

Final Results of Redetermination Pursuant to Court Remand
Drill Pipe from the People’s Republic of China
Downhole Pipe & Equip. LP v. United States
Court No. 11-00081 (CIT 2012)

SUMMARY

The Department of Commerce (“the Department”) has prepared these final results of redetermination pursuant to the decision of the U.S. Court of International Trade (“CIT” or the “Court”), issued on November 20, 2012.¹ The CIT’s *Remand Order* concerns the Less Than Fair Value (“LTFV”) Investigation of *Drill Pipe from the People’s Republic of China*.² In the *Remand Order*, the Court remanded to the Department to reconsider its selection of a surrogate value (“SV”) for drill pipe green tube and to reconsider the labor wage rate methodology applied in the underlying proceeding.³

On April 5, 2013, the Department released its *Draft Remand Results*, reconsidering our selection of an SV for drill pipe green tube and the labor wage rate.⁴ Based on information from the Indian Harmonized Tariff Schedule (“HTS”) and consultations with a Customs and Border Protection’s (“CBP”) National Import Specialist (“NIS”) responsible for pipe and tube products, the Department selected Indian imports under HTS categories 7304.59.10 and 7304.59.20 to value drill pipe green tube. The Department also applied its current labor wage rate methodology, and selected the Indian wage rate from Chapter 6A: Labor Cost in Manufacturing from the International Labor Organization (“ILO”) Yearbook of Labor Statistics (“Yearbook”), for industry-specific wages for Sub-Classification 27, which is described as “Manufacture of Basic Metals.”

¹ See *Downhole Pipe & Equipment LP and DP-Master Manufacturing Co., Ltd. v. United States*, Slip Op. 12-141, Court No. 11-00081 (November 20, 2012) (“*Remand Order*”).

² See *Drill Pipe From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances*, 76 FR 1966 (January 11, 2011) (“*Final Determination*”).

³ *Remand Order* at 37-38.

⁴ See “Draft Results of Redetermination Pursuant to Remand,” April 5, 2013 (“*Draft Remand Results*”).

Based on the comments received from Downhole Pipe & Equipment LP and DP-Master Manufacturing Co., Ltd. (“DP-Master”) (collectively “Downhole”) on the *Draft Remand Results*, and consistent with the Court’s instructions, we have addressed Downhole’s arguments that the Department should select one of the alternative SV’s on the record to value drill pipe green tube, rather than Indian HTS categories 7304.59.10 and 7304.59.20. In responding to the *Remand Order* and reassessing the record evidence, we find that the evidence supports the selection of Indian imports under HTS 7304.59.20 only to value drill pipe green tube.

No parties commented on the Department’s use of Indian wages from Chapter 27 of the ILO Yearbook as the labor wage rate. Therefore, we have continued to value labor using this information.

Finally, Downhole alleged that the Department committed a ministerial error in adjusting certain line items from the financial ratios for Oil Country Tubular Limited (“OCTL”) to align with the Department’s new wage rate methodology. The Department acknowledges that the relevant changes to the financial ratios for OCTL were not reflected in the SV spreadsheet that was used to calculate the margin for DP-Master, and has corrected this error for this final redetermination.

BACKGROUND

In the underlying LTFV Investigation, the Department used Indian import statistics for HTS categories 7304.23 and 7304.29 to value drill pipe green tube.⁵ With regard to labor wage rate methodology, the Department calculated the labor wage rate after the Federal Circuit’s decision in *Dorbest* (remanding to the Department to revise its labor wage rate methodology),

⁵ See *Final Determination* and accompanying Issues and Decision Memorandum at Comment 4.

but before developing the revised labor wage rate methodology.⁶

A. Court Proceeding

An importer and respondent, Downhole, initiated an action at the CIT challenging the Department's selection of Indian import statistics for HTS categories 7304.23 and 7304.29 to value drill pipe green tubes. DP-Master, Downhole's supplier, purchases green tubes from an unaffiliated supplier and uses the green tubes as an input to finished drill pipe. Downhole argued that these HTS categories are not representative of drill pipe green tube but, rather, consist of semi-finished or finished oil country tubular good ("OCTG") casing and tubing, drill pipe, and other, unrelated items.⁷ The Court found that it could not sustain the Department's decision based on the explanation provided and remanded the Department's selection of an SV for drill pipe green tubes for further explanation or reconsideration.⁸ Specifically, the Court held that the Department's "failure here to explain evidence apparently contrary to a finding central to its determination leaves the court without the means necessary to affirm it as supported by the record."⁹

In addition, Downhole argued that the Department erroneously calculated the labor wage rate by averaging the wage rates of multiple countries without distinguishing between producers of comparable merchandise and significant producers. We requested a voluntary remand to reconsider the issue and the Court remanded the wage rate calculation for further consideration.

On April 5, 2013, the Department released its *Draft Remand Results*. In accordance with the Court's instructions, and after careful examination of the record, the Department determined

⁶ See *Dorbest, Ltd. v. United States*, 604 F.3d 1363, 1372 (Fed. Cir. 2010) ("*Dorbest*"); see also *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) ("*Labor Methodologies*").

⁷ See *Remand Order* at 21 and 24.

⁸ See *Remand Order* at 26-27 and 31.

⁹ See *Remand Order* at 26.

that the best available information on the record was Indian imports under HTS categories 7304.59.10 and 7304.59.20. The Department consulted with CBP's NIS for steel tube and pipe products, conducted our own review of the Indian HTS, and considered arguments regarding this data placed on the record by Downhole and Petitioners.¹⁰ After this review, we found these categories to be the correct classification for, and the best available information on the record with which to value, drill pipe green tube.¹¹

In the *Draft Remand Results*, the Department determined that the best methodology with which to value labor for this redetermination is the method outlined in *Labor Methodologies*.¹² This methodology reflects the Department's current practice and the completion of the underlying LTFV Investigation pre-dated the development of the valid interim labor wage rate methodologies.¹³ On April 12, 2011, Downhole submitted comments on the *Draft Remand Results*, which are summarized below.

After considering the comments received from Downhole, for these final results of remand redetermination, the Department has selected Indian imports under HTS 7304.59.20 to value drill pipe green tube, as discussed in detail below. As in the *Draft Remand Results*, the Department has continued to value labor using the method outlined in *Labor Methodologies*. The Department has also corrected an error in its margin calculation in the *Draft Remand Results*, correctly accounting for changes made to the surrogate financial ratios related to our implementation of *Labor Methodologies* in this case.

¹⁰ Petitioners consist of: VAM Drilling USA Inc.; Rotary Drilling Tools; Texas Steel Conversions; TMK IPSCO; United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC.

¹¹ See *Draft Remand Results* at 4-16.

¹² See *Labor Methodologies*.

¹³ See *id.* at 8-11.

Analysis

A. Surrogate Value for Drill Pipe Green Tubes

The Department found that, after reviewing the HTS categories under subheading 7304 and consulting with CBP's NIS, drill pipe green tube is properly classified under Indian HTS categories 7304.59.10 and 7304.59.20. Unlike HTS categories 7304.23 and 7304.29, (which the Department declined to continue to use, as explained below), these circular, seamless, alloy categories cover products which are not properly classified as drill pipe, OCTG, or a number of other clearly-delineated types of tubes.¹⁴ The further classifications under 7304.59.10 and 7304.59.20 account for the diameter of the tubes. The scope of the drill pipe *Order*¹⁵ defines drill pipe green tubes as having an outer diameter of under 168.28 millimeters ("mm"), which is captured in 7304.59.10 (for diameters up to 114.3 mm) and 7304.59.20 (for diameters between 114.3 and 219.1 mm).

The Department acknowledged that HTS categories 7304.59.10 and 7304.59.20 are not *limited* to drill pipe green tube, however these categories are, in fact, the categories under which drill pipe green tube enters. Categorization of products under the HTS is a process of elimination, and the HTS categories under heading 7304 for line pipe, drill pipe, OCTG, cold-drawn or cold-rolled pipes, non-circular pipes, and non-alloy pipes can each be dismissed on their face as inaccurate for the categorization of drill pipe green tube. Therefore, after examining all possible subcategories under HTS heading 7304, the process of eliminating the other items entering under these headings demonstrates that categories 7304.59.10 and 7304.59.20 cover drill pipe green tube as defined in the scope of the *Order*.

¹⁴ See Petitioners' SV Rebuttal at 1 and Attachment.

¹⁵ See *Drill Pipe From the People's Republic of China: Antidumping Duty Order*, 76 FR 11757 (March 3, 2011) ("*Order*").

The Department explained that, with regard to evidence that might detract from this finding, no other record evidence established whether the Indian import data include products other than drill pipe green tube, in what quantities those potential other products may have entered, or how they might have otherwise distorted the price of the seamless alloy pipes used by producers of drill pipe. In addition, the Department consistently uses basket categories where the tariff headings and product characteristics resulted in those basket categories being the best information available on the record.¹⁶ Additionally, no information had been placed on the record purporting to show that the year-to-year price changes noted by Downhole are reflective of some change in the contents of these categories or simply market fluctuations.

Finally, Indian import data for HTS categories 7304.59.10 and 7304.59.20 are contemporaneous with the period of investigation (“POI”), represent a broad market average, are tax and duty exclusive, and are publicly available, thus comporting with the Department’s selection criteria for SVs.¹⁷ Therefore, the Department found that Indian import data for HTS categories 7304.59.10 and 7304.59.20 represented the best available information with which to value drill pipe green tube for this redetermination.¹⁸

In reaching this conclusion, the Department examined all other potential SVs for drill pipe green tube on the record of the LTFV Investigation: (1) Indian import statistics for HTS categories 7304.23 and 7304.29; (2) *Metal Bulletin Research* (“*MBR*”) J/K 55 price data; (3) *MBR* P110 price data; (4) adjusted value for alloy steel billets processed into green tube; and (5) adjusted value for seamless tubes.

¹⁶ See, e.g., *Polyethylene Retail Carrier Bags from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Review*, 73 FR 14216 (March 17, 2008).

¹⁷ See, e.g., *Certain Activated Carbon From the People’s Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 75 FR 70208 (November 17, 2010), and accompanying Issues and Decision Memorandum at Comment 4.

¹⁸ See *Draft Remand Results* at 12-16.

With respect to Indian import statistics for HTS categories 7304.23 and 7304.29, we found that the Indian HTS categories 7304.23 and 7304.29 used in the underlying LTFV Investigation are no longer the best available information on the record for purposes of selecting an SV for green tube. When selecting SVs with which to value the factors of production (“FOPs”) used to produce subject merchandise, the Department is directed to use the “best available information” on the record.¹⁹ When selecting SVs for use in a non-market economy (“NME”) proceeding, in addition to the criteria listed above, the Department’s preference is to use, where possible, product-specific prices for the POI, with each of these factors applied non-hierarchically to the particular case-specific facts and with preference to data from a single surrogate country.²⁰ After re-examining the contents of these categories upon remand, as well as the descriptions of the classifications, the Department has determined that Indian HTS 7304.29 captures semi-finished OCTG casing and tubing, and HTS 7304.23 captures semi-finished drill pipe, neither of which is specific to the drill pipe green tube input.²¹ Neither of these two categories represents the best information available when compared with other record evidence. With respect to semi-finished OCTG, we note that this value is for merchandise comparable, rather than identical, to drill pipe green tube, and is therefore not product-specific as it is not an input for drill pipe. Therefore Indian imports under HTS category 7304.29 are not the best available information with which to value drill pipe green tube. With respect to semi-finished drill pipe, we note that semi-finished drill pipe is actually green tube that has been processed to some extent – unlike the raw drill pipe green tube Downhole consumes as an input to drill pipe –

¹⁹ See section 773(c)(1) of the Tariff Act of 1930, as amended (“the Act”).

²⁰ See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 3987 (January 22, 2009) (“*TRBs From the PRC*”) and accompanying Issues and Decision Memorandum at Comment 5.

²¹ See Petitioners’ Rebuttal SV Comments.

and is therefore not product-specific to drill pipe green tube and not the best available information on the record with which to value drill pipe green tube.²²

The Department also found that *MBR* price data for J/K 55 does not represent the best available information on the record because: 1) it is not contemporaneous with the POR; and 2) it represents only a single month of price data. As in the *Final Determination*, we continued to find that J/K 55 cannot be used to produce drill pipe, and is at best comparable, differing in alloying element content and production methods.²³ Where no information providing a higher level of product specificity is available, the Department may use information for a product that is only comparable to the input used to produce the subject merchandise.²⁴ However, with the addition of Indian import data for HTS categories 7304.59.10 and 7304.59.20 to the record of this proceeding, the Department has information to value the actual input consumed in producing the subject merchandise. Additionally, the Indian transaction price quote from *MBR* for J/K 55 is outside of the POI and only provides data for one month, January 2009. As noted above, the Department prefers information which is publicly-available and exclusive of taxes and import duties. In addition, the Department prefers information which is representative of broad market average prices in India and contemporaneous with the POI.²⁵ Finally, the offers for sale reported in the March 2009 *MBR* are not actual transaction prices, as preferred by the Department.²⁶

The Department disagreed that other pipe and tube prices on the record of this proceeding provide corroborative support for the *MBR* price data for J/K 55. None of these prices reflects a

²² See Letter from Downhole, Regarding Rebuttal Comments on Factual Information, dated February 13, 2013, at 6. See also *Draft Remand Results* at 4-6.

²³ See *id.*

²⁴ See *Hebei Metals & Minerals Import & Export Corp. v. United States*, 366 F. Supp. 2d 1264, 1276-77 (CIT 2005).

²⁵ See, e.g., *Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 75 FR 70208 (November 17, 2010), and accompanying Issues and Decision Memorandum at Comment 4.

²⁶ See, generally, *Bristol Metals L.P. v. United States*, 703 F. Supp. 2d 1370, 1376 (CIT 2010).

sales price for drill pipe green tube. While these prices indicate that J/K 55 is similarly priced to other types of seamless tubes, this does not indicate that it is similarly priced to drill pipe green tube.²⁷

The Department found that OCTG P110 is also not product-specific, and cannot be used as an input to drill pipe because it is a finished OCTG product, distinct from the drill pipe green tube input.²⁸ In addition, the OCTG P110 price information from *MBR* is based on offers for sale and covers only one month of data, May 2009. While this single month of data is contemporaneous with the POI, as noted above, price information from one month is more susceptible to market fluctuations than data covering a broader time period.²⁹

The Department also found that calculating an adjusted value for alloy steel billets does not provide an accurate value for drill pipe green tubes. While the value for alloy steel billets is based on the publicly-available, broad market average represented by HTS data, the proposed value to adjust for processing is proprietary.³⁰ Because this information is proprietary, it does not meet the Department's preference for data that is publicly-available.³¹ In addition, although the scope identifies certain chemistry components of drill pipe green tube, simply adjusting the value of the billet to account for alloying elements may not capture all differences between the value of billets nor processing billets into tubes at varying levels of alloying elements. The value of the raw alloying elements does not reflect the market conditions for alloyed pipes or any processing that must be completed to include these elements in the steel tube that is ultimately produced. In essence, this suggested methodology for valuing drill pipe green tubes is similar to

²⁷ See *Draft Remand Results* at 6-9.

²⁸ See Letter from Downhole, Regarding Comments on the Draft Remand, dated April 12, 2013 ("Draft Remand Comments") at 3.

²⁹ See *Draft Remand Results* at 9.

³⁰ See *Draft Remand Results* at 11.

³¹ See *TRBs from the PRC* and accompanying Issues and Decision Memorandum at Comment 5.

that employed by the Department in valuing tool joints in the *Final Determination*,³² however, crucial differences exist between the methodology employed in valuing tool joints and the one proposed here to value drill pipe green tube.

First, in valuing tool joints using factor of production information, the Department had complete, verified factors of production that could be valued with SVs already on the record of the LTFV Investigation.³³ In this suggested methodology for valuing drill pipe green tubes, the Department does not have complete information indicating that the production costs and alloying elements comprise the entirety of factors of production that would be needed to convert an alloy steel billet into a drill pipe green tube. Second, in order to accurately account for market conditions that, in part, determine the ultimate value of the finished product at market, the Department applied the surrogate financial ratios for OCTL, which was shown to produce tool joints on the record of the LTFV Investigation.³⁴ The Department does not have on the record suitable financial ratios for a producer of drill pipe green tube that could be used to build a value that accurately reflects the market value of drill pipe green tube in the primary surrogate country. Therefore, we find that constructing a “processed and alloyed” tube price using the alloy steel billet value, a statement regarding the cost of processing billets into tubes, and values for alloying elements does not constitute the best available information with which to value drill pipe green tubes.³⁵

Finally, with respect to the proposed adjusted value for non-alloy seamless tubes, the Department found that, as with the adjustments proposed to the value for alloy steel billets, the record of this redetermination and the underlying LTFV Investigation do not contain sufficient

³² See *Final Determination* and accompanying Issues and Decision Memorandum at Comment 6.

³³ See *id.*

³⁴ See *id.*

³⁵ See *Draft Remand Results* at 9-11.

information for the Department to determine that an adjustment for chemistry accurately accounts for all processing and other costs or value differences that would be reflected in the value of finished, seamless, alloy drill pipe green tube. As noted above, the value of alloying elements does not reflect market conditions that determine the value of alloyed steel tubes nor the costs associated with inserting these elements into the steel. As with the proposed seamless alloy tube price construction above, unlike the Department's use of a similar methodology to value tool joints in the LTFV Investigation,³⁶ the Department does not have verified factor information for all factors of production that would be necessary to convert a non-alloy tube to an alloy tube, and does not have information regarding surrogate financial ratios for companies that produce drill pipe green tube for sale on the market. Thus, the Department is prevented from constructing an accurate value for drill pipe green tubes that both reflects all factors of production and market conditions for drill pipe green tube from the information available. Therefore, the adjusted value proposed by Downhole for non-alloy seamless tubes does not constitute the best available information with which to value drill pipe green tubes.³⁷

In sum, after examining each potential SV for drill pipe green tube on the record of the LTFV Investigation as well as this remand proceeding, we found that the best available information with which to value drill pipe green tube was Indian imports under HTS categories 7304.59.10 and 7304.59.20. Consistent with the Department's above-explained criteria for selecting SVs, the Indian import data for these HTS categories is contemporaneous, represent a broad market average, are tax- and duty-exclusive, are publicly available, and are product-specific.

³⁶ See *Final Determination* and accompanying Issues and Decision Memorandum at Comment 6.

³⁷ See *Draft Remand Results* at 11-12.

Downhole's Comments:

Downhole argues that the value of Indian imports under HTS categories 7304.59.10 and 7304.59.20 is “aberrantly” high when compared to the SV for drill pipe green tube, *i.e.*, Indian imports under HTS categories 7304.23 and 7304.29, used in the *Final Determination*.³⁸

Downhole asserts that the value used in the *Final Determination* was for finished drill pipe, and that record evidence indicates that green tube accounts for 30 percent of the value of finished drill pipe.³⁹ Downhole argues that the high value of this category should call into question its usefulness as an SV for drill pipe green tube.⁴⁰

Downhole further argues that record evidence from the LTFV Investigation indicates that classification of drill pipe green tube under HTS category 7304.59 is incorrect. Downhole points to statements by Petitioners that drill pipe green tube would be classified under either HTS categories 7304.23 or 7304.29.⁴¹ Downhole notes that it conceded in the LTFV Investigation that drill pipe green tubes could enter under HTS category 7304.29, but that it provided data demonstrating that no green tubes entered under this category.⁴² Downhole further asserts that the Department agreed with parties that 7304.23 and 7304.59 were the proper classifications for drill pipe green tube in the *Final Determination*.⁴³ Downhole argues that the Department's placement on the record of Indian import data for HTS categories 7304.59.10 and 7304.59.20 did not alone signal a change to the Department's conclusion on the correct classification of drill pipe green tube, and that even Petitioners expressed uncertainty as to whether drill pipe green

³⁸ See Draft Remand Comments, at 2.

³⁹ See *id.*

⁴⁰ See *id.*

⁴¹ See Draft Remand Comments at 3. We note that Downhole claims Petitioners promoted HTS category 7304.23, and then provides a quotation referencing HTS category 7304.29.

⁴² See Draft Remand Comments at 4.

⁴³ See *id.*

tube would be properly classified under HTS 7304.59.⁴⁴ Finally, Downhole asserts that HTS categories 7304.23 and 7304.29 contain finished, rather than semi-finished, drill pipes.⁴⁵

Downhole also argues that the nature of the Department's consultations with CBP's NIS is unclear, and that there is no indication that the scope of the *Order* was provided to the NIS.⁴⁶ Downhole claims that there is no evidence that the NIS is an expert in product classification, claiming that HTS categories 7304.59.10 and 7304.59.20, in the U.S. HTS, explicitly refer to items that are not drill pipe green tube.⁴⁷ Additionally, Downhole argues that there is no indication of whether the NIS considered whether HTS category 7304.23 would be more appropriate as a classification for drill pipe green tube or any factual analysis from the NIS as to how she made her determination that drill pipe green tube would enter under HTS 7304.59.⁴⁸

Additionally, Downhole provides *InfoDrive India* ("*Infodrive*") import data for Indian HTS categories 7304.59.10 and 7304.59.20, to show the actual entries under these HTS categories.⁴⁹ Downhole asserts that this information shows that Indian HTS categories 7304.59.10 and 7304.59.20 do not contain entries of drill pipe green tube.⁵⁰ Specifically, Downhole notes that *Infodrive* data for HTS category 7304.59.10 covers 99 percent of the import quantity reported in the *World Trade Atlas* ("*WTA*"), and shows no entries of drill pipe green tube. For 7304.59.20, *Infodrive* data covers 60 percent of import quantities reported by *WTA*, also showing no drill pipe green tube in this selection of the imports.⁵¹

Finally, Downhole argues that record evidence provides an "approximate" value for alloy tubes when compared to non-alloy tubes, in contrast with the Department's statements that we

⁴⁴ *See id.*

⁴⁵ *See* Draft Remand Comments at 5.

⁴⁶ *See* Draft Remand Comments at 5-6.

⁴⁷ *See id.*

⁴⁸ *See* Draft Remand Comments at 6-7.

⁴⁹ *See* Draft Remand Comments at 7-9.

⁵⁰ *See id.*

⁵¹ *See id.*

cannot tell the value differences from these products based on record evidence.⁵² While admitting that the record does not contain a specific value difference between alloy and non-alloy tubes, Downhole asserts that the approximately \$100 to \$200 value of the alloying elements accounts for most of the ultimate price differences between alloy and non-alloy tubes.⁵³ Downhole further asserts that the global recession in 2009 makes prices reported in *MBR* reflective of market prices around the world in light of dropping demand and prices.⁵⁴ Finally, Downhole refutes the claim that the Department does not have information regarding green tube production by pointing to the other mandatory respondents in the LTFV Investigation.⁵⁵

Department's Position: The Department finds that, while *Infodrive* data enabled us to determine that HTS category 7304.59.10 contains no entries of green tube, the same conclusion cannot be reached with respect to HTS category 7304.59.20. As such, we believe it constitutes the best available information on the record with which to value drill pipe green tube. As we stated above and in the *Draft Remand Results*, HTS category 7304.59.20 is product-specific, contemporaneous with the POI, represents a broad market average, is tax- and duty-exclusive, and is publicly available, thus comporting with the Department's selection criteria for SVs.⁵⁶

Downhole asserts that Indian HTS category 7304.23 contains finished drill pipe that represents the final value of the finished merchandise. However, its own previous arguments indicate that this category is much broader than finished drill pipe, and is not a reliable indicator of the value of finished drill pipe, with which we could create a benchmark for the drill pipe green tube input. For example, Downhole previously explained that some line items under HTS

⁵² See Draft Remand Comments at 9.

⁵³ See *id.*

⁵⁴ See Draft Remand Comments at 10.

⁵⁵ See *id.*

⁵⁶ See, e.g., *Certain Activated Carbon From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 75 FR 70208 (November 17, 2010), and accompanying Issues and Decision Memorandum at Comment 4.

category 7304.23.90 “may be of drill pipe tools, other drill pipe products, or inputs of either.”⁵⁷ Additionally, the Court noted the numerous entries of “seamless pipe” in this category,⁵⁸ without the connections referred to in Downhole’s comments.⁵⁹ Indeed, despite Downhole’s assertion that drill pipe green tube constitutes only 30 percent of the value of finished drill pipe, the alternative SVs promoted by Downhole are more than the 30 percent of the value of HTS category 7304.23.90, additionally calling into question this category’s usefulness as a benchmark price for fully-finished drill pipe.⁶⁰ Therefore, it would be erroneous for the Department to rely on this category as a benchmark price for fully-finished drill pipe.

As the Department explained in the *Draft Remand Results*, pursuant to the *Remand Order*, the Department reviewed the classifications of seamless pipes under the HTS.⁶¹ After this review, the Department concluded that its previous categorization of drill pipe green tube was erroneous, and placed Indian import data for HTS categories 7304.59.10 and 7304.59.20 on the record, allowing parties time for both affirmative and rebuttal comments on this data.⁶² Our consideration of this issue included consultations with CBP’s NIS to determine the proper six-digit classification for drill pipe green tube.⁶³ While parties, at the time of the LTFV Investigation, stated that HTS categories 7304.23 and 7304.29 were the correct classification for drill pipe green tubes, CBP’s NIS is an expert in product classification.⁶⁴ The NIS’s professional

⁵⁷ See Letter from Downhole, Regarding Pre-Draft Remand Comments, dated January 22, 2013 (“Pre-Draft Comments”), at 8.

⁵⁸ See Remand Order at 24.

⁵⁹ See Draft Remand Comments at 5.

⁶⁰ See, e.g., Pre-Draft Comments at 2.

⁶¹ See *Draft Remand Results* at 15.

⁶² See Memorandum to The File, From Toni Dach, Senior International Trade Analyst, Through Scot T. Fullerton, Program Manager, Regarding Request for Comments on New Information, dated February 1, 2013.

⁶³ See Memorandum to The File, From Toni Dach, Regarding Remand Redetermination in the Investigation of Drill Pipe from the People’s Republic of China, dated March 26, 2013.

⁶⁴ See, e.g., <http://www.cbp.gov/>, which describes NIS responsibilities as “{m}astering a particular commodity of import/export goods” and “constantly updating...knowledge, both in a commodity area and in changing U.S. import/export laws and regulations.”

opinion is that drill pipe green tube, as described in the scope of the *Order*,⁶⁵ is properly classified under six-digit HTS category 7304.59. The description of the six-digit HTS heading 7304.59 is identical between the Indian and U.S. HTS. Downhole is correct that there is a deviation between the U.S. and Indian HTS at the eight-digit classifications the Department ultimately used to value drill pipe green tube, but the Indian descriptions for HTS 7304.59.10 and 7304.59.20 are on this record, and deal only with the diameter of the tube in question.⁶⁶ Tellingly, the scope of the *Order* also indicates that subject drill pipe, including drill pipe green tubes, may enter under HTS category 7304.59. Regarding whether parties were provided with an appropriate opportunity to rebut this data, the Department considers this argument moot, as parties have now had two opportunities to comment on the data, and Downhole has, indeed, provided information and argument on both occasions.

The Department agrees that the *Infodrive* data provided by Downhole for Indian HTS category 7304.59.10 is substantially complete, and does not show entries of drill pipe green tube under this category. Consistent with our practice, we consider *Infodrive* data that covers a significant portion of the overall imports under the relevant HTS category to be of value as a corroborative tool in determining entries under that HTS.⁶⁷ Therefore, the Department will not use Indian HTS 7304.59.10 to value drill pipe green tube for this final redetermination. However, *Infodrive* data for Indian HTS 7304.59.20 is not substantially complete. Downhole states that the *Infodrive* data provided covers only 60 percent of imports under this HTS.⁶⁸ In the *Draft Remand Results*, the Department acknowledged that Indian HTS 7304.59 was a basket

⁶⁵ The *Order* defines drill pipe green tube as “tubes meeting the following description: seamless tubes with an outer diameter of less than or equal to 6 5/8 inches (168.28 millimeters), containing between 0.16 and 0.75 percent molybdenum, and containing between 0.75 and 1.45 percent chromium.”

⁶⁶ See, e.g., Letter from Downhole, Regarding Rebuttal SV Comments, dated February 13, 2013, at 3.

⁶⁷ See, e.g., *Prestressed Concrete Steel Wire Strand From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*; 75 FR 28560 (May 21, 2010).

⁶⁸ See Draft Remand Comments at 7.

category covering multiple types of seamless alloy tubes that could not be classified elsewhere within the HTS.⁶⁹ While it may be true that 60 percent of the entries under this HTS category are not drill pipe green tube, without information corroborating what the remainder of the overall imports consist of, the Department continues to find that this category constitutes the best available information with which to value drill pipe green tube for this final redetermination.

Finally, as explained in the *Draft Remand Results*, the Department does not have sufficient information on the record to construct a value for drill pipe green tube using other import data.⁷⁰ The Department acknowledges that we have import data for non-alloy tubes and the alloying elements contained in drill pipe green tube. However, there remains no surrogate financial information for producers of drill pipe green tube or comparable products in market economies with which the Department could calculate rates of selling, general and administrative expenses, overhead, and profit typical in this industry, nor inputs such as labor, energy, or other inputs that may vary between the production of alloy and non-alloy tube products. Financial and production information for other mandatory respondents is irrelevant, as neither of the other mandatory respondents constitute market-economy producers of drill pipe green tube, whose information we could use to calculate a specific and reliable price difference between alloy and non-alloy tube products. This information is also proprietary, again failing to satisfy the Department's preferences in selecting SVs.

Therefore, the Department continues to find that Indian imports under HTS 7304.59.20 constitute the best available information with which to value drill pipe green tube for this final redetermination. While *Infodrive* data for Indian HTS 7304.59.10 is substantially complete and provides a corroborative tool as to the products actually imported under this HTS – and shows no

⁶⁹ See *Draft Remand Results* at 15-16.

⁷⁰ See *Draft Remand Results* at 11-12.

entries of green tubes – the *Infodrive* data for HTS 7304.59.20 does not cover a significant proportion of imports under this category. Additionally, the Department considers the opinion of CBP’s NIS as to the classification of drill pipe green tubes to be a reliable expert opinion. Finally, the Department does not have sufficient information to construct a value for drill pipe green tubes using other import data. Consequently, the Department will value drill pipe green tubes using Indian imports under HTS 7304.59.20 for this final redetermination.

B. Labor Wage Rate Methodology

The Department determined that the best methodology with which to value labor for this redetermination is the method outlined in *Labor Methodologies*, because this reflects the Department’s current practice and the completion of the underlying LTFV Investigation pre-dated the interim labor wage rate methodologies. As such, the Department used the Chapter 6A: Labor Cost in Manufacturing data from the ILO Yearbook for the primary surrogate country, in this case, India. The Department used industry-specific wages for Sub-Classification 27, which is described as “Manufacture of Basic Metals” in the *Final Determination*, and will continue to use this sub-classification, most recently reported in 2005, for this redetermination, in accordance with section 773(c)(4) of the Act.⁷¹

No party commented on this issue. As such, the Department will continue to apply the labor wage rate methodology consistent with *Labor Methodologies*, as it is the Department’s current practice.

C. Ministerial Error

The Department reclassified certain labor-related line items in the financial statement of OCTL to comport with the methodology described in *Labor Methodologies*.⁷²

⁷¹ See *Draft Remand Results* at 17.

⁷² See *Draft Remand Comments* at 10.

Downhole's Comments

Downhole states that, while the Department reclassified these line items as intended, the updated overhead financial ratio was not properly carried over to the SVs spreadsheet that was used to calculate the antidumping duty cash deposit in the *Draft Redetermination*.

Department's Position: The Department agrees that we inadvertently failed to carry over the re-calculated overhead financial ratio to the SV spreadsheet. We have corrected this error for this final redetermination, and used the updated overhead financial ratio for OCTL in calculating the antidumping duty cash deposit rate.

FINAL RESULTS OF REDETERMINATION

Pursuant to the CIT's *Remand Order*, based on the information on the record of the underlying administrative segment and the analysis of the parties' arguments, the Department has explained its decision to select Indian imports under HTS 7304.59.20 as the SV for drill pipe green tube. We have also applied the wage rate methodology from *Labor Methodologies* and corrected the error in this application in the *Draft Remand Results*. We have recalculated the normal values to reflect these changes and, as a result of this redetermination, the antidumping duty cash deposit rate for DP-Master is 149.36%.



Paul Piquado
Assistant Secretary
for Import Administration

13 MAY 2013
Date