

A-580-870
Remand: Slip Op. 20-69
Public Document
E&C/OVI: CS

**Final Results of Redetermination Pursuant to Court Remand
Oil Country Tubular Goods from the Republic of Korea
Nexteel Co. v. United States,
Consol. Court No. 18-00083, Slip Op. 20-69 (CIT May 18, 2020)**

A. Summary

The Department of Commerce (Commerce) has prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade (the Court) in *Nexteel Co. v. United States*, Consol. Court No. 18-00083, Slip Op. 20-69 (May 18, 2020) (*Remand Order*). These final results of redetermination concern *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 17146 (April 18, 2018) (*Final Results*), and the accompanying Issues and Decision Memorandum (IDM).

In the *Remand Order*, the Court remanded one issue to Commerce: particular market situation (PMS), finding that Commerce's determination of a PMS was not supported by record evidence.

On July 13, 2020, we released our Draft Results of Redetermination to interested parties.¹ On July 20, 2020, we received comments from NEXTEEL Co., Ltd. (NEXTEEL),² and United States Steel Corporation, Vallourec Star, L.P., and Welded Tube USA, in concurrence with

¹ See Memorandum, "Draft Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea," dated July 13, 2020 (Draft Results of Redetermination).

² See NEXTEEL's Letter, "Oil Country Tubular Goods from the Republic of Korea: Comments on Draft Second Remand Redetermination," dated July 20, 2020 (NEXTEEL Draft Remand Comments).

IPSCO Tubulars, Maverick Tube Corporation and Tenaris Bay City, Inc. (collectively, the domestic interested parties or DIP).³ We respond to these comments below.

B. Background

During the antidumping administrative review, Commerce received an allegation from Maverick Tube Corporation (Maverick) that a PMS existed in the Republic of Korea (Korea).⁴ In the *Preliminary Results*⁵ and *Final Results*, after considering the arguments and comments submitted by interested parties on this issue, Commerce found that record evidence supported a finding that a PMS existed in Korea which distorted the costs of production of oil country tubular goods (OCTG) due to the totality of circumstances.⁶ This is the second remand from the Court in this litigation. Commerce issued its First Redetermination on the issue of PMS and three other issues on November 6, 2019.⁷ In the First Redetermination, Commerce continued to find that a PMS existed in Korean market due to the totality of circumstances presented by five factors: (1) subsidization of hot-rolled coil (HRC) by the Government of Korea;⁸ (2) distortive pricing of Chinese HRC;⁹ (3) strategic alliances;¹⁰ (4) electricity;¹¹ and (5) the steel industry restructuring effort by the Korean government.¹² Commerce also found that that the interplay between these

³ See DIP's Letter, "Oil Country Tubular Goods from the Republic of Korea: Domestic Interested Parties' Comments Upon Commerce's Draft Results of Redetermination Pursuant to Court Remand," dated July 20, 2020 (DIP Draft Remand Comments).

⁴ See Maverick's Letter, "Certain Oil Country Tubular Goods from the Republic of Korea: Other Factual Information Submission for Valuing the Particular Market Situation in Korea," dated May 4, 2017.

⁵ 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) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

⁶ See *Preliminary Results* PDM at 14; see also *Final Results* IDM at Comment 1.

⁷ See Memorandum, "Final Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea," dated November 6, 2019 (First Redetermination).

⁸ *Id.* at 21.

⁹ *Id.* at 21-22.

¹⁰ *Id.* at 22-23.

¹¹ *Id.* at 23-25.

¹² *Id.* at 25-26.

market conditions added to the totality of circumstances creating the PMS.¹³ The Court ruled on the First Redetermination, remanding the issue of PMS, but sustaining Commerce on the remaining issues.¹⁴

C. Analysis

In the *Remand Order*, the Court remanded one issue to Commerce. The Court found that Commerce's determination finding a PMS was not supported by record evidence. The Court directed Commerce "to reverse its finding of a particular market situation and to recalculate the mandatory respondents' and non-examined companies' dumping margins."¹⁵

Although Commerce respectfully disagrees with the Court's decision on this issue, it has complied with the Court's *Remand Order* and, under protest, reversed its determination of a PMS. Accordingly, we have recalculated the margins of the mandatory respondents, SeAH and NEXTEEL, and the non-examined companies, which challenged this issue in this litigation, without the application of a PMS adjustment, as ordered by the Court.¹⁶

D. Interested Party Comments on Draft Results of Redetermination

On July 13, 2020, we released our Draft Results of Redetermination to interested parties.¹⁷ On July 20, 2020, we received comments from NEXTEEL¹⁸ and the domestic interested parties¹⁹ No other interested party submitted comments.

¹³ *Id.* at 26-29.

¹⁴ The Court concluded that it was unnecessary to reach some of the respondents' arguments relating to the issue of PMS and the amount of PMS adjustment. *See Remand Order* at 16, n. 11.

¹⁵ *Remand Order* at 16.

¹⁶ *See* Memorandum, "Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea 2015-2016: SeAH Analysis Memorandum," dated July 13, 2020, unchanged for these Final Results of Redetermination; *see also* Memorandum, "Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea 2015-2016: NEXTEEL Analysis Memorandum," dated July 13, 2020, unchanged for these Final Results of Redetermination.

¹⁷ *See* Draft Results of Redetermination.

¹⁸ *See* NEXTEEL Draft Remand Comments.

¹⁹ *See* DIP Draft Remand Comments.

NEXTEEL's Comments

- The Court held that Commerce's finding of a PMS was unsupported by substantial evidence and directed Commerce to reverse the application of a PMS adjustment. Commerce's Draft Results of Redetermination correctly reversed that application.²⁰
- NEXTEEL does not agree that Commerce should issue its remand redetermination under protest.²¹

Domestic Interested Parties' Comments

- The domestic interested parties believe that Commerce's reversal of the application of a PMS adjustment, under protest, in the Draft Results of Redetermination is compliant with the Court's opinion.²²
- The domestic interested parties disagree with the Court's conclusion. It is important that Commerce continue to act under protest in the final results of redetermination.²³

Commerce's Position:

As an initial matter, all parties who commented on this remand redetermination agree that Commerce has complied with the Court's order in reversing the finding of PMS in this remand determination. We disagree with NEXTEEL's argument that Commerce should not issue this remand determination under protest. Where, as here, Commerce respectfully disagrees with the Court's decision, it complies under protest.

E. Final Results of Redetermination

Under protest, Commerce has reversed its determination of a PMS and recalculated the margins of the mandatory respondents, SeAH Steel Corporation (SeAH) and NEXTEEL Co.,

²⁰ See NEXTEEL Draft Remand Comments at 1-2.

²¹ *Id.* at 2.

²² See DIP Draft Remand Comments at 2.

²³ *Id.* at 3.

Ltd. (NEXTEEL), who challenged this issue in this litigation, without the application of a PMS adjustment, as ordered by the Court. Based upon the results of our analysis, we have recalculated the weighted-average dumping margins for SeAH, NEXTEEL, and the non-examined companies, which have changed from 5.41 percent to 3.40 percent for SeAH, from 46.71 percent to 18.29 percent for NEXTEEL, and from 26.06 to 10.85 percent for the non-examined companies. Upon a final and conclusive decision in this litigation, Commerce will instruct U.S. Customs and Border Protection to liquidate appropriate entries for the September 1, 2015 through August 31, 2016 period of review, consistent with these final results of redetermination.

8/3/2020

X 

Signed by: JEFFREY KESSLER
Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance