping



Petitioners filed timely responses to these requests for information.³ The Department initiated a LFTV investigation of OCTG from Korea on July 22, 2013.⁴

In the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of initiation of the investigation.⁵ On August 12, 2013, WSP Pipe Co., Ltd. (WSP) submitted scope comments. Specifically, WSP requested that the Department exclude “pierced billets” from the scope of the investigation.⁶ On August 22, 2013, petitioners filed rebuttal comments to WSP’s scope comments.⁷

In the *Initiation Notice*, the Department also set aside a time for parties to comment on product characteristics for use in the AD questionnaire.⁸ On August 5, 2013, we received comments regarding physical product characteristics from interested parties.⁹ On August 12, 2013, we received rebuttal comments from interested parties.¹⁰

Also in the *Initiation Notice*, we stated our intention to select respondents based on U.S. Customs and Border Protection (CBP) data.¹¹ We released the CBP data to interested parties under administrative protective order on July 29, 2013, and invited interested parties to submit comments on the data and potential respondent selection.¹² We received comments from

Duties on Imports of Certain Oil Country Tubular Goods from the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, Ukraine, and the Socialist Republic of Vietnam: Supplemental Questions,” dated July 8, 2013 and Letter from the Department to Petitioners, “Petition for the Imposition of Antidumping Duties on Imports of Oil Country Tubular Goods from the Republic of Korea: Supplemental Questions,” dated July 8, 2013.

³ See Supplement to all Petitions, dated July 12, 2013 and Supplements to the Korea Petition, dated July 12, 2013 and July 15, 2013.

⁴ See *Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 78 FR 45505 (July 29, 2013) (*Initiation Notice*).

⁵ See *Initiation Notice*, 78 FR at 45506; see also *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁶ See Letter from WSP to the Department, “*Comments on scope of investigations: Antidumping Duty Investigations of Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam; Countervailing Duty Investigation of Oil Country Tubular Goods from India and Turkey*,” dated August 12, 2013 (Scope Comments).

⁷ See Letter from Petitioners to the Department, “*Certain Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam: Rebuttal Comments on Scope of Investigation*,” dated August 22, 2013 (Scope Rebuttal Comments).

⁸ See *Initiation Notice*, 78 FR at 45506-07; see also *Preamble*, 62 FR at 27323.

⁹ See Letters from Petitioners, SeAH Steel Corporation (SeAH), Oil Country Tubular Ltd., and United Seamless Tubulaar Pvt. Ltd. to the Department, dated August 5, 2013 and Letter from Jubail Energy Services Company and Duferco Steel Inc. to the Department, dated August 6, 2013.

¹⁰ See Letters from Petitioners, AJU Besteel Co., Ltd. (AJU Besteel) and Husteel Co., Ltd. (Husteel), Borusan Mannesmann Boru Sanayi ve Ticaret A.S., ILJIN Steel Corporation (ILJIN), Interpipe and North American Interpipe, Oil Country Tubular Ltd., United Seamless Tubulaar Pvt. Ltd., WSP, and Jubail Energy Services Company and Duferco Steel Inc. dated August 12, 2013.

¹¹ See *Initiation Notice*, 78 FR at 45511.

¹² See Letter from the Department to All Interested Parties, dated July 26, 2013.

interested parties on August 5, 2013 and rebuttal comments from interested parties on August 12, 2013.¹³

On August 22, 2013, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of OCTG from Korea.¹⁴

On August 26, 2013, the Department limited the number of respondents for individual examination in this investigation and selected the two exporters or producers accounting for the largest volume of exports from Korea to the United States based on the CBP data, *i.e.*, Hyundai HYSCO (HYSCO) and NEXTEEL Co., Ltd (NEXTEEL).¹⁵ We stated in the Respondent Selection Memorandum that if any company submitted a voluntary response in accordance with the relevant statute and regulation, then we would evaluate the circumstances as the investigation unfolded to determine whether we could examine any voluntary respondents.¹⁶ As noted in the Respondent Selection Memorandum, ILJIN and Husteel filed requests for voluntary respondent treatment on July 29, 2013.¹⁷ SeAH and AJU Besteel filed requests for voluntary respondent treatment on August 27, 2013 and August 28, 2013, respectively.¹⁸

On August 27, 2013, the Department issued the AD questionnaire to HYSCO and NEXTEEL.¹⁹ On September 10, 2013, both HYSCO and NEXTEEL notified the Department that they did not have a viable home market or third-country market during the period of investigation (POI) and, thus, would not be filing a response to section B of the Department's AD questionnaire but would instead file a response to section D of the AD questionnaire.²⁰

¹³ See Letter from HYSCO to the Department, "Certain Oil Country Tubular Goods ("OCTG") from South Korea: Respondent Selection Comments," dated August 5, 2013; Letter from NEXTEEL to the Department, "Certain Oil Country Tubular Goods ("OCTG") from South Korea: Respondent Selection Comments," dated August 5, 2013; Letter from SeAH to the Department, "Antidumping Investigation of Certain Oil Country Tubular Goods from Korea – Comments on Respondent Selection," dated August 5, 2013; Letter from ILJIN to the Department, "Oil Country Tubular Goods from South Korea: Comments of ILJIN Steel Corporation on Respondent Selection," dated August 5, 2013; Letter from Petitioners to the Department, "Certain Oil Country Tubular Goods from the Republic of Korea," dated August 5, 2013; and Letter from HYSCO to the Department, "Certain Oil Country Tubular Goods ("OCTG") from South Korea: Rebuttal Respondent Selection Comments," dated August 12, 2013.

¹⁴ See *Certain Oil Country Tubular Goods From India, Korea, the Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam: Determinations*, Investigation Nos. 701-TA-499-500 and 731-TA-1215-1223 (Preliminary), 78 FR 52213 (August 22, 2013).

¹⁵ See Memorandum from Richard Weible, Director, Antidumping and Countervailing Duty Operations, Office 7, to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, "Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Republic of Korea: Respondent Selection Memorandum" (Respondent Selection Memorandum), dated August 26, 2013.

¹⁶ See Respondent Selection Memorandum at 9.

¹⁷ *Id.*; see also Letter from ILJIN to the Department, "Request To Be Treated As A Mandatory/Voluntary Respondent," dated July 29, 2013 and Letter from Husteel to the Department, "Request for Mandatory and Voluntary Respondent Treatment," dated July 29, 2013.

¹⁸ See Letter from SeAH to the Department, "Request for Voluntary Respondent Treatment," dated August 27, 2013 and Letter from AJU Besteel to the Department, "Oil Country Tubular Goods from the Republic of Korea, Case No. A-580-870: Request for Mandatory and Voluntary Respondent Treatment," dated August 28, 2013.

¹⁹ See Letters from the Department to HYSCO and NEXTEEL, dated August 27, 2013 (AD questionnaire).

²⁰ See Letter from HYSCO to the Department, "Certain Oil Country Tubular Goods from the Republic of Korea: Notification of Non-Viable Comparison Market," dated September 10, 2013 and Letter from NEXTEEL to the

On September 13, 2013, SeAH submitted a voluntary response to section A of the Department's AD questionnaire.²¹ On September 17, 2013, HYSCO and NEXTEEL filed responses to section A of the Department's AD questionnaire.²² In addition, on September 17, 2013, AJU Besteel, Husteel, and ILJIN filed voluntary responses to section A of the Department's AD questionnaire.²³

On October 17, 2013, SeAH filed a voluntary response to sections C and D of the Department's AD questionnaire.²⁴ On October 18, 2013, ILJIN submitted a voluntary response to sections C and D of the Department's AD questionnaire.²⁵ Also on October 18, 2013, AJU Besteel withdrew its request for voluntary respondent treatment.²⁶

On October 18, 2013, as explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, 2013 through October 16, 2013.²⁷ Therefore, all deadlines in this segment of the proceeding have been extended by 16 days.

On October 22, 2013, SeAH submitted comments regarding the individual examination of voluntary respondents.²⁸ Husteel filed a response to SeAH's comments on October 24, 2013, to which SeAH responded on October 30, 2013.²⁹ ILJIN also filed a response to SeAH's October 22, 2013 comments on October 30, 2013.³⁰

On October 29, 2013, Husteel filed a voluntary response to sections C and D of the Department's AD questionnaire.³¹ Both HYSCO and NEXTEEL submitted their responses to sections C and D of the Department's AD questionnaire on November 4, 2013.³²

Department, "Certain Oil Country Tubular Goods from the Republic of Korea: Notification of Non-Viable Comparison Market," dated September 10, 2013.

²¹ See Response from SeAH to the Department, dated September 13, 2013.

²² See Response from HYSCO to the Department, dated September 17, 2013 and Response from NEXTEEL to the Department, dated September 17, 2013.

²³ See Response from AJU Besteel to the Department, dated September 17, 2013; Response from Husteel to the Department, dated September 17, 2013; and Response from ILJIN to the Department, dated September 17, 2013.

²⁴ See Response from SeAH to the Department, dated October 17, 2013.

²⁵ See Response from ILJIN to the Department, dated October 18, 2013.

²⁶ See Letter from AJU Besteel to the Department, "Oil Country Tubular Goods from the Republic of Korea, Case No. A-580-870: Withdrawal of Request for Mandatory and Voluntary Respondent Treatment," dated October 18, 2013.

²⁷ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government," dated October 18, 2013.

²⁸ See Letter from SeAH to the Department, "Comments on Individual Examination of Voluntary Respondents," dated October 22, 2013.

²⁹ See Letter from Husteel to the Department, "Response to SeAH Steel Corporation's Comments on Individual Examination of Voluntary Respondents," dated October 24, 2013 and Letter from SeAH to the Department, "Comments on Individual Examination of Voluntary Respondents," dated October 30, 2013.

³⁰ See Letter from ILJIN to the Department, "ILJIN Steel Corporation Response to SeAh's {sic} Comments on Individual Examination of Voluntary Respondents," dated October 30, 2013.

³¹ See Response from Husteel to the Department, dated October 29, 2013.

³² See Response from HYSCO to the Department, dated November 4, 2013 and Response from NEXTEEL to the

On October 31, 2013, the Department postponed the preliminary determination for 50 days, or until February 14, 2014.³³

On November 20, 2013, U.S. Steel submitted comments regarding HYSCO's and NEXTEEL's responses to sections A, C, and D of the Department's AD questionnaire.³⁴

On November 26, 2013, the Department issued a supplemental questionnaire for section D to NEXTEEL, and on December 2, 2013, the Department issued NEXTEEL a supplemental questionnaire for sections A and C.³⁵ With respect to HYSCO, the Department issued a supplemental questionnaire for section D on December 4, 2013 and a supplemental questionnaire for sections A and C on December 6, 2013.³⁶

On December 18, 2013, Petitioners filed amendments to the petition, pursuant to section 703(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of OCTG.³⁷ In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted 20 days or more before the scheduled date of the preliminary determination, the Department must issue a preliminary finding not later than the preliminary determination.³⁸ On December 30, 2013, SeAH filed a letter requesting that the Department reject Petitioners' critical circumstances allegation.³⁹ On December 31, 2013, the Department requested that HYSCO and NEXTEEL report the quantity and value (Q&V) of subject merchandise shipped to the United States between April 2010 and February 2014, the month of the publication of the preliminary determination, on a monthly basis.⁴⁰ On January 7, 2014, HYSCO and NEXTEEL submitted their monthly Q&V shipment data for the months April 2010 through December 2013 and April 2013 through November 2013, respectively.⁴¹ On January 16, 2014, NEXTEEL filed a letter in which it updated its Q&V shipment data to include December 2013.⁴²

Department, dated November 4, 2013.

³³ See *Certain Oil Country Tubular Goods From India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 78 FR 65268 (October 31, 2013). Due to the closure of the Federal Government on February 13, 2014, Commerce completed this determination on the next business day (i.e., February 14, 2014). See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

³⁴ See Letters from U.S. Steel to the Department for each respondent, dated November 20, 2013.

³⁵ See Letters from the Department to NEXTEEL, dated November 26, 2013 and December 2, 2013, respectively.

³⁶ See Letters from the Department to HYSCO, dated December 4, 2013 and December 6, 2013, respectively.

³⁷ See Letter from Petitioners to the Department, "Amendment to Petition for the Imposition of Antidumping and Countervailing Duties: Oil Country Tubular Goods from Korea" (December 18, 2013) (Amendment Korea).

³⁸ Petitioners also alleged critical circumstances exist with respect to imports of merchandise in the companion CVD investigation of OCTG from Korea. In accordance with 19 CFR 351.206(c)(2)(ii), the Department issued preliminary critical circumstances findings in that investigation on January 17, 2014.

³⁹ See Letter from SeAH to the Department, dated December 30, 2013.

⁴⁰ See Letters from the Department to HYSCO and NEXTEEL, dated December 31, 2013.

⁴¹ See Letters from HYSCO and NEXTEEL to the Department, dated January 7, 2014. In addition, on January 7, 2014, Husteel and Iljin provided voluntary responses to the Department regarding their Q&V shipment data.

⁴² See Letter from NEXTEEL to the Department, dated January 16, 2014. On January 15, 2014, HYSCO also filed a letter in which it stated that it did "not have any additional monthly shipment data available at this time."

On December 23, 2013, NEXTEEL submitted its response to the supplemental questionnaire for section D.⁴³ On December 30, 2013, NEXTEEL filed its response to the supplemental questionnaire for sections A and C.⁴⁴

On December 30, 2013, the Department determined that it could select none of the three exporters which continued to request individual examination as voluntary respondents (*i.e.*, ILJIN, Husteel, and SeAH) because doing so would be unduly burdensome to the Department, and inhibit the timely completion of this investigation.⁴⁵

On January 6, 2014, HYSCO provided responses to the Department's supplemental questionnaire for sections A and C and the Department's supplemental questionnaire for section D.⁴⁶

On January 8, 2014, U.S. Steel submitted comments on NEXTEEL's December 23, 2013 supplemental section D response.⁴⁷ Also on January 8, 2014, Petitioners collectively filed comments regarding the manner in which NEXTEEL had reported its costs of production.⁴⁸ On January 9, 2014, NEXTEEL submitted a letter explaining that its cost database contained a sorting error and, thus, it was correcting the error.⁴⁹ On January 10, 2014, U.S. Steel submitted a letter in which it argued NEXTEEL's letter of January 9, 2014 was untimely filed.⁵⁰ On January 13, 2014, NEXTEEL filed a response to Petitioners' January 8, 2014 comments and U.S. Steel's January 10, 2014 letter.⁵¹

On January 13, 2014, U.S. Steel submitted comments on NEXTEEL's December 30, 2013 section A and C supplemental questionnaire response.⁵² On January 16, 2014, U.S. Steel submitted factual information for use in the calculation of constructed value (CV) profit.⁵³ On January 21, 2014, U.S. Steel filed comments on HYSCO's January 6, 2014 supplemental questionnaire responses for sections A and C and section D.⁵⁴ On that same date, U.S. Steel submitted a separate set of comments alleging that HYSCO and its U.S. customer should be treated as affiliated parties and that the sale from HYSCO's U.S. customer to the end customer is

⁴³ See Response from NEXTEEL to the Department dated December 23, 2013; *see also* Errata Letter from NEXTEEL to the Department, dated December 24, 2013.

⁴⁴ See Response from NEXTEEL to the Department, dated December 30, 2013.

⁴⁵ See Memorandum from Richard Weible, Director, AD/CVD Enforcement Office VI, to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, "Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Republic of Korea: Treatment of Voluntary Respondents," dated December 30, 2013.

⁴⁶ See Response from HYSCO to the Department, dated January 6, 2014.

⁴⁷ See Letter from U.S. Steel to the Department, dated January 8, 2014.

⁴⁸ See Letter from Petitioners to the Department, dated January 8, 2014.

⁴⁹ See Letter from NEXTEEL to the Department, dated January 9, 2014.

⁵⁰ See Letter from U.S. Steel to the Department, dated January 10, 2014.

⁵¹ See Letter from NEXTEEL to the Department, dated January 13, 2014.

⁵² See Letter from U.S. Steel to the Department, dated January 13, 2014.

⁵³ See Letter from U.S. Steel to the Department, dated January 16, 2014 (U.S. Steel's CV Profit Factual Submission).

⁵⁴ See Letter from U.S. Steel to the Department Regarding HYSCO's Supplemental Questionnaire Responses, dated January 21, 2014.

the proper basis for U.S. price.⁵⁵ Also on January 21, 2014, Petitioners collectively filed comments alleging that POSCO and NEXTEEL are affiliated and that the Department should find POSCO to be the producer of the subject merchandise.⁵⁶ On January 30, 2014, HYSCO filed two sets of comments, one addressing the various comments submitted by U.S. Steel and Maverick and another set on the calculation of CV profit and domestic selling expenses.⁵⁷ Likewise, NEXTEEL submitted two sets of comments on January 30, 2014, one dealing with the various comments submitted by U.S. Steel and Petitioners collectively regarding its relationship with POSCO, and another set related to the calculation of CV profit and domestic selling expenses.⁵⁸ Finally, on January 31, 2014, U.S. Steel filed comments on both HYSCO and NEXTEEL for the Department to consider for the preliminary determination,⁵⁹ and Petitioners collectively filed comments on the calculation of CV profit.⁶⁰ On February 12, 2014, Maverick submitted comments with respect to HYSCO's January 6, 2014 supplemental questionnaire responses.⁶¹

On January 16, 2014, the Department issued a second supplemental questionnaire to NEXTEEL for section D, to which NEXTEEL responded on February 10, 2014.⁶² On January 30, 2014, the Department issued a supplemental questionnaire to Hyundai Steel⁶³ regarding the information it had provided separately in response to the Department's December 4, 2013 section D supplemental questionnaire for HYSCO.⁶⁴ Hyundai Steel's response to this supplemental questionnaire is due on February 18, 2014. On January 31, 2014, the Department issued second supplemental questionnaires for section A and C to both HYSCO and NEXTEEL; responses are due from both respondents on February 14, 2014.⁶⁵

⁵⁵ See Letter from U.S. Steel to the Department Regarding HYSCO Affiliation, dated January 21, 2014 (U.S. Steel's HYSCO Affiliation Comments).

⁵⁶ See Letter from Petitioners to the Department Regarding NEXTEEL, dated January 21, 2014.

⁵⁷ See Letter from HYSCO to the Department Regarding Affiliation, dated January 30, 2014 (HYSCO Rebuttal to Affiliation Comments) and Letter from HYSCO to the Department Regarding CV, dated January 30, 2014.

⁵⁸ See Letter from NEXTEEL to the Department Regarding Various Issues, dated January 30, 2014 and Letter from NEXTEEL to the Department Regarding CV, dated January 30, 2014.

⁵⁹ See Letters from U.S. Steel to the Department Regarding HYSCO and NEXTEEL, dated January 31, 2014.

⁶⁰ See Letter from Petitioners to the Department, dated January 31, 2014.

⁶¹ See Letter from Maverick to the Department, dated February 12, 2014 (Maverick's HYSCO Comments).

Maverick had previously submitted comments on January 22, 2014 regarding HYSCO's January 6, 2014 supplemental questionnaire responses, but on February 11, 2014, the Department informed Maverick that it was rejecting Maverick's January 22, 2014 submission because it contained untimely filed new factual information. See Letter from the Department to Maverick, dated February 11, 2014. Maverick thus amended its January 22, 2014 comments and resubmitted them on February 12, 2014.

⁶² See Letter from the Department to NEXTEEL, dated January 16, 2014 and Response from NEXTEEL to the Department, dated February 10, 2014.

⁶³ Hyundai Steel filed a separate submission under administrative protective order in which it provided the cost of production information for selected hot rolled coil grades supplied to and used by HYSCO to produce the merchandise under consideration. Therefore, a supplemental questionnaire was sent directly to Hyundai Steel requesting it to provide further clarification regarding the information that was submitted.

⁶⁴ See Letter from the Department to HYSCO, dated January 30, 2014.

⁶⁵ See Letters from the Department to HYSCO and NEXTEEL, dated January 31, 2014.

PERIOD OF INVESTIGATION

The POI is July 1, 2012 through June 30, 2013. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was July 2013.⁶⁶

POSTPONEMENT OF FINAL DETERMINATION

On February 5, 2014 HYSCO and NEXTEEL requested that the Department postpone the final determination in the event of an affirmative finding of sales at LTFV.⁶⁷ Further, pursuant to section 733(d) of the Act and 19 CFR 351.210(e)(2), HYSCO and NEXTEEL requested that provisional measures be extended if the Department's preliminary determination is affirmative. On February 11, 2014, U.S. Steel requested that the Department postpone the final determination in the event of a negative preliminary determination.⁶⁸ Because our preliminary determination is negative, in accordance with section 735(a)(2)(B) of the Act, we are granting U.S. Steel's request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*.

SCOPE OF THE INVESTIGATION

The merchandise covered by this investigation is certain oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigations also covers OCTG coupling stock.

Excluded from the scope of the investigation are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors. The merchandise subject to the investigation is currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

⁶⁶ See 19 CFR 351.204(b)(1).

⁶⁷ See Letters from HYSCO and NEXTEEL to the Department, dated February 5, 2014.

⁶⁸ See Letter from U.S. Steel to the Department, dated February 11, 2014.

The merchandise subject to the investigation may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

SCOPE COMMENTS

In the *Initiation Notice*, the Department invited interested parties to “to raise issues regarding product coverage.”⁶⁹

On August 12, 2013, we received scope comments from WSP, requesting that the Department “clarify the scope of these oil country tubular goods (“OCTG”) investigations by excluding certain ‘pierced billets’ from the scope.” WSP described the merchandise subject to the request as “billets with a chemical composition used to produce a variety of pipe and tube products (including but not limited to OCTG), which have been pierced, but which have not been otherwise further processed prior to importation into the United States.” WSP further described the merchandise as “heated and pierced; it has not been rolled, sized, straightened, cut, etc., prior to importation into the United States.” WSP stated that it did not think that such “pierced billets” constitute “unfinished OCTG, including green tubes” because the billets are not dedicated for use as OCTG or green tubes and can be used for other applications such as diesel sleeves, mine crane rear axles, and mechanical or structural pipe. WSP also claimed the merchandise in question requires substantial additional processing before it could be considered unfinished OCTG and thus subject to the scope of the investigations.⁷⁰

We received rebuttal comments from Petitioners on August 22, 2013, in which Petitioners claim the Department should reject WSP’s request and that the merchandise in question is covered by the scope of the investigations. Petitioners state that the scope language of the investigations covers “hollow steel products of circular cross section” that are unfinished and may be used as OCTG, and argue that the merchandise described by WSP fits this physical description and thus is clearly within the scope. Petitioners further state that the inclusion of this merchandise in the scope is consistent with previous practices and decisions by the Department. Petitioners also argue that WSP provided no information to substantiate the claim that “pierced billets” require substantial additional processing, and moreover that there are many types of unfinished OCTG besides “green tubes” that are covered by the scope. Finally, Petitioners believe any “pierced billets” imported into the United States would be classified under subchapter 7304 of the HTS, and that such a classification would indicate that the merchandise was a form of unfinished

⁶⁹ See *Initiation Notice*, 78 FR at 45506.

⁷⁰ See *Scope Comments* at 2-3.

OCTG and covered by the scope.⁷¹

In response to WSP's arguments, Petitioners argued in part that the physical characteristics of the product in question are the same as merchandise covered by the scope of the investigations and that there is no evidence that the merchandise in question required further manufacturing. WSP never responded to Petitioners' arguments, provided no further information, and subsequently did not respond to the Department's AD questionnaire. Therefore, we preliminarily find that we do not have sufficient evidence on the record to determine whether the merchandise described by WSP is not covered by the scope of the investigations. We invite parties to comment on this issue in their case briefs so that the issue can be addressed in the final determination.⁷²

MODEL MATCH COMMENTS

In the *Initiation Notice*, the Department gave parties an opportunity to comment on the appropriate hierarchy of product characteristics for model matching purposes within a certain deadline.⁷³ On August 5, 2013, we received comments regarding physical product characteristics from interested parties. On August 12, 2013, we received rebuttal comments from interested parties.

We considered the comments that were submitted and established the appropriate product characteristics to use as a basis for defining product control numbers (CONNUMs). The Department identified ten physical characteristics to be used to define unique CONNUMs (welding, type, grade, coupling, upset end, threading, nominal outside diameter, length, heat treatment, and nominal wall thickness), which were included in the AD questionnaire issued each to HYSCO and NEXTEEL on August 27, 2013.

The goal of the product characteristic hierarchy is to define the unique CONNUMs of the subject merchandise and foreign like product. Although variations in cost may suggest the existence of variation in product characteristics, such variations do not constitute differences in products in and of themselves. Furthermore, the magnitude of variations in cost may differ from company to company, and even for a given company over time, and, therefore, do not, in and of themselves, provide a reliable basis for identifying the relative importance of different product characteristics. The Department has noted that for defining products and creating unique CONNUMs, "{t}he physical characteristics are used to distinguish the differences among products across the industry," that "{c}ost is not the primary factor for establishing these characteristics," and, in short, "{c}ost variations are not the determining factor in assigning product characteristics for model-matching purposes."⁷⁴ The product characteristics and

⁷¹ See Scope Rebuttal Comments at 2-4.

⁷² Parties are reminded to file any comments concerning the scope on all of the records of the concurrent OCTG investigations.

⁷³ See *Initiation Notice*, 78 FR at 45506-7; see also *Preamble*, 62 FR at 27323.

⁷⁴ See *Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review*, 73 FR 12950 (March 11, 2008) and accompanying Issues and Decision Memorandum at Comment 1. Also, the Department's "...selection of model match characteristics {is based} on unique measurable physical characteristics that the product can possess" and "differences in price or cost, standing alone, are not sufficient to warrant inclusion in the Department's model-match of characteristics which a respondent claims to be the cause of such differences." See *Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000) and accompanying Issues and Decision

hierarchy outlined in the AD questionnaire meets this goal.

AFFILIATION

HYSCO

HYSCO reported that during the POI, all of its U.S. sales of OCTG were made through its U.S. affiliate, Hyundai HYSCO USA, Inc. (HHU), to a single unaffiliated customer.⁷⁵ Petitioners argue that HYSCO is affiliated with this single U.S. customer, and, therefore, the proper basis for U.S. price is the sale from this single U.S. customer to the end customer.⁷⁶ Petitioners claim HYSCO and its reported U.S. customer are affiliated through an agency relationship based on various activities the reported U.S. customer performs in selling OCTG in the United States.⁷⁷ Petitioners assert HYSCO and its reported U.S. customer are also affiliated through a close supplier relationship because HYSCO makes 100 percent of its U.S. OCTG sales and a significant percentage of its worldwide OCTG sales through this reported U.S. customer.⁷⁸ At a minimum, petitioners contend, the Department should base U.S. price on the sale from HYSCO's reported U.S. customer to the end customer because certain aspects of the sales process show these are consignment sales.⁷⁹

HYSCO avers that it is not affiliated with its reported U.S. customer.⁸⁰ HYSCO argues that it is not affiliated with its reported U.S. customer through a principal-agent relationship because there is no existing agreement between HYSCO and its reported U.S. customer governing their relationship.⁸¹ HYSCO claims that control by the principal is the hallmark of the agency relationship and it does not control the actions of its reported U.S. customer.⁸² HYSCO also maintains it is not in a close supplier relationship with its reported U.S. customer because there are no agreements stipulating certain obligations.⁸³ HYSCO argues the Department has previously found the absence of affiliation in situations where an exporter sold 100 percent of its subject merchandise to a single reseller.⁸⁴ Finally, HYSCO contends its sales to its reported U.S. customer do not constitute consignment sales because the record shows there is no consignment agreement between the two entities or payment of any consignment fees by HYSCO to its reported U.S. customer.⁸⁵

Memorandum at Model Match Comment 1.

⁷⁵ See, e.g., HYSCO's September 17, 2013 section A questionnaire response at A-12-13.

⁷⁶ See U.S. Steel's HYSCO Affiliation Comments at 2.

⁷⁷ *Id.* at 6-7; see also Maverick's HYSCO Comments at 9-13.

⁷⁸ *Id.* at 7-8.

⁷⁹ *Id.* at 8-9.

⁸⁰ See HYSCO Rebuttal to Affiliation Comments at 5-8.

⁸¹ *Id.* at 12-13, citing HYSCO's January 6, 2014 section A supplemental questionnaire response at SA-16.

⁸² See HYSCO Rebuttal to Affiliation Comments at 12-14.

⁸³ *Id.* at 8-11, citing HYSCO's January 6, 2014 section A supplemental questionnaire response at SA-16 and SA-20.

⁸⁴ *Id.* at 10, citing *Notice of Preliminary Results and Preliminary Partial Rescission of the Antidumping Administrative Review: Petroleum Wax Candles From the People's Republic of China*, 68 FR 53109 (September 9, 2003), unchanged in *Notice of Final Results and Rescission, in Part, of the Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China*, 69 FR 12121 (March 15, 2004).

⁸⁵ See HYSCO Rebuttal to Affiliation Comments at 14-16, citing HYSCO's January 6, 2014 section A supplemental questionnaire response at SA-16.

NEXTEEL

During the POI, NEXTEEL purchased hot-rolled steel used to produce OCTG from Korean steel maker POSCO. NEXTEEL also sold the preponderance of its U.S. sales to an unaffiliated Korean trading company, which is a wholly-owned POSCO affiliate. Petitioners assert NEXTEEL is affiliated with its sole supplier of hot-rolled steel through a close-supplier relationship. Petitioner also notes hot-rolled steel is the major input in producing OCTG. In addition to the potential close supplier relationship, petitioner also contends that in 2010, POSCO purchased NEXTEEL's unaffiliated Korean trading company, which is involved with the majority of NEXTEEL's reported U.S. sales of OCTG.⁸⁶ Thus, Petitioners argue that POSCO has a major role both in supplying NEXTEEL with raw materials and with selling NEXTEEL's finished products. Moreover, Petitioners claim that POSCO's personnel oversee the shipping of NEXTEEL's OCTG, and that POSCO has taken charge of NEXTEEL's public relations efforts.⁸⁷ Petitioners further comment that POSCO provides NEXTEEL further assistance in the production of OCTG, and also participates in research and development, technical assistance, and quality control for NEXTEEL's OCTG operations.⁸⁸ Alternatively, Petitioners conclude that the relationship among these parties is such that POSCO should rightly be considered the producer of OCTG and NEXTEEL treated merely as a toll processor.⁸⁹ In any event, Petitioners aver, the two firms are affiliated as defined by the Act. Accordingly, petitioners assert, the Department should require NEXTEEL to (1) report POSCO's cost of producing the hot-rolled coil (rather than use its transfer prices to NEXTEEL); and (2) to obtain NEXTEEL's unaffiliated Korean trading company's U.S. sales to the first unaffiliated customers of subject merchandise produced by NEXTEEL.

NEXTEEL denies that any affiliation exists between it and POSCO, claiming that Petitioners make "numerous erroneous and misleading statements" and "grossly misconstrue the record."⁹⁰ NEXTEEL insists that while it purchases its steel from POSCO, it is free to purchase from other companies and has done so in the past.⁹¹ It argues that the Department previously declined to find affiliation where alternative sources of supply existed. Likewise, NEXTEEL asserts it is not bound in any way to sell its goods in the United States through the unaffiliated Korean trading company, and that it sold the subject merchandise directly to several unaffiliated US customers during the POI. Further, NEXTEEL claims that it had a longstanding and independent relationship with the unaffiliated Korean trading company that long predated POSCO's acquisition of an interest in the trading company.⁹² NEXTEEL maintains inaccurate translations of certain documents led to petitioners misinterpreting the record evidence.⁹³ NEXTEEL denies that POSCO's personnel oversee NEXTEEL's shipments, and claims that POSCO does not control NEXTEEL's public relations efforts. NEXTEEL insists that it is not a toller and that POSCO cannot be considered the producer because NEXTEEL holds the title to the purchased raw material, work in progress, and finished products, and controls all aspects of the relevant sale

⁸⁶ See U.S. Steel Corporation's January 21, 2014, pre-preliminary comments at 4.

⁸⁷ *Id.* at 8.

⁸⁸ *Id.*

⁸⁹ *Id.* at 13.

⁹⁰ See NEXTEEL's January 31, 2014, pre-preliminary comments at 12.

⁹¹ *Id.* at 9.

⁹² *Id.* at 16.

⁹³ *Id.* at 12.

of the finished subject merchandise.⁹⁴

The facts of these two situations raise significant issues regarding potential control and affiliation and raise questions as to whether the Department currently has on the record the correct sale and cost databases. HYSCO reported that all of its U.S. sales of OCTG were made to a single U.S. customer. Given HYSCO's description of the sales process, including the exchange of title, invoicing, and certain activities performed at the expense of the U.S. customer, we intend to examine the sales process further during the course of this investigation. As to NEXTEEL, Petitioners allege that POSCO is involved both in NEXTEEL's production and in its U.S. sales. We intend to consider the issues raised in Petitioners' allegations. Because Petitioners submitted their comments shortly before the deadline for issuing this preliminary determination, the Department was unable to fully develop the record concerning the alleged affiliations and resolve these issues prior to the preliminary determination. Thus, we will be seeking further clarification from HYSCO about its relationship with its reported U.S. customer. We also will be requesting further clarification from NEXTEEL about its relationships with POSCO and also with the unaffiliated Korean trading company that in turn sells NEXTEEL's products in the United States. Because the Department operates under statutory deadlines, and because resolution of these issues may potentially affect the fundamental bases of our analyses, we will be requesting new sales and cost databases to be in the position to decide the issues without resorting to facts available. The Department wishes to put the parties on notice that it will issue a letter to each of the respondents shortly requesting such information. These requests should not be interpreted to mean that the Department has decided the affiliation issues. The Department intends to obtain additional information and comments from parties before making a final determination on these issues.

CRITICAL CIRCUMSTANCES

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist in a LTFV investigation if there is a reasonable basis to believe or suspect that: (A) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. For the reasons explained below, we preliminarily determine that critical circumstances do not exist for HYSCO and NEXTEEL.

A History of Dumping and Material Injury

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, the Department generally considers current or previous AD duty orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to imports of subject merchandise.⁹⁵ No parties have made claims regarding

⁹⁴ *Id.* at 15-16.

⁹⁵ See, e.g., *Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances*

completed AD proceedings for OCTG from Korea, and the Department is not aware of the existence of any active AD orders on OCTG from Korea in other countries. As a result, the Department does not find that there is a history of injurious dumping of OCTG from Korea pursuant to section 733(e)(1)(A)(i) of the Act.

Knowledge That Exporters Were Dumping

The Department generally bases its decision with respect to knowledge on the weighted-average dumping margins calculated in the preliminary determination of sales at LTFV and the ITC's preliminary injury determination.⁹⁶ The Department normally considers margins of 25 percent or more for export price (EP) sales and 15 percent or more for constructed export price (CEP) sales sufficient to impute importer knowledge of sales at less than fair value.⁹⁷ HYSCO had CEP sales and NEXTEEL had EP sales during the POI. The weighted-average dumping margins calculated for HYSCO and NEXTEEL did not exceed the threshold sufficient to impute knowledge of dumping (*i.e.*, 25 percent for CEP or 15 percent for CEP sales). Consistent with section 733(d)(1)(A) of the Act, the Department has not calculated a weighted-average dumping margin for all other producers or exporters because it has not made an affirmative preliminary determination of sales at LTFV. Therefore, we preliminarily determine that there is an insufficient basis to find that importers should have known that exporters were selling the merchandise under consideration at less than its fair value.

After reviewing the information petitioners submitted to support their claims that parties had advance knowledge of the petitions, we have determined parties did not have reason to believe that petitions were likely until they were filed in July 2013. Petitioners have presented evidence which they claim shows that certain parties considered these proceedings likely or even "imminent." The evidence also refers specifically to AD and CVD proceedings. Specifically, Petitioners presented evidence of the following:

- March 2013 – Two trade lawyers publish an article in Global Trade Monitor (GTM), a publication of their own law firm, stating proceedings against Korea may come as soon as the end of the month. Their analysis also presents data for India, Turkey, Ukraine, and Vietnam.⁹⁸
- April 2013 – An article in American Metal Market (AMM) reports that proceedings against Korea are imminent and mentions the possibility of proceedings against "other Asian" and "Eastern European" countries.⁹⁹

and Postponement of Final Determination, 74 FR 59117, 59120 (November 17, 2009) unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).

⁹⁶ See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico*, 77 FR 17422, 17425 (March 26, 2012).

⁹⁷ *Id.*

⁹⁸ See Amendment Korea at Exhibit IV-35.

⁹⁹ *Id.* at Exhibit IV-36.

- May 2013 – Another article in AMM reports that proceedings against Korea will be filed in July and mentions the possibility of proceedings against India, the Philippines, and Turkey, among other countries.¹⁰⁰
- June 2013 – A third AMM article reports that a “suspension deal” is possible for Korea and that the end of June (the end of the fiscal quarter) will be a “decisive day” for the U.S. industry to decide whether proceedings should be filed against Korea, India, Turkey, Ukraine, and Vietnam.¹⁰¹

However, all the evidence provided are publications or speeches that merely speculated regarding to what might occur in the future and that much doubt still existed at that time. For example, while the GTM article states proceedings against Korea might be filed by “the end of the month,” it also notes “rumors” of such filings might be “empty threats.”¹⁰² Likewise, the AMM articles use words such as “imminent” when discussing proceedings against Korea, but also refer to the U.S. industry as “mulling” the possibility of filing a petition.¹⁰³ The articles also quote industry insiders noting that such “rumors” have been circulating for years and that U.S. producers must first decide whether their profits will prevent an affirmative injury determination before filing.¹⁰⁴ In sum, we preliminarily find that the evidence does not rise to the level of showing that importers or foreign exporters or producers had reason to believe, prior to the filing of the petitions, that a proceeding was likely. Therefore, we have relied on the periods before and after the filing of the petition in July 2013 in determining whether imports have been massive (*i.e.*, January 2012 through June 2013 compared with July through December 2013).

Respondents provided their shipment data from April 2010 through December 2013.¹⁰⁵ After analyzing the data submitted, we determine imports from HYSCO and NEXTEEL were not massive. Combining shipment data for the two mandatory respondents, we determine imports from all other producers and exporters likewise were not massive. The details of our calculations are contained in the business-proprietary analysis memorandum dated February 14, 2014.¹⁰⁶

DISCUSSION OF METHODOLOGY

Fair Value Comparisons

To determine whether sales of OCTG from Korea to the United States were made at LTFV, we compared the EP for NEXTEEL and CEP for HYSCO to the normal value (NV), as described in

¹⁰⁰ *Id.* at Exhibit IV-37.

¹⁰¹ *Id.* at Exhibit IV-38.

¹⁰² *Id.* at Exhibit IV-35.

¹⁰³ *Id.* at Exhibit IV-36.

¹⁰⁴ *Id.* at Exhibits IV-35, IV-36, and IV-38.

¹⁰⁵ The Department's long-standing practice in critical circumstances determinations is to examine the longest period for which information is available up to the date of the preliminary determination. *See, e.g., Certain Steel Wheels From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 76 FR 67702 (November 2, 2011) and accompanying Issues and Decision Memorandum at Comment 6.

¹⁰⁶ *See* Memorandum from Victoria Cho, Case Analyst, Office VI, Enforcement and Compliance, through Robert James, Program Manager, Office VI, Enforcement and Compliance, to the File, “Monthly Shipment Quantity and Value Analysis for Critical Circumstances” for OCTG from the Republic of Korea, dated February 14, 2014.

the “Export Price and Constructed Export Price” and “Normal Value” sections of this memorandum, below. In accordance with section 777A(d)(1)(B) of the Act, we compared weighted-average CEPs to weighted-average NVs for HYSCO and weighted-average EPs to weighted-average NVs for NEXTEEL.

Product Control Numbers

As explained below, for both HYSCO and NEXTEEL, we based NV on CV because neither respondent had a viable home market or third-country market during the POI. Therefore, no comparisons are made of EPs or CEPs with NVs based on home market or third-country market sales where it would be necessary to identify identical or similar merchandise.

As discussed below, CV is based on cost of production reported by both HYSCO and NEXTEEL. Each respondent’s cost of production is reported by the product control number (CONNUM). CONNUMs are defined by the reported physical characteristics established by the Department: welding, type, grade, coupling, upset end, threading, nominal outside diameter, length, heat treatment, and nominal wall thickness.¹⁰⁷

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs (the average-to-average or A-to-A method), unless the Secretary determines that another method is appropriate in a particular situation. In recent AD proceedings, the Department examined whether to use the average-to-transaction (A-to-T) method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. In order to determine which comparison method to apply, in recent proceedings, the Department applied a “differential pricing” (DP) analysis for determining whether application of A-to-T comparisons is appropriate pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act. The Department finds the DP analysis used in recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this AD investigation.¹⁰⁸ The Department intends to continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-to-A method in calculating weighted-average dumping margins.

The DP analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods.¹⁰⁹ If such a pattern is found, then the DP analysis evaluates whether such differences

¹⁰⁷ See AD questionnaire.

¹⁰⁸ See, e.g., *Hardwood and Decorative Plywood From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying Issues and Decision Memorandum at Comment 5 and *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33350, 33351 (June 4, 2013).

¹⁰⁹ As noted above, the DP analysis has been utilized in recent AD investigations and several recent AD administrative reviews to determine the appropriate comparison methodology. See, e.g., *Steel Threaded Rod; Circular Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty*

can be taken into account when using the A-to-A method to calculate the weighted-average dumping margin. The DP analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes as reported. Regions are defined using the reported destination code (*i.e.*, zip codes), which are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP and NV for the individual dumping margins.

In the first stage of the DP analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold (*i.e.*, 0.8) provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales were found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of EPs (or CEPs) that differ significantly supports the consideration of the application of the A-to-T method to all sales as an alternative to the A-to-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-to-T method to those sales identified as passing the Cohen’s *d* test as an alternative to the A-to-A method, and application of the A-to-A method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the A-to-A method.

Administrative Review; 2011-2012, 78 FR 21105 (April 9, 2013); *Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review*; 2010-2012, 78 FR 20890 (April 8, 2013); and *Polyester Staple Fiber*.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of EPs (or CEPs) that differ significantly such that an alternative comparison method should be considered, then in the second stage of the DP analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-to-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the weighted-average dumping margin between the A-to-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described DP approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

Results of the DP Analysis

HYSCO

Based on the results of the differential pricing analysis, the Department preliminarily finds that 84.32 percent of HYSCO's U.S. sales pass the Cohen's *d* test, and confirms the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. However, the Department preliminarily determines the average-to-average method can appropriately account for such differences because the resulting weighted-average dumping margin calculated using the average-to-average method and an alternative method based on applying the average-to-transaction method to all U.S. sales both do not exceed the *de minimis* threshold. Accordingly, the Department preliminarily determines to utilize the average-to-average comparison method for all U.S. sales to calculate the weighted-average dumping margin for HYSCO.

NEXTEEL

Based on the results of the differential pricing analysis, the Department preliminarily finds that 82.55 percent of NEXTEEL's export sales pass the Cohen's *d* test, and confirms the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. However, the Department preliminarily determines the average-to-average method can appropriately account for such differences because the resulting weighted-average dumping margin calculated using the average-to-average method and an alternative method based on applying the average-to-transaction method to all U.S. sales both do not exceed the *de minimis* threshold. Accordingly, the Department preliminarily determines to use the average-to-average comparison method for all U.S. sales to calculate the weighted-average margin of dumping for NEXTEEL.

Export Price and Constructed Export Price

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).” Section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” As explained below, we based the U.S. price on the CEP for HYSCO and based the U.S. price on the EP for NEXTEEL.

HYSCO

HYSCO reported that it sells the subject merchandise to a wholly-owned subsidiary in the United States, Hyundai HYSCO USA, Inc. (HHU), which then sells the subject merchandise to an unaffiliated customer in the United States.¹¹⁰ Thus, pursuant to section 772(b) of the Act, we used the CEP methodology for all U.S. sales because the subject merchandise was first sold or agreed to be sold in the United States by a seller affiliated with the producer or exporter to a purchaser not affiliated with the producer or exporter. We based the starting price on the prices to the unaffiliated customer in the United States. We used the date which HYSCO reported as date of sale, the shipment summary date (*i.e.*, the date on which the reported U.S. customer informs HHU that the merchandise has been shipped to the end customer), to define the universe of sales used in our analysis.¹¹¹ HYSCO reported that it normally issues the invoice to its reported U.S. customer on the same day that it receives the shipment summary from its reported U.S. customer.¹¹² In accordance with section 772(c)(2)(A) of the Act, we made deductions for movement expenses; these expenses included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, U.S. brokerage and handling, marine insurance, U.S. inland freight from the port to the U.S. warehouse, and U.S. duties. Pursuant to section 772(d)(1) of the Act, we made additional adjustments to CEP for credit expenses, warranty expenses, HHU’s inventory carrying costs, and HHU’s other indirect selling expenses. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. For further discussion, *see* Memorandum from Deborah Scott, International Trade Compliance Analyst, AD/CVD Operations, Office VI, through Robert James, Program Manager, AD/CVD Operations, Office VI, to the File, “Analysis of Data Submitted by Hyundai HYSCO for the Preliminary Determination of the Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Republic of Korea,” dated February 14, 2014 (HYSCO Preliminary Analysis Memorandum).

¹¹⁰ *See, e.g.*, HYSCO’s September 17, 2013 section A questionnaire response at A-1.

¹¹¹ *See* HYSCO’s November 4, 2013 section C questionnaire response at C-12 and HYSCO’s January 6, 2014 section C supplemental questionnaire response at SC-5.

¹¹² *See* HYSCO’s November 4, 2013 section C questionnaire response at C-12.

NEXTEEL

For NEXTEEL's sales to the United States, the Department calculated EP in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States and because CEP was not otherwise warranted. NEXTEEL also sold subject merchandise to an unaffiliated trading company in Korea, which, in turn, exported the subject merchandise to the United States.

For its U.S. sales, NEXTEEL indicated that it reported sales invoice as the date of sale because the quantity is subject to change until the merchandise is shipped from the port in Korea, for its Channel 1 sales. For Channel 2 sales, NEXTEEL issues the commercial invoice and packing list on or before the date on which it receives the bill of lading from the freight company. Therefore, to be consistent with the Department's practice of using the earlier of shipment date or invoice date as the date of sale, NEXTEEL has reported the date of invoice (which is on or before the date of shipment from the port - *i.e.*, the bill of lading date) as the date of sale.¹¹³

We made adjustments for credit expenses, certain direct selling expenses, and indirect selling expenses, as appropriate. We also made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, inland freight, brokerage and handling, international freight, and marine insurance. For further discussion, *see* Memorandum from Victoria Cho, International Trade Compliance Analyst, AD/CVD Operations, Office VI, through Robert James, Program Manager, AD/CVD Operations, Office VI, to the File, "Analysis of Data Submitted by NEXTEEL Co. Ltd. in Oil Country Tubular Goods from the Republic of Korea," dated February 14, 2014 (NEXTEEL Preliminary Analysis Memorandum).

Normal Value

A. Home Market Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared HYSCO's and NEXTEEL's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(B) of the Act. For both HYSCO and NEXTEEL, we found that the aggregate volume of home market sales of the foreign like product was less than five percent of the aggregate volume of U.S. sales, and, thus, HYSCO's and NEXTEEL's sales in the home market were not viable.¹¹⁴ When sales in the home market are not viable, section 773(a)(1)(B)(ii) of the Act provides that sales to a third-country market may be utilized if: (1) the prices in such market are representative; (2) the aggregate quantity of the foreign like product sold by the producer or exporter in the third-country market is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States; and (3) the Department does not determine that a particular market situation in the third-country market

¹¹³ See 19 CFR 351.401(i).

¹¹⁴ See 19 CFR 351.404(b)(2). See also HYSCO's January 6, 2014 section A supplemental questionnaire response at Exhibit SA-2 and NEXTEEL's September 17, 2013, Section A response at A-2 and Exhibit A-1.

prevents a proper comparison with the U.S. price. Again, for both HYSCO and NEXTEEL, we found that the aggregate quantity of the foreign like product sold in any third-country market was less than five percent of the aggregate volume of U.S. sales, and, therefore neither HYSCO nor NEXTEEL had a viable third-country market.¹¹⁵ As a result, for both HYSCO and NEXTEEL, we used CV as the basis for calculating NV, in accordance with section 773(a)(4) of the Act.

B. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of HYSCO's and NEXTEEL's cost of materials and fabrication employed in producing the subject merchandise, plus amounts for general and administrative (G&A) expenses, interest, profit, selling expenses, and U.S. packing costs. We calculated the cost of materials and fabrication, G&A expenses and interest based on information submitted by HYSCO and NEXTEEL in its original and supplemental questionnaire responses, except in instances where we determined that the information was not valued correctly, as described below.

We relied on HYSCO's submitted COP data except as follows.¹¹⁶

1. We adjusted the cost for certain hot rolled coil inputs in accordance with section 773(f)(3) of the Act.
2. We adjusted the conversion costs in accordance with section 773(f)(2) of the Act.
3. We revised the reported general and administrative expenses for a certain business proprietary item.

We relied on NEXTEEL's submitted COP data except as follows.¹¹⁷

1. We increased the cost for prime OCTG by the difference between the cost allocated to the non-prime OCTG and the non-prime OCTG sales revenue.
2. We adjusted the scrap offset to reflect the per-unit sales value.
3. We revised the reported general and administrative expenses for a certain business proprietary miscellaneous losses, and disallowed a gain on the sale of a plant.

Because HYSCO and NEXTEEL do not have viable home or third-country markets, normal value is based on CV. In the absence of a comparison market we are unable to use our "preferred method" for calculating CV profit, and must instead rely on one of the three alternatives outlined in sections 773(e)(2)(B)(i) through (iii) of the Act. Those alternatives are: (i) the use of the actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale of merchandise that is in the same general category of products as the subject merchandise; (ii) the use of the weighted average of the actual amounts incurred and realized by exporters or producers (other than the respondent) that are subject to the investigation or review; or (iii) based on any other reasonable method, except that the amount for profit may not exceed

¹¹⁵ See HYSCO's January 6, 2014 section A supplemental questionnaire response at Exhibit SA-2 and NEXTEEL's September 17, 2013, Section A response at A-2 and Exhibit A-1.

¹¹⁶ For further discussion, see Memorandum from Taija A. Slaughter, Lead Accountant, to Neal M. Halper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Hyundai HYSCO," dated February 14, 2014 (HYSCO's Cost Memorandum).

¹¹⁷ For further discussion, see Memorandum from Sheikh M. Hannan, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – NEXTEEL Co., Ltd.," dated February 14, 2014 (NEXTEEL's Cost Memorandum).

the amount realized by exporters or producers (other than the respondent) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise (*i.e.*, the “profit cap”).

We have considered three possible options for CV profit based on the information on the record of this investigation: the profit reflected in the audited financial statements for seven Korean OCTG producers, the profit earned by HYSCO on its home market sales of non-OCTG pipe products, and the profit for Tenaris SA (Tenaris), an Argentinian global producer and seller of OCTG products.¹¹⁸ The Tenaris profit information is based on a research paper prepared by a student at the University of Iowa School of Management.¹¹⁹

We acknowledge that all three options have their limitations. The difficulty of this issue revolves around the conflict between the statutory preference for CV profit to reflect the production and sale of merchandise in the market under consideration and the need for the profit to reasonably reflect the merchandise under investigation. With this in mind, there are issues to consider for each of the above available options. For example, the profit on HYSCO’s home market sales of non-OCTG pipe products reflect the profit on pipe products typically used in the construction industry, as opposed to the OCTG products used in the specialized oil and gas industry. Likewise, the profit reflected in the Korean OCTG producers’ financial statements reflect the profits on the same non-OCTG pipe products, as well as the profits on OCTG sales predominantly to the United States. While the Tenaris profit information reflects predominantly OCTG sales, it represents neither production nor sales in the market under consideration. In addition, it is based on a research paper containing a disclaimer statement regarding its accuracy.

In having to choose amongst the available options before us, we have preliminarily determined, for HYSCO, to use its profit on home market sales of non-OCTG pipe products in accordance with section 773(e)(2)(B)(i) of the Act. For more information, *see* HYSCO’s Cost Memorandum. For NEXTEEL, we have preliminarily determined to use the profit earned by the six Korean OCTG producers that earned a profit, in accordance with section 772(e)(2)(B)(iii) of the Act. For NEXTEEL, we are applying option (iii), *i.e.*, any reasonable method, to calculate CV profit. However, we have been unable to calculate the amount normally realized by exporters or producers (other than the respondent) in connection with the sale, for consumption in the foreign country, of the merchandise in the same general category, because the record does not contain public information for making such calculation. For more information, *see* NEXTEEL’s Cost Memorandum. We note that after the preliminary determination, we intend to continue to explore other possible options for CV profit for both respondents.

¹¹⁸ *See* U.S. Steel’s CV Profit Factual Submission.

¹¹⁹ This report was created by a student enrolled in the Applied Securities Management (Henry Fund) program at the University of Iowa’s Tippie School of Management and contains several disclaimers. The intent of the report is to provide potential employers and other interested parties an example of the analytical skills, investment knowledge, and communication abilities of Henry Fund students. Henry Fund analysts are not registered investment advisors, brokers, or officially licensed financial professionals. The investment opinion contained in the report does not represent an offer or solicitation to buy or sell any of the aforementioned securities. Unless otherwise noted, facts, and figures included in this report are from publicly available sources. The report is not a complete compilation of data, and its accuracy is not guaranteed. From time to time, the University of Iowa, its faculty, staff, students, or the Henry Fund may hold a financial interest in the companies mentioned in this report.

With respect to selling expenses, because HYSCO and NEXTEEL do not have a viable home market or third-country market, the Department does not have comparison market selling expenses to use in its calculations, as directed by section 773(e) of the Act. As an alternative, to calculate selling expenses for HYSCO, the Department has used HYSCO's fiscal year 2012 audited financial statements for merchandise within the same general category of products as the foreign like product in the Korean market, in accordance with section 773(e)(2)(B)(i) of the Act. For more information, *see* HYSCO Preliminary Analysis Memorandum. For NEXTEEL, the Department used NEXTEEL's 2012 audited financial statements to calculate selling expenses.¹²⁰ For more information, *see* NEXTEEL Preliminary Analysis Memorandum.

CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the date of the U.S. sales as certified by the Federal Reserve Bank.

VERIFICATION

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

CONCLUSION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

(Date)

¹²⁰ *See* NEXTEEL's December 23, 2014 Supplemental Section D Response at Exhibit SD-24A and NEXTEEL's September 18, 2013 Section A Response at Exhibit A-10.