



A-580-870

POR: 9/1/2016-8/31/2017

Public Document

AD/CVD Operations, Office VI: DS/FB

DATE: October 3, 2018

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the 2016-
2017 Administrative Review of the Antidumping Duty Order on
Certain Oil Country Tubular Goods from the Republic of Korea

SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain oil country tubular goods (OCTG) from the Republic of Korea (Korea) for the period of review (POR) September 1, 2016, through August 31, 2017. This review covers 33 producers/exporters of the subject merchandise. Commerce selected two respondents for individual examination, NEXTEEL Co., Ltd. (NEXTEEL) and SeAH Steel Corporation (SeAH). We preliminarily determine that NEXTEEL and SeAH made sales of the subject merchandise at prices below normal value (NV) during the POR.

BACKGROUND

On September 10, 2014, Commerce published in the *Federal Register* the AD order on OCTG from Korea.¹ On September 1, 2017, we published in the *Federal Register* a notice of

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 (September 10, 2014) (*Order*).



opportunity to request an administrative review of the *Order*.² On September 29, 2017, Maverick Tube Corporation (Maverick) and TenarisBayCity requested a review of 31 companies,³ and on October 2, 2017, United States Steel Corporation (U.S. Steel) requested a review of 30 companies.⁴ Between September 26, 2017, and October 2, 2017, Husteel Co., Ltd.,⁵ NEXTEEL,⁶ Hyundai Steel Company,⁷ ILJIN Steel Corporation,⁸ SeAH,⁹ and AJU Besteel Co., Ltd.¹⁰ requested reviews of themselves. On November 13, 2017, based on timely requests for administrative reviews, we initiated an administrative review of OCTG from Korea.¹¹

In the *Initiation Notice*, we stated that, in the event we limited the number of respondents selected for individual examination, we intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR.¹² On December 6, 2017, Commerce released U.S. import data from CBP for the purpose of respondent selection and provided an opportunity for interested parties to comment on these data.¹³ On December 13, 2017, SeAH submitted comments on respondent selection.¹⁴ No other interested parties submitted comments on the CBP data or respondent selection. On January 3, 2018, we selected for individual examination the two exporters or producers accounting for the largest volume of the subject merchandise during the POR (*i.e.*, in alphabetical order, NEXTEEL and SeAH).¹⁵

We issued antidumping questionnaires to NEXTEEL and SeAH on January 10, 2018. On January 24, 2018 and January 29, 2018, respectively, NEXTEEL and SeAH submitted letters stating that their home market sales of the foreign like product during the POR constituted less than five percent by quantity of their total U.S. sales of subject merchandise during the POR, and

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 82 FR 41595 (September 1, 2017).

³ See Letter from Maverick and TenarisBayCity, “Oil Country Tubular Goods from the Republic of Korea: Request for Administrative Review,” dated September 29, 2017.

⁴ See Letter from U.S. Steel, “Oil Country Tubular Goods from the Republic of Korea: Request for Administrative Review,” dated October 2, 2017.

⁵ See Letter from Husteel Co., Ltd., “Oil Country Tubular Goods from the Republic of Korea, Case No. A-580-870: Request for Administrative Review,” dated September 26, 2017.

⁶ See Letter from NEXTEEL, “Oil Country Tubular Goods from Korea: Request for Administrative Review,” dated September 29, 2017.

⁷ See Letter from Hyundai Steel Company, “Oil Country Tubular Goods from Korea: Request for Administrative Review,” dated September 29, 2017.

⁸ See Letter from ILJIN Steel Corporation, “Oil Country Tubular Goods from South Korea: Request for Administrative Review of ILJIN Steel Corporation,” dated September 29, 2017.

⁹ See Letter from SeAH, “Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from Korea — Request for Review,” dated October 2, 2017.

¹⁰ See Letter from AJU Besteel Co., Ltd., “Certain Oil Country Tubular Goods from the Republic of Korea — Request for Administrative Review,” dated October 2, 2017.

¹¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 52268 (November 13, 2017) (*Initiation Notice*).

¹² See *Initiation Notice*, 81 FR at 78779.

¹³ See Letter to All Interested Parties, dated December 6, 2017.

¹⁴ See Letter from SeAH, “Oil Country Tubular Goods from the Republic of Korea – Third Review – Comments on Respondent Selection,” dated December 13, 2017.

¹⁵ See Memorandum, “Selection of Respondents for the 2016-2017 Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from the Republic of Korea,” dated January 3, 2018.

that they did not have sales to an individual third-country market that constituted five percent or more, by quantity, of their total U.S. sales during the POR.¹⁶

On February 7, 2018, SeAH and NEXTEEL submitted responses to section A of Commerce's AD questionnaire (*i.e.*, the section relating to general information), and on February 9, 2018, NEXTEEL's Korean customer, POSCO Daewoo Corporation (POSCO Daewoo) submitted a response to section A of Commerce's questionnaire.¹⁷ On February 27, 2018, SeAH submitted its response to sections C, D, and E of Commerce's AD questionnaire (*i.e.*, the sections relating to U.S. sales, cost of production (COP), and U.S. further manufacturing).¹⁸ Also on February 27, 2018, NEXTEEL submitted its response to sections C and D of Commerce's AD questionnaire, and POSCO Daewoo submitted a response to sections C and E of Commerce's AD questionnaire.¹⁹ On February 28, 2018, NEXTEEL's Korean supplier of hot-rolled coil (HRC), POSCO, submitted a response to section D of Commerce's AD questionnaire.²⁰ Between May 2018 and August 2018, Commerce issued supplemental questionnaires to NEXTEEL, POSCO, POSCO Daewoo, and SeAH. We received supplemental questionnaire responses from NEXTEEL,²¹ POSCO,²² POSCO Daewoo,²³ and SeAH²⁴ between June 2018 and August 2018.

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018.²⁵ On May 31, 2018, Commerce extended the time limit for completing the preliminary results of this review. The current extended deadline for completing the preliminary results of this review is October 3, 2018.²⁶

From September 12, 2018 through September 21, 2018, we conducted a verification of NEXTEEL's section D questionnaire response.

¹⁶ See, respectively, Letter from NEXTEEL, "Oil Country Tubular Goods from the Republic of Korea: Notification of a Reporting Issue," dated January 24, 2018 and Letter from SeAH, "Oil Country Tubular Goods from the Republic of Korea – Notification Regarding SeAH's Home and Third-Country Markets," dated January 29, 2018.

¹⁷ See, respectively, SeAH's February 7, 2018 Section A Questionnaire Response (SeAH February 7, 2018 AQR); NEXTEEL's February 7, 2018 Section A Questionnaire Response (NEXTEEL February 7, 2018 AQR); and POSCO Daewoo's February 9, 2018 Section A Questionnaire Response (POSCO Daewoo February 9, 2018 AQR).

¹⁸ See SeAH's February 27, 2018 Sections C-E Questionnaire Responses (SeAH February 27, 2018 CQR, DQR, EQR, respectively).

¹⁹ See NEXTEEL's February 27, 2018 Sections C-D Questionnaire Responses (NEXTEEL February 27, 2018 CQR and DQR, respectively) and POSCO Daewoo's February 27, 2018 Sections C and E Questionnaire Responses (POSCO Daewoo February 27, 2018 CQR and EQR, respectively).

²⁰ See POSCO's February 28, 2018 Section D Questionnaire Response (POSCO February 28, 2018 DQR).

²¹ See NEXTEEL's June 7, 2018 Supplemental Questionnaire Response (NEXTEEL June 7, 2018 SQR) and NEXTEEL's August 13, 2018 Supplemental Questionnaire Response (NEXTEEL August 13, 2018 SQR).

²² See POSCO's August 2, 2018 Supplemental Questionnaire Response and POSCO's August 13, 2018 Supplemental Questionnaire Response.

²³ See POSCO Daewoo's June 7, 2018 Supplemental Questionnaire Response and POSCO Daewoo's August 13, 2018 Supplemental Questionnaire Response.

²⁴ See SeAH's June 8, 2018 Supplemental Questionnaire Response (SeAH June 8, 2018 SQR); SeAH's August 3, 2018 Supplemental Questionnaire Response (SeAH August 3, 2018 SQR); and SeAH's August 29, 2018 Supplemental Questionnaire Response.

²⁵ See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

²⁶ See Memorandum, "Certain Oil Country Tubular Goods from the Republic of Korea: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated May 31, 2018.

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.

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

In December 2017, three companies named in the *Initiation Notice*, *i.e.*, Samsung, Samsung C and T Corporation (Samsung C&T), and SeAH Besteel Corporation (SeAH Besteel), submitted letters to Commerce certifying that they had no exports, sales, or entries of subject merchandise to the United States during the POR.²⁷ On September 20, 2018, we issued no-shipment inquiries

²⁷ See Letter from Samsung C&T, “Oil Country Tubular Goods from Korea: Notice of No Sales,” dated December 4, 2017 and Letter from SeAH Besteel, “Administrative Review of the Antidumping Order on Oil Country Tubular Goods from Korea for the 2016-17 Review Period – No Shipments Letter,” dated December 13, 2017.

to CBP to confirm the claims of no shipments by Samsung C&T and SeAH Besteel, and on October 1, 2018, we issued a no-shipment inquiry to CBP to confirm Samsung's claim of no shipments.²⁸ We have not yet received CBP's response to all our inquiries. Therefore, based on the claims of no shipments by Samsung, Samsung C&T, and SeAH Besteel, and because the record currently contains no information to the contrary, we preliminarily determine that Samsung, Samsung C&T, and SeAH Besteel had no exports, sales, or entries of subject merchandise to the United States during the POR. However, we intend to consider information received from CBP in response to our no-shipment inquiries for the final results of this review. Consistent with our practice, we are not preliminarily rescinding the review with respect to Samsung, Samsung C&T, and SeAH Besteel, but, rather, we will complete the review with respect to these companies and issue appropriate instructions to CBP based on the final results of this review.²⁹

RATES FOR NON-EXAMINED COMPANIES

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce 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 NEXTEEL and SeAH that are not zero, *de minimis*, or determined entirely on the basis of facts available. Accordingly, Commerce preliminarily has assigned to the companies not individually examined a margin of 35.25 percent, which is the weighted average of NEXTEEL's and SeAH's calculated weighted-average dumping margins.³⁰ See the Appendix for a full list of the companies not individually examined.

²⁸ See CBP message number 8263302, dated September 20, 2018 (Samsung C&T); and CBP message number 8263303, dated September 20, 2018 (SeAH Besteel); and CBP message number 8274301, dated October 1, 2018 (Samsung).

²⁹ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012-2013*, 79 FR 15951, 15952 (March 24, 2014), *unchanged in Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306, 51307 (August 28, 2014).

³⁰ For more information regarding the calculation of this margin, see Memorandum, "Preliminary Results of the 2016-2017 Administrative Review of Certain Oil Country Tubular Goods from the Republic of Korea; Calculation of the Margin for Non-Examined Companies," dated October 3, 2018. As the weighting factor, we relied on the publicly ranged sales data reported in NEXTEEL's and SeAH's quantity and value charts.

DUTY ABSORPTION

On December 13, 2017, Maverick, TenarisBayCity, U.S. Steel, TMK IPSCO, Vallourec Star L.P., and Welded Tube USA (collectively, Domestic Interested Parties) requested that Commerce conduct a duty absorption inquiry.³¹ Section 751(a)(4) of the Act provides for Commerce, if requested, to determine during an administrative review initiated two or four years after publication of the order whether antidumping duties have been absorbed by the foreign producer or exporter if the subject merchandise is sold in the United States through an affiliated importer. Because this review was not initiated at the two-year or four-year interval from publication of the antidumping duty order, a duty absorption inquiry is not authorized under the statute or Commerce's regulations.³²

DUTY REIMBURSEMENT

A. Background

In the previous administrative review, Maverick, TenarisBayCity, and U.S. Steel (collectively, the petitioners) submitted a duty reimbursement allegation with respect to NEXTEEL. In analyzing that allegation, we found that NEXTEEL's 2016 audited financial statements contained a mistranslation related to the financial transactions at issue. Because we found that the mistranslated line item constituted a material omission and called into question the veracity of NEXTEEL's responses, we based NEXTEEL's margin in the previous review on adverse facts available (AFA).³³

In the instant review, before NEXTEEL submitted its response to the AD questionnaire, the petitioners again filed a duty reimbursement allegation and duty as a cost allegation with respect to NEXTEEL.³⁴

B. Interested Parties' Arguments

In their February 6, 2018 Duty Reimbursement Allegation, the petitioners contend that NEXTEEL reimbursed its U.S. affiliate, NEXTEEL America, for AD cash deposits paid on U.S.

³¹ See Letter from Domestic Interested Parties, "Oil Country Tubular Goods from the Republic of Korea: Request for Duty Absorption Review," dated December 13, 2017.

³² See *FAG Italia S.p.A. v. United States*, 291 F.3d 806 (Fed. Cir. 2002); see also *Torrington Co. v. United States*, 146 F. Supp. 2d 845, 858 (Ct. Int'l Trade 2001) ("Commerce does not have inherent authority to conduct a duty absorption inquiry in any administrative review. See *id.* Rather, the statutory scheme, as noted, clearly provides that the inquiry must occur in the second or fourth administrative review after the publication of the antidumping duty order, not in any other review, and upon the request of a domestic interested party. See 19 U.S.C. § 1675(a)(4).")

³³ See *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016*, 83 FR 17146 (April 18, 2018) (2015-2016 Final Results) and accompanying Issues and Decision Memorandum, at Comment 6.

³⁴ See Letter from Maverick, TenarisBayCity, and U.S. Steel, "Oil Country Tubular Goods from The Republic of Korea: Duty Reimbursement and Duty as a Cost Allegation," dated January 19, 2018. These parties subsequently refiled this submission to correct certain bracketing errors. See Letter from Maverick and TenarisBayCity, "Oil Country Tubular Goods from The Republic of Korea: Errata Regarding Petitioners' Duty Reimbursement and Duty as a Cost Allegations," dated February 6, 2018 (February 6, 2018 Duty Reimbursement Allegation).

entries of OCTG.³⁵ The petitioners state they “reasonably believe that NEXTEEL America is the importer for many of NEXTEEL’s OCTG imports into the United States,” and they “believe that... NEXTEEL America assists NEXTEEL in clearing U.S. customs, regardless of which entity is the importer of record for a particular entry of OCTG.”³⁶ Referring to certain line items in NEXTEEL’s 2016 financial statements, the petitioners argue that two Korean banks provided U.S. dollar-denominated loans to NEXTEEL in 2015 and 2016 at the direction of the Korean Government.³⁷ According to the petitioners, Commerce’s standard creditworthiness analysis shows that NEXTEEL was uncreditworthy during that period, and that NEXTEEL could not have obtained these loans – which it used to reimburse NEXTEEL America for AD cash deposits – without the Korean Government’s intervention.³⁸ The petitioners claim that, although NEXTEEL’s cash deposit rates have been rising, so have its imports of OCTG, which confirms that NEXTEEL reimbursed NEXTEEL America for cash deposits.³⁹ The petitioners argue that because NEXTEEL and NEXTEEL America are two different corporate entities, Commerce’s reimbursement regulation applies.⁴⁰ Thus, the petitioners assert, Commerce should find that NEXTEEL reimbursed NEXTEEL America for AD duties in violation of 19 CFR 351.402(f) and/or treat NEXTEEL’s absorption of AD duties as a cost in the margin calculation.⁴¹

In its section A and supplemental section A questionnaire responses, NEXTEEL clarifies the translation of the line items at issue in its 2016 financial statements, and asserts that its 2017 financial statements reflect the correct translation of these line items.⁴² NEXTEEL also contends that during the POR, NEXTEEL America did not import or sell any subject merchandise manufactured by NEXTEEL.⁴³ Rather, NEXTEEL states, it was the sole importer of record into the United States for the OCTG, paid all applicable duties and fees, and paid the broker fees directly to the customs broker.⁴⁴ NEXTEEL explains that the financial transactions referenced by the petitioners are not loans, but, instead, are letters of credit that NEXTEEL obtained from private banks to provide collateral on its U.S. Customs bonds.⁴⁵ In its supplemental section A questionnaire response, NEXTEEL provided a copy of the letters of credit from the banks as well as the collateral policy agreement with the agent of the sureties guaranteeing NEXTEEL’s U.S. Customs bonds.⁴⁶

C. Analysis

The petitioners filed their duty reimbursement allegation prior to the submission of NEXTEEL’s questionnaire responses. In contrast to the immediately preceding review, in its questionnaire and supplemental questionnaire responses in the instant review, NEXTEEL provided a full and

³⁵ See February 6, 2018 Duty Reimbursement Allegation, at Attachment 1, page 3.

³⁶ *Id.*, at Attachment 1, pages 3-4.

³⁷ *Id.*, at Attachment 1, pages 4-7 and 11-13.

³⁸ *Id.*, at Attachment 1, pages 5 and 13-15.

³⁹ *Id.*, at Attachment 1, pages 7-10.

⁴⁰ *Id.*, at Attachment 1, pages 15-17.

⁴¹ *Id.*, at Attachment 1, pages 17-20.

⁴² See NEXTEEL February 7, 2018 AQR, at A-27 and NEXTEEL June 7, 2018 SQR, at SA-3.

⁴³ See NEXTEEL February 7, 2018 AQR, at A-10.

⁴⁴ *Id.*; see also NEXTEEL February 27, 2018 CQR, at C-49.

⁴⁵ See NEXTEEL June 7, 2018 SQR, at SA-3 - SA-4.

⁴⁶ *Id.*, at Exhibits SA-6-A and SA-6-B.

correct translation of the financial transactions at issue in its 2017 financial statements, described the nature of these transactions, and provided support documentation for these transactions.⁴⁷ In addition, the information on the record of the instant POR indicates that NEXTEEL itself is the importer of record, not NEXTEEL America.⁴⁸ Because the record: (1) contains clarification regarding the financial transactions at issue; (2) shows that NEXTEEL was both the exporter and importer of record during the POR; and (3) the petitioners' allegation regarding the bank loans does not demonstrate that reimbursement occurred within the meaning of 19 C.F.R. 351.402(f), we preliminarily determine that NEXTEEL did not reimburse its U.S. affiliate, NEXTEEL America, for AD cash deposits paid on U.S. entries of OCTG.

AFFILIATION

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.” Commerce’s regulations at 19 CFR 351.102(b)(3) state that, in finding affiliation based on control, Commerce 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.⁴⁹ With respect to close supplier relationships, Commerce 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 Commerce then determine whether one of the parties is in a position to exercise restraint or direction over the other.⁵⁰ Commerce 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.⁵¹

⁴⁷ See NEXTEEL February 7, 2018 AQR, at A-27 and NEXTEEL June 7, 2018 SQR, at SA-3 – SA-4 and Exhibits SA-6-A and SA-6-B.

⁴⁸ See NEXTEEL February 7, 2018 AQR, at A-10; *see also* NEXTEEL February 27, 2018 CQR, at C-49.

⁴⁹ *See, e.g.*, SAA at 838.

⁵⁰ *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.

⁵¹ *See* 19 CFR 351.102(b)(3).

During the POR, NEXTEEL purchased HRC, which it used to produce OCTG, from Korean steel supplier POSCO.⁵² NEXTEEL also sold OCTG to the United States through a wholly-owned POSCO affiliate, POSCO Daewoo.⁵³ NEXTEEL argues that no affiliation exists between itself and POSCO or POSCO Daewoo, through a close supplier relationship or otherwise.⁵⁴ Likewise, POSCO Daewoo argues that it is not currently, nor ever has been, affiliated with NEXTEEL under any of the criteria established under section 771(33)(A)-(G) of the Act.⁵⁵ NEXTEEL and POSCO Daewoo both contend that NEXTEEL does not directly or indirectly own, control, or hold any ownership interest in POSCO or any of its affiliates including its subsidiary, POSCO Daewoo.⁵⁶ Similarly, NEXTEEL and POSCO Daewoo assert that neither POSCO nor any of its affiliates, including POSCO Daewoo, directly or indirectly owns, controls, or holds any ownership interest in NEXTEEL or any of NEXTEEL's affiliates.⁵⁷ Further, NEXTEEL maintains that neither POSCO nor POSCO Daewoo and NEXTEEL together directly or indirectly control any person, or are controlled by or under the common control of any person.⁵⁸ Likewise, POSCO Daewoo maintains that NEXTEEL and POSCO Daewoo together do not directly or indirectly control any person, nor are they controlled by or under the common control of any person.⁵⁹ NEXTEEL asserts that no agreement exists between NEXTEEL and POSCO or POSCO Daewoo that would give NEXTEEL, or POSCO and POSCO Daewoo, any right to control, directly or indirectly, the business of the other party.⁶⁰ Likewise, POSCO Daewoo claims that there is no agreement between POSCO Daewoo and NEXTEEL that would give either company any right to control, directly or indirectly, the business of the other party.⁶¹ Finally, NEXTEEL argues that neither NEXTEEL nor POSCO or POSCO Daewoo is legally or operationally in a position to exercise restraint or direction over the other party, or otherwise controls the other party's business operations or decision-making.⁶² Similarly, POSCO Daewoo argues that neither POSCO Daewoo nor NEXTEEL is legally or operationally in a position to exercise restraint or direction over the other party, or otherwise controls the other party's business operations or decision-making.⁶³

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, POSCO Daewoo) of NEXTEEL's operations involving subject merchandise. During the POR, NEXTEEL purchased the majority of its HRC inputs from POSCO for the production of OCTG and also sold OCTG to POSCO Daewoo. Commerce finds that the combination of POSCO's involvement on both the production and sales sides creates a situation where POSCO is operationally in a position to

⁵² See, e.g., POSCO February 28, 2018 DQR, at D-2 and D-4.

⁵³ See, e.g., NEXTEEL February 7, 2018 AQR, at A-12.

⁵⁴ *Id.*, at A-1.

⁵⁵ See POSCO Daewoo February 9, 2018 AQR, at A-1.

⁵⁶ See NEXTEEL February 7, 2018 AQR, at A-1 and POSCO Daewoo February 9, 2018 AQR, at A-1.

⁵⁷ See NEXTEEL February 7, 2018 AQR, at A-1 and POSCO Daewoo February 9, 2018 AQR, at A-1 - A-2.

⁵⁸ See NEXTEEL February 7, 2018 AQR, at A-1.

⁵⁹ See POSCO Daewoo February 9, 2018 AQR, at A-2.

⁶⁰ See NEXTEEL February 7, 2018 AQR, at A-1.

⁶¹ See POSCO Daewoo February 9, 2018 AQR, at A-2.

⁶² See NEXTEEL February 7, 2018 AQR, at A-1.

⁶³ See POSCO Daewoo February 9, 2018 AQR, at A-2.

exercise restraint or direction over NEXTEEL in a manner that affects the pricing, production, and sale of OCTG. The preamble to Commerce’s regulations states that section 771(33), which refers to a person being “in a position to exercise restraint or direction,” properly focuses Commerce on the ability to exercise “control” rather than the actuality of control over specific transactions.

As in the investigation of OCTG from Korea⁶⁴ and the first⁶⁵ and second⁶⁶ administrative reviews of OCTG from Korea, we continue to find that NEXTEEL is affiliated with POSCO through a close supplier relationship. Given POSCO’s involvement in both NEXTEEL’s production and sales process, we continue to find that POSCO is in a unique position to exercise restraint or direction over NEXTEEL. Thus, as we did in prior reviews of the antidumping duty order, we continue to find that NEXTEEL is affiliated with POSCO, pursuant to section 771(33)(G) of the Act with respect to sales through POSCO Daewoo. We further continue to find that NEXTEEL is affiliated with POSCO Daewoo, pursuant to section 771(33)(F) of the Act, because NEXTEEL and POSCO 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 NEXTEEL’s and SeAH’s sales of subject merchandise were made at less than NV, Commerce compared the export price (EP) or constructed export price (CEP), 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), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (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, Commerce 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 Commerce’s examination of this question in the context of administrative reviews,

⁶⁴ 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.

⁶⁵ See *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2014–2015*, 82 FR 18105 (April 17, 2017) (*2014-2015 Final Results*) and accompanying Issues and Decision Memorandum, at Comment 36).

⁶⁶ See *Certain Oil Country Tubular Goods from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016*, 82 FR 46963 (October 10, 2017), and accompanying Preliminary Decision Memorandum, at 6-8, unchanged in *2015-2016 Final Results*.

Commerce 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.⁶⁷

In recent investigations, Commerce 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.⁶⁸ Commerce 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. Commerce will continue to develop its approach in this area based on comments received in this and other proceedings, and on Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce 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 Commerce 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

⁶⁷ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty 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).

⁶⁸ 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); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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 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, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce 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 NEXTEEL, based on the results of the differential pricing analysis, Commerce preliminarily finds that 89.99 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, Commerce 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 all U.S. sales because the relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method (*i.e.*, the average-to-transaction method) is less than 25 percent. Thus, for these preliminary results, Commerce is applying the average-to-average comparison method for all U.S. sales to calculate the weighted-average dumping margin for NEXTEEL.

For SeAH, based on the results of the differential pricing analysis, Commerce preliminarily finds that 79.53 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, Commerce 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 all U.S. sales because the relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method (*i.e.*, the average-to-transaction method) is less than 25 percent. Thus, for these preliminary results, Commerce is applying the average-to-average comparison method for all U.S. sales to calculate the weighted-average dumping margin for SeAH.

Product Comparisons

For NEXTEEL and SeAH, we based NV on constructed value (CV) because neither respondent had a viable home market or third-country market during the POR.⁶⁹ Therefore, for both NEXTEEL and SeAH, 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 each respondent's reported COPs, which are reported on the basis of product control number (CONNUM). CONNUMs are defined by the reported physical characteristics established by Commerce for OCTG, which are, in order of importance: welding, type, grade, coupling, upset end, threading, nominal outside diameter, length, heat treatment, and nominal wall thickness.

Date of Sale

Section 351.401(i) of Commerce'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 Commerce 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.⁷⁰

⁶⁹ See NEXTEEL February 7, 2018 AQR, at A-4 and Exhibit A-1 and SeAH February 7, 2018 AQR, at 2 and Appendix A-1.

⁷⁰ See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-92

NEXTEEL

NEXTEEL's channel 1 sales consisted of sales to POSCO Daewoo, a trading company in Korea, which, in turn, sold the subject merchandise through its wholly owned U.S. affiliate, POSCO Daewoo America, for sale to unaffiliated U.S. customers.⁷¹ Because we continue to find that NEXTEEL is affiliated with POSCO Daewoo, we have used POSCO Daewoo's sales to unaffiliated U.S. customers in our margin calculation. POSCO Daewoo had three channels of distribution in the U.S. market; for all three distribution channels, POSCO Daewoo reported the earlier of invoice date to the unaffiliated customer or the date the unaffiliated customer took possession of the product as the date of sale.⁷²

For NEXTEEL's channel 2 sales, direct sales to unaffiliated U.S. customers, NEXTEEL reported the earlier of the date of shipment from the factory or the date of invoice as the date of sale.⁷³ For NEXTEEL's channel 3 sales, direct sales to unaffiliated U.S. customers from an FTZ warehouse, NEXTEEL reported the invoice date, which was earlier than the shipment date in all cases, as the date of sale.⁷⁴

For these preliminary results, we relied on the dates of sale as reported by NEXTEEL and POSCO Daewoo.

SeAH

SeAH's U.S. sales of OCTG were made from inventory held by the Pan Meridian Tubular (PMT) division of SeAH's U.S. affiliate, Pusan Pipe America, Inc. (PPA). For these sales, SeAH reported the date of PMT's shipment to the unaffiliated U.S. customer as the date of sale;⁷⁵ in all cases, this date was earlier than or the same as the date of invoice to the unaffiliated customer.⁷⁶ For these preliminary results, we relied on the dates of sale as reported by SeAH.

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,

(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).

⁷¹ See NEXTEEL February 27, 2018 CQR, at C-18 and POSCO Daewoo February 9, 2018 AQR at A-4.

⁷² See POSCO Daewoo February 27, 2018 CQR, at C-20 – C-21.

⁷³ See NEXTEEL February 27, 2018 CQR, at C-18 – C-19.

⁷⁴ *Id.*

⁷⁵ See SeAH February 7, 2018 AQR, at 26 and SeAH February 27, 2018 CQR, at 22.

⁷⁶ See SeAH June 8, 2018 SQR, at Appendix SC-1 (SeAH's U.S. sales database).

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.

NEXTEEL

For its channel 1 sales to the United States, NEXTEEL sold subject merchandise to POSCO Daewoo in Korea, which, in turn, exported the subject merchandise to its U.S. affiliate, POSCO Daewoo America, for sale to unaffiliated U.S. customers. As discussed in the “Affiliation” section above, we continue to find that NEXTEEL is affiliated with POSCO Daewoo, and, therefore, based the price of NEXTEEL’s channel 1 sales on CEP, as defined in section 772(b) of the Act, for the subject merchandise sold, before importation, by a seller affiliated with the producer to unaffiliated purchasers in the United States. For these sales, we designated the starting price as the price reported by POSCO Daewoo and made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act and 19 CFR 351.401(e). 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. In accordance with sections 772(d)(1) and (2) 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, indirect selling expenses associated with economic activities occurring in the United States, and expenses incurred to further manufacture the product in the United States. We also deducted the profit allocated to expenses deducted under sections 772(d)(1) and (2) of the Act, in accordance with section 772(d)(3) of the Act.⁷⁷

For NEXTEEL’s channel 2 and 3 sales to the United States, we 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.⁷⁸

SeAH

We 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)(A) of the Act

⁷⁷ See Memorandum, “Analysis of Data Submitted by NEXTEEL Co. Ltd. in Oil Country Tubular Goods from the Republic of Korea,” dated October 3, 2018 (NEXTEEL Preliminary Analysis Memorandum).

⁷⁸ *Id.*

and 19 CFR 351.401(e). In accordance with sections 772(d)(1) and (2) 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, 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 sections 772(d)(1) and (2) of the Act, in accordance with section 772(d)(3) of the Act.

Particular Market Situation

A. Background

In the previous two administrative reviews of OCTG from Korea, Commerce found that a particular market situation existed in Korea which distorted the COP of OCTG, based on our consideration of the cumulative effects of: (1) Korean subsidies on HRC, the primary input for OCTG; (2) Korean imports of HRC from the People's Republic of China (China); (3) strategic alliances between Korean HRC suppliers and Korean OCTG producers; and (4) government involvement in the Korean electricity market.⁷⁹ On May 16, 2018, Domestic Interested Parties submitted factual information and a letter in which they argued that Commerce should find, based on these same four factors, that a particular market situation continues to exist in Korea in the instant POR, and that we should make corrective adjustments to the respondents' reported costs.⁸⁰ On August 8, 2018, we issued a letter inviting all interested parties to submit factual information to rebut, clarify, or correct the factual information in the Particular Market Situation Allegation.⁸¹ In that letter, noting our determination in the *2015-2016 Final Results* that a particular market situation exists in Korea which distorts the COP of OCTG, we stated that we have "reason to believe or suspect that a {particular market situation} continues to exist in the current segment of this proceeding with respect to OCTG costs of production, absent rebutting evidence placed on the record of the instant review by interested parties."⁸² On August 20, 2018, Maverick and TenarisBayCity, NEXTEEL, and SeAH submitted factual information and comments concerning the Particular Market Situation Allegation.⁸³ On September 4, 2018, Maverick and TenarisBayCity submitted other factual information.⁸⁴ On September 24, 2018,

⁷⁹ See *2014-2015 Final Results* and accompanying Issues and Decision Memorandum, at Comment 3, unchanged in *Certain Oil Country Tubular Goods from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 31750 (July 10, 2017), and *2015-2016 Final Results* and accompanying Issues and Decision Memorandum, at Comment 1.

⁸⁰ See Letter from Domestic Interested Parties, "Oil Country Tubular Goods from the Republic of Korea: Other Factual Information Submission for Valuing the Particular Market Situation in Korea and Respondents' CV Profit," dated May 16, 2018 (Particular Market Situation Allegation).

⁸¹ See Letter to All Interested Parties, "2016-2017 Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from the Republic of Korea: Deadline for Submission of Factual Information Relating to Particular Market Situation Allegations," dated August 8, 2018.

⁸² *Id.*

⁸³ See, respectively, Letter from Maverick and TenarisBayCity, "Oil Country Tubular Goods from the Republic of Korea: Factual Information Relating to the Particular Market Situation in Korea," dated August 20, 2018; Letter from NEXTEEL, "Oil Country Tubular Goods from the Republic of Korea: NEXTEEL's Particular Market Situation Comments and Rebuttal Factual Information," dated August 20, 2018; and Letter from SeAH, "Oil Country Tubular Goods from the Republic of Korea – Response to the Department's August 8 Request for Comments on 'Particular Market Situation Allegations,'" dated August 20, 2018 (SeAH August 20, 2018 Letter).

⁸⁴ See Letter from Maverick and TenarisBayCity, "Oil Country Tubular Goods from the Republic of Korea: Other

we issued a memorandum accepting Maverick and TenarisBayCity's September 4, 2018 submission, and invited interested parties to submit factual information to rebut, clarify, or correct the information contained in that submission.⁸⁵ On October 1, 2018, NEXTEEL filed factual information and rebuttal comments in response to Maverick and TenarisBayCity's September 4, 2018 submission of other factual information.⁸⁶ Because we lack sufficient time to consider such information for these preliminary results, we intend to consider such information for the final results of this review.

B. Interested Parties' Arguments

Domestic Interested Parties assert that the same four factors which led Commerce to find that a particular market situation existed in Korea in the prior two administrative reviews of OCTG from Korea are still present in the instant review. According to Domestic Interested Parties, the record demonstrates that the Korean government heavily subsidizes HRC, which NEXTEEL and SeAH purchased from Korean producers, including POSCO; overcapacity in Chinese steel production has resulted in the Korean market being flooded with cheap Chinese steel products, which exerts downward pressure on Korean domestic steel prices; Korean HRC producers and OCTG producers engage in strategic alliances; and the Korean government distorts electricity prices. Domestic Interested Parties contend that during the POR, Korean companies continued to import significant volumes of Chinese HRC, and that the average unit value (AUV) of these imports was low compared to the AUV of imports from other countries into Korea and the AUV of Chinese HRC exports to other countries. In addition, they claim that competition from low-priced Chinese imports has caused Korean steel producers' prices, market share, and overall profitability to fall. Domestic Interested Parties assert that in addition to strategic alliances, Korean pipe producers participate in price-fixing schemes among themselves, citing decisions by the Korean Fair Trade Commission concerning Korean Gas Corporation bids from 2003 through 2013, steel pipe prices in 1997 and 1998, and Korea Water Resources Corporation bids in 1996.

Domestic Interested Parties assert that, as we did in the previous two administrative reviews of OCTG from Korea, we should continue to quantify the impact of the particular market situation on HRC by adjusting the respondents' costs using the countervailing duty (CVD) rates determined in *Hot-Rolled Steel from Korea*.⁸⁷ Further, Domestic Interested Parties argue, we should make adjustments to account for the impact of HRC supplied by Chinese and Japanese suppliers, strategic alliances, and the Korean government's control of electricity. To account for the effect of Chinese overcapacity on the Korean steel market, Domestic Interested Parties contend that we should increase Chinese and Japanese HRC costs to the level of Korean HRC costs after the latter are adjusted by the subsidy rates from *Hot-Rolled Steel from Korea*.

Factual Information," dated September 4, 2018.

⁸⁵ See Memorandum, "2016-2017 Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from the Republic of Korea; Deadline for Submission of Rebuttal Factual Information," dated September 24, 2018.

⁸⁶ See Letter from NEXTEEL, "Oil Country Tubular Goods from the Republic of Korea: NEXTEEL's Rebuttal Comments and Information Concerning PMS and Regression Analysis," dated October 1, 2018.

⁸⁷ See *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Final Affirmative Determination*, 81 FR 53439 (August 12, 2016), as amended in *Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Determinations and Countervailing Duty Orders*, 81 FR 67960 (October 3, 2016) (collectively, *Hot-Rolled Steel from Korea*).

Alternatively, they propose that we could (1) adjust Chinese HRC costs based on the simple average of the subsidy rates from the European Union's CVD investigation of hot-rolled flat products from China or the subsidy rate from Commerce's CVD investigation of cold-rolled steel flat products from China and (2) adjust Japanese HRC costs based on the rates from Commerce's AD investigation of hot-rolled steel flat products from Japan; the weighted average of the adjustments made to Korean and Chinese HRC purchases; or the percent difference between the average prices of Korean hot-rolled imports from Japan and all other non-Chinese or Japanese imports. Domestic Interested Parties also contend that data regarding Mexican imports of HRC could be used to make to a particular market situation adjustment to respondents' HRC costs. Finally, Maverick and TenarisBayCity submitted certain documents from the record of the ongoing less-than-fair-value investigation of large diameter welded pipe from the Republic of Korea, including a regression analysis, suggesting that we could make a particular market situation adjustment to HRC based on a regression analysis.

NEXTEEL contends that Domestic Interested Parties have not provided any evidence to show that NEXTEEL's HRC costs do not accurately reflect the COP in the ordinary course of trade; rather, record benchmark prices demonstrate that NEXTEEL's HRC costs are not outside the ordinary course of trade. NEXTEEL claims that Domestic Interested Parties have not pointed to any evidence that Chinese HRC is flooding the Korean market. With respect to the Korean steel market, NEXTEEL argues that normal market considerations of supply and demand are in operation, as steel pricing data show that the Korean market, and NEXTEEL's HRC costs in particular, move in line with the global market. Thus, NEXTEEL maintains, there is nothing "particular" about the Korean market. Likewise, NEXTEEL asserts that Korean electricity prices are determined according to market principles, and Commerce has not found any countervailable subsidies concerning electricity. Regarding strategic alliances, NEXTEEL avers that the Korea Fair Trade Commission findings related to Korean Gas Corporation covered an investigation that predated the POR, involved line pipe, and do not pertain at all to NEXTEEL. Therefore, NEXTEEL contends that no particular market situation adjustments are warranted. NEXTEEL specifically asserts that it is inappropriate to make an adjustment using the subsidy rates from *Hot-Rolled Steel from Korea*, because the rates in that case were based on AFA, are outdated, and say nothing about NEXTEEL's actual costs. Regarding the regression analysis submitted by Domestic Interested Parties, NEXTEEL argues that it does not say anything about Korean domestic hot-rolled steel prices, is not relevant to NEXTEEL, and does not provide a statistically sound method for quantifying an adjustment to hot-rolled steel prices in a particular country for a particular market situation.

SeAH argues that in the *2014-2015 Final Results*, Commerce found that none of the four particular market situation allegations, when examined individually, supported the finding of a particular market situation.⁸⁸ SeAH asserts that Domestic Interested Parties have not identified any linkage between the alleged distortions and SeAH's reported costs, nor have they provided any evidence that the prices SeAH paid for HRC were below the cost of production. Further, SeAH contends, there is no affiliation or strategic alliances between SeAH and Korean HRC prices, and Commerce has consistently found that there is no subsidization of electricity prices

⁸⁸ See SeAH August 20, 2018 Letter, at 2, citing *2014-2015 Final Results* and accompanying Issues and Decision Memorandum, at Comment 3.

by the Korean government. Regarding the subsidy rate for POSCO from *Hot-Rolled Steel from Korea*, which was based entirely on AFA and is outdated, SeAH contends that Commerce conceded, upon remand in the CVD investigation of cold-rolled steel from Korea, that the use of AFA for POSCO was incorrect and overstated.⁸⁹ SeAH claims that, if we continue to make a particular market situation adjustment for subsidies on HRC provided by POSCO, we should base the adjustment on the more recent CVD investigation of cut-to-length plate from Korea or on the first administrative review of the CVD order on hot-rolled steel from Korea.

C. Analysis

Section 504 of the Trade Preferences Extension Act of 2015 (TPEA)⁹⁰ added the concept of the “particular market situation” to the definition of “ordinary course of trade,” under section 771(15) of the Act, and for purposes of CV under section 773(e) of the Act. Through section 773(e) of the Act, “particular market situation” also applies to COP under section 773(b)(3) of the Act. Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the {COP} in the ordinary course of trade, {Commerce} may use another calculation methodology under this subtitle or any other calculation methodology.”

In the instant review, Domestic Interested Parties alleged that a particular market situation exists in Korea which distorts the COP of OCTG based on the following four factors: (1) subsidization of Korean hot-rolled steel products by the Korean government; (2) the distortive pricing of unfairly traded Chinese HRC; (3) strategic alliances between Korean HRC suppliers and Korean OCTG producers; and (4) distortive government control over electricity prices in Korea. Section 504 of the TPEA does not specify whether to consider these allegations individually or collectively. In the *2014-2015 Final Results* and the *2015-2016 Final Results*, Maverick alleged that a particular market situation existed in Korea based on the same four factors and, analyzing the four allegations as a whole, Commerce found that a particular market situation existed in Korea during the 2014-2015 and 2015-2016 PORs.⁹¹ For the current review, after analyzing Domestic Interested Parties’ allegation and the factual information and comments subsequently submitted by interested parties, we preliminarily determine that the circumstances present during the instant review remained largely unchanged from those in the 2014-2015 and 2015-2016 PORs which led to the finding of a particular market situation in Korea in the *2014-2015 Final Results* and *2015-2016 Final Results*. Therefore, for these preliminary results, we find that, based on the collective impact of Korean HRC subsidies, Korean imports of HRC from China, strategic alliances, and government involvement in the Korean electricity market, a particular market situation exists in Korea which distorts the COP of OCTG.

In the current administrative review, as in the *2014-2015 Final Results* and *2015-2016 Final Results*, we considered the four particular market situation allegations as a whole, based on their cumulative effect on the Korean OCTG market through the COP for OCTG and its inputs.

⁸⁹ *Id.*, at 3, citing *Final Results of Redetermination Pursuant to Court Remand*, June 6, 2018, following Slip Op. 18-18 in *POSCO et al. v. United States*, Consol. Court No. 16-00225 (Ct. Int’l Trade March 8, 2018).

⁹⁰ See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (TPEA).

⁹¹ See *2014-2015 Final Results* and accompanying Issues and Decision Memorandum, at Comment 3 and *2015-2016 Final Results* and accompanying Issues and Decision Memorandum, at Comment 1.

Based on the totality of the conditions in the Korean market, we preliminarily find that the allegations represent facets of a single particular market situation. Record evidence shows that the Korean government provides subsidies on hot-rolled steel, which includes HRC, and that the mandatory respondents purchased HRC POSCO, which received such subsidies.⁹² Record evidence also shows that the subsidies received by Korean hot-rolled steel producers totaled almost 60 percent of the cost of hot-rolled steel, the primary input into OCTG production.⁹³ Additionally, we note that HRC, as an input of OCTG, constitutes approximately 80 percent of the cost of OCTG production; thus, distortions in the HRC market have a significant impact on production costs for OCTG.⁹⁴ Further, as a result of significant overcapacity in Chinese steel production, which stems in part from the distortions and interventions prevalent in the Chinese economy, the Korean steel market has been flooded with imports of cheaper Chinese steel products, placing downward pressure on Korean domestic steel prices.⁹⁵ This, along with the domestic steel production being heavily subsidized by the Korean government, distorts the Korean market prices of HRC, the main input in Korean OCTG production. Regarding NEXTEEL's argument about fluctuations in global steel prices, we note that global price fluctuations are not directly relevant to the question of whether a particular market situation exists in Korea.

With respect to Domestic Interested Parties' contention that certain Korean HRC suppliers and Korean OCTG producers attempt to compete by engaging in strategic alliances, we agree that the record evidence supports that such strategic alliances exist in Korea,⁹⁶ and that these strategic alliances may have affected prices in the period covered by the original less-than-fair value investigation of OCTG from Korea. Although the record does not contain specific evidence showing that strategic alliances directly created a distortion in HRC pricing in the current POR, we nonetheless find that these strategic alliances between certain Korean HRC suppliers and Korean OCTG producers are relevant as an element of our analysis in that they may have created distortions in the prices of HRC in the past, and may continue to affect HRC pricing in a distortive manner during the instant POR and in the future. However, in regard to the Korean Fair Trade Commission decisions cited by Domestic Interested Parties, we preliminarily find that these decisions are not relevant to the strategic alliances under consideration in the instant review. Those decisions cover periods that predate the instant POR (and, for the most part, this entire proceeding), and do not relate to HRC. With respect to the allegation of distortion present in the electricity market, consistent with the SAA, a particular market situation may exist where there is government control over prices to such an extent that home market prices cannot be considered to be competitively set. Moreover, electricity in Korea functions as a tool of the government's industrial policy. Furthermore, the largest electricity supplier, KEPCO, is a

⁹² See Particular Market Situation Allegation, at Exhibits 14 and 15.

⁹³ *Id.*, at Exhibit 13 (containing Letter from Maverick, "Oil Country Tubular Goods from South Korea: Particular Market Situation Case Brief," dated March 1, 2017, at 6-7, citing *Hot-Rolled Steel from Korea*).

⁹⁴ *Id.* at Exhibit 20 (containing Letter from Maverick, "Certain Oil Country Tubular Goods from the Republic of Korea: Information and Comments Requiring Immediate Action," dated November 25, 2015, at 3).

⁹⁵ *Id.* at Exhibit 4 (containing Letter from Maverick, "Certain Oil Country Tubular Goods from the Republic of Korea: Particular Market Situations and Other Factual Information Submission," dated September 6, 2016, at Exhibit 4).

⁹⁶ *Id.* at Exhibit 20 (containing Letter from Maverick, "Certain Oil Country Tubular Goods from the Republic of Korea: Information and Comments Requiring Immediate Action," dated November 25, 2015, at Attachment 4).

government controlled entity.⁹⁷ To be clear, our determination of a particular market situation in this review is not based solely upon any support from the government of Korea for electricity. To the contrary, as we stated above, each of these allegations is a contributing factor that, taken all together, lead us to conclude that a particular market situation exists in Korea.

These intertwined market conditions signify that the production costs of OCTG, especially the acquisition prices of HRC in Korea, are distorted, and, thus, demonstrate that the costs of HRC to Korean OCTG producers are not in the ordinary course of trade. Thus, we preliminarily find that various market forces result in distortions which have an impact on the COP for OCTG from Korea. Considered collectively, we preliminarily determine that the allegations support a finding that a particular market situation exists during the instant POR.

Having found that a particular market situation exists for the respondents' production costs for OCTG, we then examined whether there was sufficient evidence to quantify the impact of the particular market situation, in order to potentially employ an alternative calculation methodology, as contemplated by section 504 of the TPEA. In quantifying the impact of the particular market situation, we have preliminarily determined to make an upward adjustment to NEXTEEL's and SeAH's reported HRC costs based on the subsidy rates from *Hot-Rolled Steel from Korea*. We disagree with the respondents that it would not be appropriate to make a particular market situation adjustment based on the CVD rates from *Hot-Rolled Steel from Korea* because those rates were based on total AFA and do not overlap with the instant POR. With respect to the fact that the CVD rates in *Hot-Rolled Steel from Korea* were based on total AFA, we disagree that this alone should discredit their use in making a particular market situation adjustment. We find that the respondents in the CVD investigation on *Hot-Rolled Steel from Korea* could have chosen to act to the best of their ability in responding to Commerce's requests for information, but presumably did not do so because full cooperation might have resulted in higher CVD rates. As for the fact that the rates from the CVD investigation on *Hot-Rolled Steel from Korea* precede the instant POR in this proceeding, we note that these rates are still in effect for that proceeding because no administrative review has been completed to date.

In this administrative review, we preliminarily determine to make an upward adjustment to all HRC inputs purchased by NEXTEEL and SeAH during the POR based on the subsidy rates applied in *Hot-Rolled Steel from Korea*. Consistent with the approach adopted in our preliminary determinations in the less-than-fair-value investigations of large diameter welded pipe from Korea and Turkey,⁹⁸ we have quantified this adjustment as the net domestic subsidization rate, namely, the CVD rate net of export subsidies.⁹⁹ Specifically, for HRC

⁹⁷ *Id.* at Exhibit 21 (containing Letter from Maverick, "Certain Oil Country Tubular Goods from the Republic of Korea: Particular Market Situation Allegation on Electricity," dated February 3, 2016, at 13-14 and Exhibit 2, p. 50).

⁹⁸ See *Large Diameter Welded Pipe From the Republic of Korea: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 83 FR 43651 (August 27, 2018) and accompanying Preliminary Decision Memorandum, at 16-17 and *Large Diameter Welded Pipe From the Republic of Turkey: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 83 FR 43646 (August 27, 2018) and accompanying Preliminary Decision Memorandum, at 14-15.

⁹⁹ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – NEXTEEL Co., Ltd.," dated October 3, 2018 (NEXTEEL Preliminary Cost Calculation Memorandum), at Attachment 3 and Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – SeAH Steel Corporation," dated October 3, 2018 (SeAH Preliminary Cost Calculation Memorandum), at Attachment 2.

purchased from Korean producer POSCO, we have preliminarily based this adjustment on the subsidy rate found for POSCO in *Hot-Rolled Steel from Korea*, and for all other Korean and non-Korean producers of HRC, we have preliminarily based this adjustment on the all-others subsidy rate found in *Hot-Rolled Steel from Korea*. We find that the subsidy rates from *Hot-Rolled Steel from Korea* are more appropriate than the subsidy rates from Commerce's CVD investigation of cut-to-length plate from Korea, as SeAH proposes, because the former rates are for hot-rolled steel, the input used to make OCTG. Regarding SeAH's suggestion that we could rely on the first administrative review of the CVD order on hot-rolled steel from Korea to make an adjustment, we note that the first administrative review is ongoing, and, thus, there are no calculated rates on which to rely.

Moreover, we find that the CVD rates from *Hot-Rolled Steel from Korea* provide a more appropriate basis to quantify the impact of the particular market situation in Korea than the various alternative methodologies proposed by Domestic Interested Parties. With respect to their suggestion that we make an adjustment based on the subsidy rates from the European Union's CVD investigation of hot-rolled flat products from China, we find that it would not be appropriate to make an adjustment based on a subsidy determination by another administering authority from a third country. Also, we find that it would not be appropriate to make an adjustment based on Commerce's CVD final determination on cold-rolled steel from China, as cold-rolled steel is not an input used in OCTG production. Furthermore, it would not be appropriate to make an adjustment using rates from Commerce's AD final determination on hot-rolled steel flat products from Japan, since that proceeding involved company-specific comparisons of Japanese prices to U.S. prices. Regarding the Domestic Interested Parties' other suggestions for making a particular market situation adjustment (*i.e.*, increasing Chinese and Japanese HRC costs to the level of Korean HRC costs after the latter are adjusted by the *Hot-Rolled Steel from Korea* subsidy rates; adjusting Japanese HRC costs based on the weighted average of the adjustments made to Korean and Chinese HRC purchases or the percent difference between the average price of Korean hot-rolled imports from Japan and the average price of all other non-Chinese or Japanese imports; or using data on Mexican imports of HRC), we find that the subsidy rates from *Hot-Rolled Steel from Korea* provide a more appropriate basis for an adjustment in the instant review. In particular, the subsidy rates from *Hot-Rolled Steel from Korea* constitute an already-determined measure of countervailing subsidies provided to producers of HRC in Korea, and, are thus a measure of the adjustments that an exporter of HRC to the Korean market would have to make in order to sell its products there. As for the regression analysis proposed by Maverick and TenarisBayCity, there was insufficient time before these preliminary results to consider the information placed on the record by interested parties.

While we have preliminarily determined that a particular market situation exists in Korea based on the collective impact of Korean HRC subsidies, Korean imports of HRC from China, strategic alliances, and government involvement in the Korean electricity market, the record does not contain sufficient information to make adjustments specifically relating to the strategic alliances and electricity allegations. We preliminarily find that strategic alliances could not be used to quantify the impact of the particular market situation because the limited data on the record of this review do not enable us to quantify the impact of such alliances on HRC costs in this particular POR, although such alliances tend to have an impact on the way that customer-supplier relationships are structured and contribute to the existence of a particular market

situation. Similarly, we preliminarily find that we are unable to quantify the effect of the electricity market on the particular market situation because the information on the record is insufficient for determining the impact of government intervention with respect to electricity on the cost to produce OCTG.

We will consider the submitted information regarding the proposed regression analysis, and we will continue to develop the concepts and types of analysis that are necessary to address allegations of particular market situations under section 773(e) of the Act.

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 NEXTEEL's and SeAH's volume of home market sales of the foreign like product to their respective 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) Commerce 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, we preliminarily determine that neither NEXTEEL nor SeAH had a viable home market during the POR. For both NEXTEEL and SeAH, we find that the aggregate volume of their respective home market sales of the foreign like product was less than five percent of the aggregate volume of their respective U.S. sales, and, thus, NEXTEEL's and SeAH's sales in the home market were not viable.¹⁰⁰ We also preliminarily find that the aggregate quantity of the foreign like product sold by both NEXTEEL and SeAH in any third-country market was less than five percent of the aggregate volume of their respective U.S. sales, and, therefore, neither NEXTEEL nor SeAH had a viable third-country market.¹⁰¹ Accordingly, for both NEXTEEL and SeAH, we used CV as the basis for calculating NV, in accordance with section 773(a)(4) of the Act.

B. Cost of Production Analysis

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. Section 773(b)(2)(A)(ii) of the Act

¹⁰⁰ See 19 CFR 351.404(b)(2); see also NEXTEEL February 7, 2018 AQR, at A-4 and Exhibit A-1 and SeAH February 7, 2018 AQR, at 2 and Appendix A-1.

¹⁰¹ *Id.*

controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires Commerce to request CV and COP information from respondent companies in all AD proceedings.¹⁰² Accordingly, Commerce requested this information from SeAH and NEXTEEL.

1. Cost Averaging Methodology

Commerce's normal practice is to calculate an annual weighted-average cost for the POR. However, we recognize that possible distortions may result if we use our normal annual-average cost method during a time of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case specific record evidence by examining the significance of cost changes and the linkage between sales and cost information, as described below.¹⁰³

a. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high and low quarterly cost of manufacture (COM)) during a period of 12 months for determining that the changes in COM are significant enough to warrant a departure from our standard annual-average cost approach.¹⁰⁴ In the instant case, record evidence shows that SeAH experienced significant cost changes (*i.e.*, changes that exceeded 25 percent) between the high and low quarterly COM of the POR.¹⁰⁵ These changes in COM are attributable primarily to the price volatility for the primary input used by SeAH in the production of OCTG.¹⁰⁶ In contrast, we found that the cost changes experienced by NEXTEEL did not meet the 25 percent threshold.¹⁰⁷

b. Linkage Between Sales and Cost Information

Consistent with past precedent, because we found SeAH's changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR.¹⁰⁸ Absent a surcharge or other pricing mechanism, Commerce may alternatively look for evidence of a pattern showing that changes in selling prices reasonably

¹⁰² 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, 46794-95 (August 6, 2015).

¹⁰³ See *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (*SSSSC Mexico Final*) and accompanying Issues and Decision Memorandum at Comment 6 and *Stainless-Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) (*SSPC Belgium Final*) and accompanying Issues and Decision Memorandum at Comment 4.

¹⁰⁴ See *SSPC Belgium Final* and accompanying Issues and Decision Memorandum at Comment 4.

¹⁰⁵ See SeAH Preliminary Cost Calculation Memorandum, at Attachment 1; *see also* SeAH August 3, 2018 SQR, at Appendix S2D-2.

¹⁰⁶ See SeAH February 27, 2018 DQR, at Appendix D-4-B.

¹⁰⁷ See NEXTEEL Preliminary Cost Calculation Memorandum, at Attachment 1; *see also* NEXTEEL August 13, 2018 SQR, at Exhibit SD2-5.

¹⁰⁸ See *SSSSC Mexico Final* and accompanying Issues and Decision Memorandum at Comment 6 and *SSPC Belgium Final* and accompanying Issues and Decision Memorandum at Comment 4.

correlate to changes in unit costs.¹⁰⁹ To determine whether a reasonable correlation existed between the sales prices and underlying costs during the POR, we compared weighted-average quarterly prices to the corresponding quarterly COM for the control numbers with the highest volume of sales in the U.S. market. Our comparison revealed that SeAH's sales and costs showed reasonable correlation.¹¹⁰

After reviewing this information and determining that changes in selling prices correlate reasonably to changes in unit costs, we preliminarily determine that there is linkage between SeAH's changing sales prices and costs during the POR.¹¹¹ Thus, we preliminarily determine that a shorter cost period approach, based on a quarterly-average COP, is appropriate for SeAH because we found significant cost changes in COM as well as reasonable linkage between costs and sales prices. For NEXTEEL, because we did not find significant cost changes, we have continued to calculate an annual weighted-average COP in accordance with our normal practice.

2. Normal Value Based on Constructed Value

As explained above, neither NEXTEEL nor SeAH had a viable home or third-country market; thus, for both NEXTEEL and SeAH, we used CV as the basis for calculating NV. In accordance with section 773(e) of the Act, we calculated CV based on the sum of the costs 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 examined NEXTEEL's and SeAH's cost data and preliminarily determined that our quarterly cost methodology is warranted for SeAH.¹¹² Therefore, SeAH's CV is based on a quarterly average cost rather than an annual average cost. For NEXTEEL, because we did not find significant cost changes, we have continued to calculate an annual weighted-average CV.¹¹³ We relied on the COP and CV data submitted by SeAH except as follows:¹¹⁴

- We adjusted SeAH's reported HRC costs to reflect the particular market situation.
- We revised SeAH's G&A expense ratio to include fines and the net loss on raw material inventories in the numerator used in the calculation and to exclude the net loss on inventories from the cost of goods sold denominator used in the calculation.
- We revised the further manufacturing costs reported by SeAH's U.S. affiliate, PPA, to incorporate damaged pipe losses.
- We revised PPA's G&A expense ratio to exclude certain other income from the numerator used in the calculation. We also applied PPA's G&A expense ratio to the total cost of the further manufactured products, *i.e.*, the further manufacturing costs

¹⁰⁹ See *SSPC Belgium Final* and accompanying Issues and Decision Memorandum at Comment 4.

¹¹⁰ See SeAH Preliminary Cost Calculation Memorandum at Attachment 1.

¹¹¹ *Id.*; see also *SSSSC Mexico Final* and accompanying Issues and Decision Memorandum at Comment 6 and *SSPC Belgium Final* and accompanying Issues and Decision Memorandum at Comment 4.

¹¹² See SeAH Preliminary Cost Calculation Memorandum.

¹¹³ See NEXTEEL Preliminary Cost Calculation Memorandum.

¹¹⁴ See SeAH Preliminary Cost Calculation Memorandum.

plus the cost of the imported OCTG that was further manufactured, as well as the production cost for all non-further manufactured OCTG products resold by PPA.

- We adjusted PPA's further manufacturing costs to include financial expenses.

We relied on the COP and CV data submitted by NEXTEEL except as follows:¹¹⁵

- We adjusted NEXTEEL's reported transfer prices for HRC purchased from affiliated parties to reflect the higher of transfer price, market price, or the affiliate's COP, in accordance with section 773(f)(3) of the Act.
- We adjusted NEXTEEL's reported HRC costs to reflect the particular market situation.
- We revised the costs reported for non-prime products that were not capable of being used in the same applications as prime OCTG products to reflect their lower market values and allocated the difference to prime OCTG products.
- We adjusted the reported per-unit manufacturing costs to reflect the revised scrap offset.
- We revised NEXTEEL's G&A and financial expense ratios to reclassify certain shutdown losses related to the company as a whole from the COGS denominators to G&A expenses.
- We revised the total further manufacturing costs reported by NEXTEEL's U.S. affiliate, POSCO Daewoo America (PDA), to reflect PDA's fiscal year 2017 financial expense ratio.

In the absence of a comparison market, we are unable to calculate CV profit using the preferred method under section 773(e)(2)(A) of the Act (*i.e.*, based on the respondent's own home market or third country sales made in the ordinary course of trade). When the preferred method is unavailable, we 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").

On June 29, 2018, we sent a letter to all interested parties providing an opportunity to comment

¹¹⁵ See NEXTEEL Preliminary Cost Calculation Memorandum.

and submit new factual information on CV profit and selling expenses.¹¹⁶ On July 13, 2018, NEXTEEL, SeAH, and Domestic Interested Parties submitted comments and factual information.¹¹⁷ On July 20, 2018, NEXTEEL, SeAH, and Domestic Interested Parties submitted rebuttal comments and information.¹¹⁸ Interested parties placed the financial statements of the following entities on the record as potential sources for CV profit: Tenaris S.A. (Tenaris); PAO TMK (TMK); Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan); Nippon Steel and Sumitomo Metal Corporation (NSSMC); Chung Hung Steel Corporation (Chung Hung); Maharashtra Seamless Limited (Maharashtra); and, EVRAZ plc (EVRAZ). In addition, interested parties also submitted the following information: SeAH's indirect selling expense ratio, which is based on its audited unconsolidated financial statements for fiscal year 2016 and is thus for the company as a whole; NEXTEEL's profit data for standard pipe sold in the domestic market during the POR and NEXTEEL's POR selling expense ratio for the entire company; and SeAH's combined CV profit and selling expense ratio from the 2014-2015 administrative review (POR1), which was based on SeAH's comparison market sales to Canada.

For these preliminary results, we have considered the options advocated by interested parties for CV profit in this administrative review, and find that, for various reasons, most of them are not viable sources for CV profit. For instance, some of the entities' financial statements either demonstrate that they experienced a loss in their OCTG segment, and did not earn a profit, during the fiscal period (*e.g.*, EVRAZ); appear to reflect primarily the results of operations for products other than OCTG (*e.g.*, NSSMC, Chung Hung); or lack sufficient detail to determine the portion of total sales revenues were OCTG products (*e.g.*, TMK, Borusan, Maharashtra). Likewise, the NEXTEEL profit data is for standard pipe, which Commerce has previously determined not to be the same general category of merchandise as OCTG.¹¹⁹

Out of the remaining potential sources for CV profit (including Tenaris's financial statements and SeAH's CV profit from POR1), we preliminarily find the CV profit rate determined in POR1 for SeAH's third-country market sales of OCTG to be the best source for determining CV profit

¹¹⁶ See Letter to All Interested Parties, "Antidumping Duty Administrative Review of Certain Oil Country Tubular Goods from the Republic of Korea: Request for Constructed Value Profit and Selling Expense Comments and Information," dated June 29, 2018.

¹¹⁷ See, respectively, Letter from NEXTEEL, "Oil Country Tubular Goods from the Republic of Korea: NEXTEEL's Submission of Factual Information and Comments for CV Profit and Selling Expenses," dated July 13, 2018; Letter from SeAH, "Administrative Review of the Antidumping Order on Oil Country Tubular Goods from Korea for the 2016-17 Review Period — Response to Request for CV Profit and Selling Expense Comments and Information," dated July 13, 2018; and Letter from Domestic Interested Parties, "Oil Country Tubular Goods from the Republic of Korea: CV Profit and Selling Expense Comments and Information," dated July 13, 2018.

¹¹⁸ See, respectively, Letter from NEXTEEL, "Oil Country Tubular Goods from the Republic of Korea: NEXTEEL Rebuttal Comments for CV Profit and Selling Expenses," dated July 20, 2018; Letter from SeAH, "Administrative Review of the Antidumping Order on Oil Country Tubular Goods from Korea for the 2016-17 Review Period — Response to Wiley Rein's July 16 CV Profit and Selling Expense Submission," dated July 20, 2018; and, Letter from Domestic Interested Parties, "Oil Country Tubular Goods from the Republic of Korea: Rebuttal Comments on CV Profit and Selling Expense," dated July 20, 2018.

¹¹⁹ See *Final Determination* and accompanying Issues and Decision Memorandum at Comment 1. See also *Final Redetermination Pursuant to Court Remand in Husteel Co., Ltd., et al., v. United States*, Consol. Court No. 14-00215, dated February 22, 2016 (*Final Redetermination*), at 61-64, affirmed in *Husteel Co. v. United States*, 180 F. Supp. 3d 1330 (Ct. Int'l Trade 2016). The *Final Redetermination* is accessible at <http://enforcement.trade.gov/remands/15-100.pdf>.

in the instant review for both NEXTEEL and SeAH. Although we acknowledge that SeAH's CV profit is not contemporaneous with the current POR, on balance, it constitutes the best information for determining CV profit. SeAH's profit experience from POR1 reflects the profit of a Korean OCTG producer, on comparison market sales of the merchandise under consideration, in the ordinary course of trade. In addition, when combined with SeAH's selling expenses from POR1, the resulting ratio is public information. Because there is no information on the record of the instant review concerning the profit on sales of OCTG or products in the same general category in Korea, as facts available, we find that the profit on SeAH's 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 section 773(e)(2)(B)(iii) of the Act. Commerce's use of CV profit information from a respondent in a prior administrative review is consistent with past precedent.¹²⁰

As noted above, with respect to CV selling expenses, interested parties proffered three additional options: SeAH's indirect selling expense ratio for fiscal year 2016; NEXTEEL's selling expense ratio for the entire company; and SeAH's selling expense ratio (in combination with the CV profit rate) from POR1. We preliminary find that NEXTEEL's selling expense ratio, which is for the entire company, is not a viable option because it predominately includes products such as standard pipe that are not in the same general category of merchandise as OCTG. Faced with the option of using SeAH's indirect selling expense ratio for fiscal year 2016 or SeAH's selling expenses from POR1, we preliminary determine that the latter is the better option. SeAH's selling expense ratio from POR1 is based on SeAH's own comparison market sales of OCTG made in the ordinary course of trade. Further, SeAH's selling expense ratio from POR1, when combined with its CV profit ratio from POR1, is public information. Conversely, SeAH's indirect selling expense ratio for fiscal year 2016 is not specific to OCTG production, but, instead, represents SeAH's production experience for the entire company, and also is not public information.

Based on the foregoing, for these preliminary results, we have calculated NEXTEEL's and SeAH's CV profit and selling expenses under section 773(e)(2)(B)(iii) using SeAH's combined CV profit and selling expenses from POR1 (*i.e.*, the 2014-2015 administrative review). SeAH's combined selling expense and profit experience from the prior POR reflects the profit of a Korean OCTG producer, on comparison market sales of the merchandise under consideration, in the ordinary course of trade. The combined CV profit and selling expense ratio is also public information. Thus, for these preliminary results, we based NEXTEEL's and SeAH's CV profit and selling expenses on the combined CV profit and selling expense rate of 21.60 percent determined for SeAH in the 2014-2015 review.¹²¹

Finally, we are unable to calculate the amount realized by exporters or producers in connection

¹²⁰ See, e.g., *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), and accompanying Issues and Decision Memorandum at Comment 2, upheld in *Atar S.R.L. v. United States*, 730 F. 3d 1320 (Fed. Cir. 2013).

¹²¹ See Memorandum, "2016-2017 Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from the Republic of Korea: Placing CV Profit Calculations from the 2014-2015 Administrative Review of Oil Country Tubular Goods from the Republic of Korea on the Record," dated October 3, 2018.

with the sale, for consumption in the foreign country, of the merchandise in the same general category of products as the subject merchandise (*i.e.*, the “profit cap”), in accordance with section 773(e)(2)(B)(iii) of the Act, because the record does not contain any information for making such a calculation. However, the SAA makes clear that Commerce might have to apply alternative (iii) on the basis of facts available. In the instant review, neither NEXTEEL nor SeAH had a viable home market during the POR, and none of the CV profit sources placed on the record by interested parties show “the amount realized by exporters or producers in connection with the sale, for consumption in the foreign country, of the merchandise in the same general category of products as the subject merchandise.” Moreover, the record of this review does not contain any information regarding profits earned on Korean sales of products in the same category of merchandise as OCTG. Accordingly, we conclude that, as facts available, SeAH’s profit on its comparison market sales of OCTG, which SeAH produced in Korea and sold in the ordinary course of trade during the 2014-2015 administrative review, serves as a reasonable facts available profit cap for these preliminary results.

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

10/3/2018

X 

Signed by: GARY TAVERMAN

Gary Taverman

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Appendix

List of Companies Not Individually Examined

AJU Besteel Co., Ltd.
BDP International
Daewoo International Corporation
Daewoo America
Dong-A Steel Co. Ltd.
Dong Yang Steel Pipe
Dongbu Incheon Steel
DSEC
Erndtebruecker Eisenwerk and Company
Hansol Metal
Husteel Co., Ltd.
HYSCO
Hyundai RB
Hyundai Steel Co., Ltd.
Hyundai Steel Company¹²²
ILJIN Steel Corporation
Jim And Freight Co., Ltd.
Kia Steel Co. Ltd.
KSP Steel Company
Kukje Steel
Kurvers
POSCO Daewoo Corporation
POSCO Daewoo America
Steel Canada
Sumitomo Corporation
TGS Pipe
Yonghyun Base Materials
ZEECO Asia

¹²² On September 21, 2016, Commerce published the final results of a changed circumstances review with respect to OCTG from Korea, finding that Hyundai Steel Corporation 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). Hyundai Steel Corporation is also known as Hyundai Steel Company and Hyundai Steel Co. Ltd.