

**FINAL RESULTS OF REDETERMINATION
PURSUANT TO SECOND COURT REMAND
Welded Line Pipe from the Republic of Korea
Husteel Co., Ltd. et al. v. United States,
Consol. Court No. 18-00169, Slip Op. 20-103 (CIT July 23, 2020)**

Summary

The Department of Commerce (Commerce) prepared these final results of redetermination pursuant to the second remand order of the U.S. Court of International Trade (the Court), issued on July 23, 2020.¹ This action arises out of the final results in the 2015-2016 administrative review of the antidumping duty (AD) order on welded line pipe (WLP) from the Republic of Korea (Korea).² The Court previously remanded to Commerce its: (1) rejection of SeAH Steel Corporation's (SeAH's) third country sales to calculate normal value (NV); (2) finding of a particular market situation (PMS) in the Korean market for the hot-rolled coil input; and (3) PMS adjustment to the respondents' cost of production for the purposes of the sales-below-cost test.³ The Court sustained Commerce's First Remand Results⁴ with respect to these issues. In addition, the Court granted Commerce's request for a remand to consider whether to apply a constructed export price (CEP) offset to SeAH's Canadian sales.⁵ Upon reconsideration

¹ See *Husteel Co., Ltd. et al. v. United States*, Consol. Court No. 18-00169, Slip Op. 20-103 (CIT July 23, 2020) (*Husteel II*).

² See *Welded Line Pipe from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 33919 (July 18, 2018) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM); see also *Welded Line Pipe from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 39682 (August 10, 2018) (*Amended Final Results*).

³ See *Husteel Co., Ltd. et al. v. United States*, 426 F. Supp. 3d 1376 (CIT 2020) (*Husteel I*).

⁴ See Final Results of Redetermination Pursuant to Court Remand, Consol. Court No. 18-00169, dated April 1, 2020 (First Remand Results).

⁵ See *Husteel II* at 3, 6, and 15-18.

of the record evidence and the Court’s remand order, Commerce determines that a CEP offset for SeAH is warranted. As a result of applying the CEP offset, the revised weighted-average dumping margin for SeAH is 4.23 percent. The revised weighted-average dumping margin for Hyundai Steel Company (Hyundai Steel) of 9.24 percent, is unchanged from the First Remand Results. Moreover, as a result of Commerce’s recalculation of the weighted-average dumping margin for SeAH, the review-specific rate applied to the non-selected respondents is revised to 6.74 percent.

Background

Commerce published the *Final Results* on July 18, 2018.⁶ As discussed in the *Final Results*, Commerce rejected SeAH’s third country comparison market sales to Canada based on the Canadian International Trade Tribunal’s determination that those sales were dumped.⁷ Because of this determination, Commerce did not address SeAH’s comments regarding the application of a CEP offset.⁸ Pursuant to the Court’s remand order in *Husteel I*, and under protest, Commerce recalculated SeAH’s weighted-average dumping margin by relying on the company’s Canadian sales for purposes of NV.⁹ However, despite SeAH’s comments on the draft remand redetermination, Commerce found no basis to change its analysis and continued to deny a CEP offset for SeAH, consistent with its determination in the *Preliminary Results*.¹⁰

Subsequently, in its remand comments before the Court, Commerce explained that it had not considered the selling activities of SeAH’s U.S.-based affiliates for purposes of its analysis

⁶ See *Final Results* IDM; see also *Amended Final Results*.

⁷ See *Final Results* IDM at Comments 1 and 12; see also Memorandum, “Final Results Margin Calculation for SeAH,” dated July 11, 2018.

⁸ *Id.* at Comment 13.

⁹ See First Remand Results at 4.

¹⁰ *Id.* at 8-9 (citing *Welded Line Pipe from Korea: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016*, 83 FR 1023 (January 9, 2018) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM) at 19-20).

of the level of trade (LOT) in the third country comparison market, and requested a remand to consider whether to apply a CEP offset to SeAH's Canadian sales.¹¹ The Court granted Commerce's request.¹²

Analysis

After reconsidering the record information for purposes of this remand, we find that Commerce's LOT analysis described in the *Preliminary Results* was incomplete.¹³ Specifically, we failed to include in our discussion of the LOT for Canadian sales the selling functions performed by SeAH's U.S. affiliates, Pusan Pipe America (PPA), and State Pipe and Supply, Inc. (State Pipe), as well as SeAH, in support of Canadian sales. For this remand redetermination, we have defined the LOT for NV based on the "starting price or constructed value" before any deductions under section 773(a)(6) of the Tariff Act of 1930, as amended (the Act), and the LOT for CEP sales based on "the starting price, as adjusted under section 772(d) of the Act."¹⁴ As a result of our revised analysis, set forth below, we find that a CEP offset is warranted for SeAH.

In the Canadian market, SeAH reported that it made sales through two channels of distribution: (1) back-to-back sales through PPA to unaffiliated Canadian customers; and 2) sales to unaffiliated Canadian customers from State Pipe's Canadian warehouse of merchandise purchased from PPA. We examined the selling activities performed in the comparison market related to the starting price (*i.e.*, the price charged to the unaffiliated customer by SeAH and its affiliates), and found that SeAH performed the following selling functions for all Canadian sales, regardless of channel of distribution: sales forecasting; strategic/economic planning; sales

¹¹ See *Husteel II* at 16.

¹² *Id.* at 17.

¹³ See *Preliminary Results* PDM at 19-20.

¹⁴ See 19 CFR 351.412(c); see also *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27370 (May 19, 1997).

negotiation, invoicing, receipt of payments, personnel training/exchange; sales promotion; packing; inventory maintenance; order input/processing; sales/marketing support; market research; provide warranty service; provide guarantees to customers; and freight and delivery arrangement. In addition, for sales channel 2, SeAH also performed warehouse operation activities.¹⁵

These selling activities can be generally grouped into four selling function categories for analysis: (1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that SeAH performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for sales through both Canadian channels of distribution at a similar level of intensity. Therefore, we determine that all Canadian market sales constitute one LOT.

In the U.S. market, SeAH reported that it made CEP sales through three channels: (1) back-to-back sales through its U.S. affiliate PPA to unaffiliated U.S. customers; 2) sales to unaffiliated U.S. customers from State Pipe's U.S. warehouse of merchandise purchased from PPA; and 3) sales of further manufactured merchandise from PPA's inventory. For all three channels of distribution, SeAH reported that it performed the following selling functions for all sales to U.S. customers: order input/processing, inventory maintenance, packing, and provide freight and delivery.¹⁶ We examined the selling activities SeAH performed in each channel, exclusive of the selling activities listed in section 772(d) of the Act (*i.e.*, those activities performed by PPA or State Pipe in the United States),¹⁷ and find that SeAH performed sales and

¹⁵ See SeAH's April 5, 2017 Section A Questionnaire Response (SeAH AQR) at 25 to 33 and Appendix A-5; and SeAH's July 26, 2017 Supplemental Questionnaire Response at pages 15-16 and 84.

¹⁶ *Id.*

¹⁷ See 19 CFR 351.412(c)(ii).

marketing, freight and delivery services, and inventory maintenance and warehousing for each of its three reported U.S. channels of distribution at the same level of intensity. As a result, we determine that all of SeAH's CEP sales constitute one LOT.

We then compared the CEP LOT, after excluding the selling activities listed in section 772(d) of the Act, to the Canadian market LOT, and found that there were significant differences between the selling functions performed for U.S. and Canadian customers. Specifically, we found that SeAH performed many selling functions in the Canadian market (*i.e.*, sales forecasting, strategic/economic planning, sales negotiation, invoicing, receipt of payments, personnel training/exchange, sales promotion, sales/marketing support, market research, provide warranty service, provide guarantees to customers, and warehouse operations) that it did not perform in the United States.¹⁸ Based on the foregoing analysis, we determined that the NV LOT is at a more advanced stage of distribution than the CEP LOT, and that no LOT adjustment is possible. Accordingly, for this remand redetermination, we granted a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f).

Interested Party Comments

On August 21, 2020, Commerce released the draft results of redetermination to all interested parties and invited parties to comment.¹⁹ On August 27, 2020, we received comments from SeAH. SeAH did not object to Commerce's Draft Remand Results. No other party commented on the Draft Remand Results.

¹⁸ See SeAH AQR at Appendix A-5.

¹⁹ See "Draft Results of Redetermination Pursuant To Second Court Remand Welded Line Pipe from the Republic of Korea, *Husteel Co., Ltd. et al. v. United States*, Consol. Court No. 18-00169, Slip Op. 20-103 (CIT July 23, 2020)," issued August 21, 2020 (Draft Remand Results).

Final Results of Redetermination

We continued to recalculate SeAH's weighted-average dumping margin after applying a CEP offset in the same manner as in the Draft Remand Results, as discussed above. As a result, SeAH's estimated weighted-average dumping margin is 4.23 percent.²⁰ Hyundai Steel's estimated weighted-average dumping margin of 9.24 percent is unchanged from the First Remand Results.²¹ In addition, as explained in the Draft Remand Results, the change to SeAH's margin resulted in a change in the calculation of the review-specific rate applicable to the non-selected respondents, which is now 6.74 percent.²² Because the weighted-average dumping margin for SeAH and the review-specific average rate are different from that in the *Amended Final Results*, we intend to issue a *Timken* notice with the amended final results should the Court sustain these final results of redetermination.

9/11/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

²⁰ See Memorandum, "Margin Calculations for SeAH Steel Corporation Pursuant to Draft Results of Second Remand Redetermination," dated August 21, 2020

²¹ See First Remand Results at 10.

²² See Memorandum, "Calculation of the Review-Specific Average Rate for the Draft Results of Second Remand Redetermination," dated August 21, 2020.