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Administrative Review


POR: 07/18/2014-08/31/2015

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DATE: October 5, 2016

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the
Antidumping Duty Administrative Review: Certain Oil Country
Tubular Goods from the Republic of Korea

SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain oil country tubular goods (OCTG) from the Republic of Korea (Korea), covering the period of review (POR) July 18, 2014, through August 31, 2015. The review covers 50 producers or exporters of the subject merchandise. The Department selected two respondents for individual examination, NEXTEEL Co., Ltd. (NEXTEEL) and SeAH Steel Corporation (SeAH). We preliminarily determine that each respondent made sales of the subject merchandise at prices below normal value (NV).

BACKGROUND

On September 10, 2014, the Department published in the *Federal Register* the AD order on OCTG from Korea.¹ On September 1, 2015, we published in the *Federal Register* a notice of opportunity to request an administrative review of the order.² On September 25, 2015, ILJIN Steel Corporation (ILJIN) submitted a request for the Department to conduct an administrative review of its own exports of OCTG. On September 28, 2015, Hyundai Steel Company and

¹ See *Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691, 53693 (September 10, 2014).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 52741 (September 1, 2015).



Hyundai HYSCO (collectively, Hyundai Steel³) and NEXTEEL submitted requests for an administrative review. On September 29, 2015, SeAH submitted a request for an administrative review, and on September 30, 2015, Husteel Co., Ltd. (Husteel) and AJU Besteel Co., Ltd. (AJU Besteel) submitted requests for an administrative review. On September 29, 2015, the Petitioners⁴ submitted a request for a review of various companies. On November 9, 2015, based on timely requests for administrative reviews, we initiated an administrative review of OCTG from Korea.⁵ Between November 9, 2016 and November 12, 2016, ILJIN, Husteel, Hyundai Steel, and NEXTEEL submitted requests for voluntary respondent treatment in the event they were not selected as mandatory respondents.

On November 19, 2015, the Department released data from U.S. Customs and Border Protection (CBP), and solicited comments from parties on the Department's selection of mandatory respondents. On November 27, 2015, we received comments on respondent selection from ILJIN, Hyundai Steel, NEXTEEL, and Petitioners Energex Tube, a division of JMC Steel Group, TMK IPSCO, Vallourec Star L.P., and Welded Tube USA Inc. On December 2, 2015, we received rebuttal comments on respondent selection from ILJIN. In the *Initiation Notice*,⁶ we stated our intention, in the event we limited the number of respondents for individual examination, to select respondents based on CBP data. On February 12, 2016, we selected as mandatory respondents the two exporters or producers accounting for the largest volume of OCTG from Korea during the POR (*i.e.*, in alphabetical order, NEXTEEL and SeAH).⁷

We sent questionnaires to NEXTEEL and SeAH on February 12, 2016.⁸ On February 26, 2016, NEXTEEL submitted a letter stating that during the POR, its sales of the foreign like product in the home market constituted less than five percent by quantity of its total U.S. sales. NEXTEEL also stated in that letter that it did not have sales to an individual third-country market which constituted five percent or more, by quantity, of NEXTEEL's sales to the United States during the POR. Similarly, on February 26, 2016, SeAH submitted a letter informing the Department that the volume of its home market sales of the foreign like product during the POR was less than five percent of the volume of its U.S. sales of subject merchandise during the POR.

On March 18, 2016, SeAH, NEXTEEL, and NEXTEEL's Korean customer, POSCO Daewoo Corporation (Daewoo), timely submitted responses to section A of the Department's AD questionnaire (*i.e.*, the section relating to general information). On March 31, 2016, SeAH submitted timely responses to sections B, C, D, and E of the Department's AD questionnaire

³ On September 21, 2016, the Department published the final results of a changed circumstances review with respect to OCTG from Korea, finding that Hyundai Steel is the successor-in-interest to Hyundai HYSCO for purposes of determining antidumping duty cash deposits and liabilities. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Oil Country Tubular Goods From the Republic of Korea*, 81 FR 64873 (September 21, 2016).

⁴ Petitioners are Maverick Tube Corporation; Energex Tube, a division of JMC Steel Group; TMK IPSCO; Vallourec Star L.P.; Welded Tube USA Inc.; and United States Steel Corporation (collectively, Petitioners).

⁵ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 69193, 69195-6 (November 9, 2015) (*Initiation Notice*).

⁶ *Id.*, 80 FR at 69194.

⁷ *See* the Department's Memorandum entitled, "Antidumping Duty Administrative Review of Certain Oil Country Tubular Goods from the Republic of Korea: Respondent Selection Memorandum," dated February 12, 2016 (Respondent Selection Memo).

⁸ *See* Letters from the Department to SeAH and NEXTEEL, dated February 12, 2016 (Original QNR).

(i.e., the sections relating to comparison-market and U.S. sales and cost of production (COP)). On April 1, 2016, NEXTEEL submitted timely responses to sections C and D of the Department's AD questionnaire. On April 1 and April 5, 2016, Daewoo submitted timely responses to sections C and D of the Department AD questionnaire. From May 2016 through September 2016, the Department issued supplemental questionnaires to SeAH, NEXTEEL, and Daewoo. We received supplemental questionnaire responses from SeAH, NEXTEEL, and Daewoo from May 2016 through September 2016.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the closure of the Federal Government earlier this year. All deadlines in this segment of the proceeding have been extended by four business days.⁹ On May 31, 2016, we fully extended the preliminary results by 120 days.¹⁰ The revised deadline for the preliminary results of this review is now October 5, 2016.

We are conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

SCOPE OF THE ORDER

The merchandise covered by the order is 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 order also covers OCTG coupling stock.

Excluded from the scope of the order 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 order 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.

⁹ See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas," dated January 27, 2016.

¹⁰ See the Memorandum to Christian Marsh entitled, "Oil Country Tubular Goods from the Republic of Korea: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated May 31, 2016.

The merchandise subject to the order 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 order is dispositive.

PRELIMINARY DETERMINATION OF NO SHIPMENTS

On December 9, 2015, six companies named in the *Initiation Notice* submitted letters to the Department certifying that they had no exports, sales, or entries of subject merchandise to the United States during the POR.¹¹ These six companies are: Hyundai Glovis, Hyundai Mobis, Hyundai RB, Kolon Global, POSCO Plantec, and Samsung C&T Corporation. On September 21, 2016, consistent with our practice, the Department issued “No Shipment Inquiries” to CBP to confirm that there is no evidence to contradict the claim of no entries of OCTG from Korea exported by any of these six companies during the POR.¹² We received nothing from CBP that contradicted these six companies’ claims of no shipments.

Because the evidence on the record indicates that these six companies had no exports, sales or entries of subject merchandise to the United States during the POR, we preliminarily determine that Hyundai Glovis, Hyundai Mobis, Hyundai RB, Kolon Global, POSCO Plantec, and Samsung C&T Corporation had no shipments during the POR. Also, consistent with our practice, the Department finds that it is not appropriate to rescind the review with respect to these six companies, but, rather, to complete the review with respect to these six companies, and to issue appropriate instructions to CBP based on the final results of this review.¹³ In our May 6, 2003, “automatic assessment” clarification, we explained that, where respondents in an administrative review demonstrated that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the applicable rate for the reseller or at the all-others rate applicable to the proceeding. Because “as entered” liquidation instructions do not alleviate the concerns that the *Assessment Policy Notice* was intended to

¹¹ See Letter from Hyundai Steel to the Department (certifying that its affiliates Hyundai Glovis, Hyundai Mobis, and Hyundai RB had no exports, sales or entries of subject merchandise to the United States during the POR), dated December 9, 2015; Letter from Kolon Global to the Department, dated December 9, 2015; Letter from POSCO Plantec to the Department, dated December 9, 2015; and Letter from Samsung C&T Corporation to the Department, dated December 9, 2015. One other company, POSCO Processing & Service Co., Ltd., submitted a letter stating that it had no exports, sales or entries of subject merchandise to the United States during the POR. See Letter from POSCO Processing & Service Co., Ltd. to the Department, dated December 9, 2015. However, no company with this specific name was listed in the *Initiation Notice*. See *Initiation Notice*, 80 FR at 69195-6.

¹² See Customs e-mail message number 6265301, dated September 21, 2016 (Hyundai Glovis); Customs e-mail message number 6265302, dated September 21, 2016 (Hyundai Mobis); Customs e-mail message number 6265303, dated September 21, 2016 (Hyundai RB); Customs e-mail message number 6265304, dated September 21, 2016 (Kolon Global); Customs e-mail message number 6265305, dated September 21, 2016 (POSCO Plantec); and Customs e-mail message number 6265306, dated September 21, 2016 (Samsung C&T Corporation).

¹³ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

address, we find it appropriate to complete the review and issue liquidation instructions to CBP concerning entries for Hyundai Glovis, Hyundai Mobis, Hyundai RB, Kolon Global, POSCO Plantec, and Samsung C&T Corporation after the final results of this administrative review are issued. If we continue to find for the final results that these six companies had no shipments of subject merchandise, we will instruct CBP to liquidate any existing entries of merchandise produced by these six companies, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.¹⁴

RATES FOR NON-EXAMINED COMPANIES

The statute and the Department's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}."

In this review, we have preliminarily calculated weighted-average dumping margins for SeAH and NEXTEEL that are not zero, *de minimis*, or determined entirely on the basis of facts available. Because there are no publicly-available U.S. sales data reported by NEXTEEL and SeAH, the Department preliminarily assigned to the companies not individually examined in this administrative review the simple average of the weighted-average dumping margins calculated for SeAH and NEXTEEL. See Appendix 1 for a full list of these companies.

AFFILIATION

During the POR, NEXTEEL purchased hot-rolled steel coil, which it used to produce OCTG, from Korean steel supplier POSCO. NEXTEEL also sold OCTG to the United States through a wholly-owned POSCO affiliate, Daewoo. As in the original investigation,¹⁵ Petitioners assert that the Department should continue to find NEXTEEL affiliated with its supplier of hot-rolled steel through a close-supplier relationship. Petitioners also note that POSCO continues to have significant involvement in both the production and sales aspects of NEXTEEL's OCTG operations. Petitioners argue that this involvement creates a situation where POSCO can exercise restraint or direction over NEXTEEL in a manner that influences the pricing, production, and sale of OCTG.¹⁶

¹⁴ See, e.g., *Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989 (September 17, 2010).

¹⁵ See *Certain Oil Country Tubular Goods From the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances*, 79 FR 41983 (July 18, 2014) (*Final Determination*) and accompanying Issues and Decision Memorandum, at Comment 20.

¹⁶ See Petitioners' September 21, 2016, submission (Petitioners' Pre-Preliminary Comments), at 6.

NEXTEEL denies that any affiliation exists between it and POSCO.¹⁷ NEXTEEL contends that, while it purchases its hot-rolled coil from POSCO, it is free to purchase from other companies as well, and that it purchased a considerable amount of the hot-rolled steel used to produce subject merchandise from other suppliers during the POR.¹⁸ Likewise, NEXTEEL asserts it is not required to sell merchandise in the United States through Daewoo, and that its sales through Daewoo decreased since the investigation.¹⁹ NEXTEEL asserts that its decreased transactions between POSCO and NEXTEEL and between NEXTEEL and Daewoo during the POR demonstrate that NEXTEEL is not reliant on POSCO or Daewoo. NEXTEEL asserts that these facts do not support a finding of reliance or control, but, rather, demonstrate that NEXTEEL has suppliers and buyers other than POSCO and Daewoo in the production and sale of OCTG. Further, NEXTEEL claims that the facts have changed between the investigation and the present administrative review, compelling a different result.²⁰

In accordance with section 771(33) of the Act, the following persons shall be considered affiliated: (A) members of a family, including brothers and sisters (whether by the whole or half-blood), spouse, ancestors, and lineal descendants; (B) any officer or director of an organization and such organization; (C) partners; (D) employer and employee; (E) any person directly or indirectly owning, controlling, controlled by, or holding with power to vote, five percent or more of the voting stock or shares of any organization and such organization; (F) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (G) any person who controls any other person and such other person. To find affiliation between two companies, at least one of the criteria above must be applicable.

Section 771(33) of the Act further provides that, “[f]or purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.” The Department’s regulations at 19 CFR 351.102(b)(3) state that, in finding affiliation based on control, the Department will consider, among other factors: (i) corporate or family groupings; (ii) franchise or joint venture agreements; (iii) debt financing, and (iv) close supplier relationships.

Control between persons may exist in close supplier relationships in which either party becomes reliant on one another.²¹ With respect to close supplier relationships, the Department has determined that the threshold issue is whether either the buyer or seller has, in fact, become reliant on the other. Only if such reliance exists does the Department then determine whether one of the parties is in a position to exercise restraint or direction over the other.²² The Department will not, however, find affiliation on the basis of this factor unless the relationship has the potential to affect decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.²³

¹⁷ See NEXTEEL’s September 26, 2016, pre-preliminary comments, at 12.

¹⁸ *Id.*, at 6.

¹⁹ *Id.*, at 4.

²⁰ *Id.*

²¹ See, e.g., SAA at 838.

²² See, e.g., *Multilayered Wood Flooring from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) and accompanying Issues and Decision Memorandum at Comment 21.

²³ See 19 CFR 351.102(b)(3).

In establishing whether there is a close supplier relationship, we normally look to whether one of the parties has become reliant on the other. However, in this situation, the argument for affiliation goes beyond an allegation of a close supplier relationship. POSCO is involved in both the production and sales (through its wholly owned affiliate, Daewoo) of NEXTEEL's operations involving subject merchandise. During the POR, NEXTEEL purchased the majority of its hot-rolled coil inputs from POSCO for the production OCTG and sold significant amounts of the OCTG to Daewoo. The Department finds that the combination of its involvement on both the production and sales sides creates a situation where POSCO is operationally in a position to exercise restraint or direction over NEXTEEL in a manner that affects the pricing, production, and sale of OCTG. The preamble to the Department's regulations states that section 771(33), which refers to a person being "in a position to exercise restraint or direction," properly focuses the Department on the ability to exercise "control" rather than the actuality of control over specific transactions.

In this case, given POSCO's involvement in both NEXTEEL's production and sales process, POSCO is in a unique position to exercise restraint or direction over NEXTEEL. Thus, we preliminarily find that NEXTEEL is affiliated with POSCO, pursuant to section 771(33)(G) of the Act with respect to sales through Daewoo. We further find that NEXTEEL is affiliated with Daewoo, pursuant to section 771(33)(F) of the Act, because NEXTEEL and Daewoo (which is wholly owned by POSCO) are under the common control of POSCO.

DISCUSSION OF THE METHODOLOGY

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether SeAH's and NEXTEEL's sales of subject merchandise were made at less than NV, the Department compared the constructed export price (CEP) or export price (EP), as appropriate, to the NV as described in the "Export Price and Constructed Export Price" and "Normal Value" sections of this memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average export prices (EP) (or CEPs) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.²⁴

²⁴ See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty*

In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.²⁵ The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will 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 average-to-average method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer codes. Regions are defined using the reported destination code (*i.e.*, zip, state) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEPs) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period 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 prices to the particular purchaser, region or time period differ significantly from the 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 (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there

Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012) and accompanying Issues and Decision Memorandum, at comment 1; *see also Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

²⁵ *See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are 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 account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average 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 average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average 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 average-to-average method.

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 prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative comparison 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 average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison 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 margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

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

B. Results of the Differential Pricing Analysis

For SeAH, based on the results of the differential pricing analysis, the Department preliminarily finds that 71.26 percent of the value of U.S. sales pass the Cohen's *d* test, and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is a meaningful difference between the weighted-average dumping margin calculated using the average-to-average method

and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales. Thus, for these preliminary results, the Department is applying the average-to-transaction comparison method for all U.S. sales to calculate the weighted-average dumping margin for SeAH.

For NEXTEEL, based on the results of the differential pricing analysis, the Department preliminarily finds that 54.76 percent of the value of U.S. sales pass the Cohen's *d* test, and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. However, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margins calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to U.S. sales which pass the Cohen's *d* test and applying the average-to-average method to U.S. sales which do not pass the Cohen's *d* test because the relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method (*i.e.*, the mixed average-to-transaction method) is less than 25 percent. Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for NEXTEEL.

Product Comparisons

For SeAH, in accordance with section 771(16) of the Act, we considered all products covered by the "Scope of the Order" section, above, produced and sold by SeAH in the comparison market during the POR to be foreign like product for the purposes of determining appropriate product comparisons to U.S. sales of subject merchandise. Specifically, we compared prices for products sold in the U.S. market with weighted-average comparison market prices for sales passing the cost-of-production (COP) test which were either identical or most similar in terms of physical characteristics. In order of importance, these physical characteristics are: welding, type, grade, coupling, upset end, threading, nominal outside diameter, length, heat treatment, and nominal wall thickness.²⁶

For NEXTEEL, we based NV on constructed value (CV) because NEXTEEL did not have a viable home market or third-country market during the POR. Therefore, for NEXTEEL, 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 NEXTEEL's reported COP, which is reported on the basis of product control number (CONNUM). CONNUMs are defined by the reported physical characteristics established by the Department for OCTG, which are listed above.

Date of Sale

²⁶ For these preliminary results, the Department is revising one of SeAH's reported grade codes, and, hence, is modifying the affected CONNUMs to reflect the revised grade code. For more information, *see* Memorandum from Deborah Scott, International Trade Compliance Analyst, AD/CVD Operations, Office VI, through Erin Kearney, Program Manager, AD/CVD Operations, Office VI, to the File, "Analysis of Data Submitted by SeAH Steel Corporation for the Preliminary Results of the 2014-2015 Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from the Republic of Korea," dated October 5, 2016 (SeAH Preliminary Analysis Memorandum).

Section 351.401(i) of the Department's regulations states that, normally, we will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. Furthermore, if the shipment date precedes the invoice date, then the Department will use the date of shipment as the date of sale. The regulation provides that we may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.²⁷

SeAH

All of SeAH's comparison market sales were back-to-back transactions in which the merchandise was shipped directly from SeAH's plant in Korea to the third-country port designated by the customer. Similarly, some of SeAH's U.S. sales were shipped directly from SeAH's plant in Korea to the unaffiliated U.S. customer in a back-to-back transaction. For back-to-back sales in both the comparison market and the United States, SeAH reported that the quantity ordered was always subject to change between order and shipment, and, thus, quantity and price were not fixed until the merchandise was actually loaded onto the vessel.²⁸ For these sales, SeAH reported the date the merchandise was loaded onto the vessel for shipment from Korea as the date of sale; in all cases, this date was earlier than the date of invoice to the unaffiliated customer. The remainder of SeAH's U.S. sales were made from inventory held by a division of SeAH's U.S. affiliate, Pusan Pipe America, Inc. (PPA). For these sales, SeAH reported the date of PPA's shipment to the unaffiliated U.S. customer as the date of sale; in all cases, this date was earlier than or the same as the date of invoice to the unaffiliated customer. For these preliminary results, we relied on the dates of sale reported by SeAH.

NEXTEEL

NEXTEEL reported the date of shipment from factory for its channel 1 and channel 2 sales to the United States as the date of sale. NEXTEEL's channel 1 sales were to its affiliated customer, Daewoo, in Korea, which, in turn, exported the subject merchandise to the United States. NEXTEEL's channel 2 sales to the United States were its direct sales to the United States. For these sales channels, NEXTEEL transported production quantities to the Korean port as they were completed or available. The merchandise was held at the port until there was sufficient quantity at the port for international transport. Therefore, NEXTEEL reported as the date of sale the date on which the last batch of products from each invoice line item was shipped from the factory.²⁹

For its channel 3 sales, NEXTEEL reported the date of sale that NEXTEEL America specified as the requested shipment date as the date of sale. Because the U.S. customer arranged delivery of

²⁷ See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-92 (CIT 2001); and *Yieh Phui Enterprise Co. v. United States*, 791 F. Supp. 2d 1319 (CIT 2011) (affirming that the Department may use invoice date unless a party demonstrates that the material terms of its sale were established on another date).

²⁸ See, e.g., SeAH's March 31, 2016 section B questionnaire response at 17, footnote 8 and SeAH's March 31, 2016 section C questionnaire response at 65, footnote 30.

²⁹ See NEXTEEL's March 18, 2016, Section A Response at A-17 (Section A response).

the merchandise from the storage yard, NEXTEEL America is not aware of the exact date that the products were shipped from the storage yard.³⁰

Because we find affiliation between NEXTEEL and Daewoo, we have used Daewoo's bill of lading date as the date of sale for NEXTEEL's channel 1 sales, which is issued on the same day as the date of shipment from the Korean port.³¹ For NEXTEEL's direct sales to unaffiliated U.S. customers and to NEXTEEL America (*i.e.*, its channel 2 and channel 3 sales), although the price is generally fixed at the time of order, we find that NEXTEEL's date of shipment to the United States is the proper date of sale because the sales quantity can change up until the merchandise is loaded on a vessel and shipped from the Korean port.³²

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 SeAH and based the U.S. price on the EP and CEP for NEXTEEL.

SeAH

The Department based the price of SeAH's U.S. sales of subject merchandise on CEP, as defined in section 772(b) of the Act, for the subject merchandise sold, before or after importation, by a U.S.-based seller affiliated with the producer to unaffiliated purchasers in the United States. We made adjustments, where appropriate, from the starting price for billing adjustments, freight revenue (capped by the amount of the associated freight expenses), and early payment discounts. We made deductions for any movement expenses (Korean inland freight, Korean brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight, U.S. warehousing, and U.S. duties), in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which include direct selling expenses (imputed credit expenses and bank charges), indirect selling expenses, and expenses incurred to further manufacture the product in the United States. We also made an adjustment for CEP profit allocated to selling expenses deducted under section 772(d)(1) of the Act, in accordance with section 772(d)(3) of the Act. Pursuant to section 772(f) of the Act, we computed the CEP profit rate based on the total revenues realized on sales in both the U.S. and comparison markets, less all expenses associated with those sales.

³⁰ *Id.*

³¹ See Daewoo's April 4, 2016, Section C Response at C-18.

³² See NEXTEEL's Section A Response at A-23.

NEXTEEL

For its channel 1 sales to the United States, NEXTEEL sold subject merchandise to Daewoo in Korea, which in turn, exported the subject merchandise to the United States. We have preliminarily found NEXTEEL to be affiliated with NEXTEEL and Daewoo, and therefore have designated the starting price for the U.S. sale as the price reported by Daewoo. 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, Korean warehousing expenses, Korean inland freight, Korean brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight, U.S. warehousing, and U.S. duties.³³

For NEXTEEL's channel 2 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 unaffiliated purchaser in the United States and because CEP was not otherwise warranted. We made adjustments, where appropriate, for Korean warehousing expenses, Korean inland freight, Korean brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight, U.S. warehousing, and U.S. duties.³⁴

The Department based the price of NEXTEEL's channel 3 U.S. sales of subject merchandise on CEP, as defined in section 772(b) of the Act, for the subject merchandise sold, before importation, by a U.S.-based seller affiliated with the producer to unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses (*e.g.*, inland freight, warehousing, international freight, marine insurance, brokerage and handling, and U.S. duties), in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e).

In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses and those indirect selling expenses associated with economic activities occurring in the United States. We also deducted the profit allocated to expenses deducted under section 772(d)(1) of the Act, in accordance with section 772(d)(3) of the Act.

Particular Market Situation

Maverick Tube Corporation (Maverick) alleges that particular market situations exist in Korea with respect to the hot-rolled coil input and electricity, such that the Department must use an alternative calculation methodology in place of the respondents' reported production costs.³⁵

³³ See Memorandum from Victoria Cho, International Trade Compliance Analyst, AD/CVD Operations, Office VI, through Erin Kearney, 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 October 5, 2016 (NEXTEEL Preliminary Analysis Memorandum).

³⁴ *Id.*

³⁵ See Letter from Maverick to the Department, "Oil Country Tubular Goods from the Republic of Korea: Submission of Factual Information," dated November 25, 2015 and Letter from Maverick to the Department, "Certain Oil Country Tubular Goods from the Republic of Korea: Particular Market Situation Allegation on Electricity," dated February 3, 2016.

Maverick's allegations are the first to be filed with the Department under section 504 of the Trade Preferences Extension Act of 2015 (TPEA). The TPEA amended the Act expressly to permit the Department to use an alternative calculation methodology where a "particular market situation" distorts costs such that they do not "accurately reflect the cost of production in the ordinary course of trade."

Prior to the TPEA, in a limited number of cases, the Department found that particular market situations existed and, as a result, declined to use an entire market for purposes of calculating NV, as provided for in section 351.404(c)(2) of the Department's regulations.³⁶ The Department's practice in finding particular market situations starts with a substantiated allegation from an interested party that reasonably demonstrates that such situations exist. We note that neither the statute, the Department's regulations nor the SAA define the term particular market situation.³⁷

Hot-Rolled Coil Input

Maverick alleges that a particular market situation exists with respect to hot-rolled coil (HRC), which accounts for 80 to 90 percent of the COP of OCTG.³⁸

- 1) Maverick argues that POSCO and Hyundai Steel are the only two major Korean suppliers of hot-rolled steel coil, and that both companies were selected as mandatory respondents in the CVD investigation of hot-rolled steel flat products (which includes HRC). According to Maverick, the finding of countervailable subsidies in that investigation would signify that the costs and prices of Korean HRC are distorted, and this would prevent the Department from accurately calculating the cost of producing OCTG in the ordinary course of trade.
- 2) Maverick separately alleges that the Korean market has been flooded with even cheaper Chinese hot-rolled flat products over the last three years. Maverick claims that the unfairly-traded Chinese imports place further downward pressure on Korean domestic HRC prices and cause additional price distortions.
- 3) Maverick asserts that, taken together, the subsidies from the Government of Korea (GOK) and the unfairly-traded Chinese imports result in a situation in which HRC costs are distorted and, therefore, do not accurately reflect the COP of OCTG in the ordinary course of trade. Maverick claims this situation requires the Department to utilize another methodology for calculating CV. Because the subsidies and Chinese imports affect the entire Korean HRC

³⁶ Examples of prior cases where we have found a particular market situation include *Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon From Chile*, 63 FR 31411 (June 9, 1998) (*Salmon from Chile LTFV*); *Mechanical Transfer Presses From Japan*; *Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Administrative Order in Part*, 63 FR 37331 (July 10, 1998) (*Printing Presses from Japan LTFV*); and *Notice of Final Results of the Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 72 FR 7011 (February 14, 2007) (*Pasta from Italy 9th AR*).

³⁷ The SAA provides an example of what could be considered a particular market situation, such as price changes correlated to holidays in both markets, but does not define the term.

³⁸ See Maverick's November 25, 2015 submission at 3.

industry, Maverick contends the Department should completely disregard the Korean HRC prices and, instead, select a surrogate price which reflects the world market price of HRC.

- 4) Maverick separately alleges that POSCO and Hyundai Steel are the two major HRC suppliers in Korea and that these companies supply HRC to the OCTG producers as part of their “strategic alliances,” as well as to producers outside such “strategic alliances.” Maverick claims that the sales to the different customer groups are made at radically different prices, and that the sales of HRC to members of the strategic alliances are outside the ordinary course of trade and do not reflect the true cost of the HRC input. According to Maverick, the TPEA requires the Department to look beyond affiliation and the major input rule and to evaluate the degree to which the prices of inputs from particular suppliers differ depending on who purchases those inputs. If the prices of the inputs do not reflect market prices, Maverick argues, they should be deemed outside the ordinary course of trade. In light of this, Maverick contends the Department should request that: (1) each Korean supplier of HRC provide the quantity and value of its sales, by month and by grade, to each OCTG producer and (2) each OCTG producer subject to this review, whether a mandatory respondent or not, provide the quantity and value of all HRC purchases, by month and by grade, from each HRC supplier.

Maverick argues that the Department should apply the major input rule for HRC supplied by POSCO to NEXTEEL and SeAH. Maverick claims that the Department should adjust HRC prices by the countervailable subsidy rates recently calculated in the CVD investigation of hot-rolled steel flat products from Korea. Maverick also argues that the Department should increase the total cost calculated for HRC supplied by POSCO, and increase the total cost calculated for HRC from suppliers other than POSCO.³⁹

With respect to its “strategic alliances” claims, Maverick did not provide evidence (*i.e.*, examples of distorted prices) supporting its claims. We also note that, in the case of Chinese exports of steel to Korea, evidence from the less-than-fair-value (LTFV) investigation (which is also on the record of this review) shows that U.S. customers specifically requested Korean steel, not Chinese steel, to produce OCTG. In addition, record evidence shows that the majority of the steel used to produce OCTG in Korea from the two mandatory respondents is either Korean or Japanese steel.

Electricity

Maverick alleges that electricity prices in Korea are highly distorted due to the Korean Government’s “pervasive intervention” in the production and distribution of electricity. Maverick alleges that Korean electricity prices are countervailable subsidies. Because large steel producers are allegedly able to purchase electricity at highly-distorted low prices, Maverick argues that the costs to produce both hot-rolled coil and finished OCTG are severely undervalued. Maverick estimates that electricity accounts for over 10 percent of OCTG’s cost of manufacture (COM).⁴⁰ Under the TPEA, Maverick contends that the Department should make

³⁹ See Letter from Maverick to the Department, “Certain Oil Country Tubular Goods from the Republic of Korea: Particular Market Situations and Other Factual Information Submission,” dated September 6, 2016, at 25.

⁴⁰ See Maverick’s February 3, 2016 submission at 12.

an adjustment to COP and CV to allow for an accurate comparison between NV and U.S. price. To accurately value the COM of OCTG, Maverick asserts the Department should use surrogate values to value electricity consumed to produce OCTG. Specifically, Maverick proposes that the Department rely on Japanese electricity rates for industrial users.

The Department has recently conducted four separate Korean CVD investigations in which the provision of electricity for less-than-adequate remuneration in Korea was found to be not countervailable because no benefit was found to exist.

The Department has not made a decision concerning these allegations of a particular market situation at this time, but intends to further consider these allegations after soliciting comments from interested parties. We invite interested parties to submit comments and arguments on these allegations no later than 14 days after publication of these preliminary results in the *Federal Register*.

Normal Value

A. Home Market Viability and Comparison Market

To determine whether a sufficient volume of sales of OCTG exists in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared SeAH's and NEXTEEL's volume of home market sales of the foreign like product to their volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. 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 prevents a proper comparison with the U.S. price.

Based on this comparison for SeAH, we preliminarily determine that SeAH did not have a viable home market during the POR. The only third-country market to which SeAH sold comparable merchandise during the POR was Canada. Based on our analysis of information on the record, we preliminarily determine that SeAH's Canadian market is viable.⁴¹ Consequently, for these preliminary results, we based NV on SeAH's third-country sales to Canada, in accordance with section 773(a)(1)(B)(ii) of the Act.

Based on this comparison for NEXTEEL, we preliminarily determine that NEXTEEL did not have a viable home market during the POR. We find that the aggregate volume of home market sales of the foreign like product is less than five percent of the aggregate volume of U.S. sales, and, thus, NEXTEEL's sales in the home market were not viable.⁴² We also preliminarily find

⁴¹ For more information regarding our market viability analysis, *see* the SeAH Preliminary Analysis Memorandum.

⁴² *See* 19 CFR 351.404(b)(2); *see also* NEXTEEL's Section A Response at A-3-4 and Exhibit A-1.

that the aggregate quantity of the foreign like product sold by NEXTEEL in any third-country market was less than five percent of the aggregate volume of U.S. sales, and, therefore, NEXTEEL did not have a viable third-country market.⁴³ As a result, for NEXTEEL, we used CV as the basis for calculating NV, in accordance with section 773(a)(4) of the Act.

B. For NEXTEEL, Normal Value Based on Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of 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 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 NEXTEEL's submitted COP and CV data except as follows.⁴⁴

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 input cost of a particular grade of hot-rolled coil purchased from an affiliate to reflect the market price in accordance with section 773(f)(3) of the Act.
3. We revised the reported G&A expense ratio to include the suspension loss in the numerator and exclude the suspension loss and the valuation allowances from the denominator of the ratio calculation.
4. We revised the reported net financial expense ratio to use the same cost of goods sold denominator used in the calculation of the revised G&A expense ratio.

During the POR, NEXTEEL did not have a viable home market or third-country market to serve as a basis for NV; thus, NV must be based on CV, in accordance with section 773(a)(4) of the Act. Likewise, in the absence of a comparison market, we are unable to calculate CV profit using the preferred method 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 in the foreign country 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) in connection with the production and sale of the foreign like product, in the ordinary course of trade country, for consumption in the foreign country; or (iii) based on any other reasonable method, except that the amount for profit may not exceed 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").

⁴³ *Id.*

⁴⁴ 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 Results – NEXTEEL Co., Ltd.," dated October 5, 2016 (NEXTEEL's Cost Memorandum).

Thus, for the preliminary results, we have calculated NEXTEEL's CV profit and selling expenses under section 773(e)(2)(B)(iii) using SeAH's combined CV profit and selling expenses. SeAH's combined selling expense and profit experience reflects the profit of a Korean OCTG producer, on comparison market sales of the merchandise under consideration, in the ordinary course of trade. Because there is no information on the record concerning the profit from sales of OCTG or products in the same general category in Korea, as facts available, we find that SeAH's profit from its sales of OCTG in its third-country market is a reasonable proxy for the amount normally realized by exporters or producers in connection with the sale or consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise, as provided in subsection (B)(iii).

C. For SeAH, Normal Value Based on Comparison Market Prices

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and CVD law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than cost of production.⁴⁵ The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission.⁴⁶ Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request COP information from respondent companies in all AD proceedings.⁴⁷ Accordingly, we requested this information from SeAH and NEXTEEL, and determined that there are reasonable grounds to believe or suspect that sales of the foreign like product were made at prices less than the COP. We examined SeAH and NEXTEEL's cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the COP for SeAH based on the sum of the cost of materials and fabrication for the such or similar merchandise plus an amount for general and administrative expenses (G&A), and interest expenses. We relied on SeAH's COP data as submitted, except as described below.

1. The Department reallocated SeAH's HRC cost based on the common HRC grade in order to mitigate the significant cost fluctuations reported for DIRMAT (*i.e.*, HRC costs).
2. The Department used the reported costs of the CONNUM with the most similar product physical characteristics as a surrogate cost for certain CONNUMs which contained aberrational values.

⁴⁵ See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

⁴⁶ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

⁴⁷ *Id.*, 80 FR at 46794-95.

3. The Department included the miscellaneous further processing fee in the reported further manufacturing costs.
4. The Department applied PPA's G&A expense ratio to the total cost of further manufactured products, that is, *i.e.*, the further manufacturing cost plus the cost of production of the imported oil country tubular goods. We applied the G&A ratio to the total cost of manufacturing because the denominator of the G&A ratio included these costs. Also, the Department allocated PPA's G&A expense to the cost of all non-further manufactured subject products resold by PPA through inventory.

2. Test of Comparison-Market Sales Prices

As required under sections 773(b)(1) and (2) of the Act, for SeAH, we compared the weighted-average COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of a respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

Our sales-below-cost test for SeAH indicated that for comparison market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we disregarded these below-cost sales in our analysis as outside of the ordinary course of trade and used the remaining sales to determine NV, as well as to calculate selling expenses and profit for CV.

D. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on the prices SeAH reported for sales to unaffiliated Canadian customers that we determined were made within the ordinary course of trade. We made deductions from the starting price, where appropriate, for movement expenses (Korean inland freight, Korean brokerage and handling, international freight, marine insurance, Canadian brokerage and handling, and Canadian inland freight), pursuant to section 773(a)(6)(B)(ii) of the Act. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), where appropriate, we made circumstance-of-sale adjustments (bank charges and imputed credit expenses). We

added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign-like product and subject merchandise.⁴⁸

E. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison market sales, NV may be based on CV. Accordingly, for SeAH, for those models for which we could not determine the NV based on comparison market sales, we based NV on CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative expenses (SG&A), profit, and U.S. packing costs. We based SG&A and profit on the actual amounts incurred and realized by SeAH in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the comparison market, in accordance with section 773(e)(2)(A) of the Act.

CURRENCY CONVERSION

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.


RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree



Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance



Date

⁴⁸ See 19 CFR 351.411(b).

Appendix 1

List of Companies Not Individually Examined

A.R. Williams Material
AJU Besteel Co., Ltd.
AK Steel
BDP International
Cantak Corporation
Daewoo International Corporation
Dong-A Steel Co., Ltd.
Dong Yang Steel Pipe
Dongbu Incheon Steel
Dongbu Steel Co., Ltd.
Dongkuk S and C
DSEC
EEW Korea
Erndtebruecker Eisenwerk and Company
GS Global
H K Steel
Hansol Metal
HG Tubulars Canada Ltd.
Husteel Co., Ltd.
Hyundai HYSCO
Hyundai HYSCO Co., Ltd.
Hyundai Steel Company
Hyundai Steel Co., Ltd.
ILJIN Steel Corporation
Kukbo Logix
Kukje Steel
Kumkang Industrial Co., Ltd.
McJunkin Red Man Tubular
NEXTEEL Q&T
Nippon Arwwl and Aumikin Vuaan Korea Co., Ltd.
Phocennee
POSCO Processing and Acy Service
Samson
Sedae Entertech
Steel Canada
Steel Flower
Steelpia
Sung Jin
TGS Pipe
Toyota Tsusho Corporation
UNI Global Logistics
Yonghyun Base Materials