

*Hyundai Steel Co. v. United States*,  
Court No. 21-00304, Slip Op. 23-142 (CIT September 26, 2023)  
Certain Corrosion-Resistant Steel Products from the Republic of Korea

**FINAL RESULTS OF REDETERMINATION  
PURSUANT TO COURT REMAND**

**I. SUMMARY**

The U.S. Department of Commerce (Commerce) prepared these final results of redetermination pursuant to the remand opinion and order of the U.S. Court of International Trade (CIT), issued on September 26, 2023.<sup>1</sup> These final results of redetermination concern Commerce’s final results in the administrative review of the countervailing duty (CVD) order on certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea) covering the period of review (POR) January 1, 2018, through December 1, 2018.<sup>2</sup> The CIT remanded Commerce’s benefit determination relating to the Provision of Port Usage Rights at the Port of Incheon program.

In the *Remand Order*, the CIT held that Commerce’s benefit finding regarding the Provision of Port Usage Rights at the Port of Incheon program was not in accordance with law because Commerce did not consider Hyundai Steel Company’s (Hyundai) costs in constructing the port facility to determine whether the company received a benefit, nor did Commerce

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<sup>1</sup> See *Hyundai Steel Co. v. United States*, Court No. 21-00304, Slip Op. 23-142 (CIT September 26, 2023) (*Remand Order*).

<sup>2</sup> See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2018*, 86 FR 29237 (June 1, 2021) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

consider whether Hyundai’s port-usage rights reflect this cost of construction.<sup>3</sup> Further, the CIT stated that “{i}f, as Hyundai contends, the value of its port-usage rights did not exceed its construction costs, then the company received no {a}dvantage, profit, {or} good, and thus no countervailable benefit.”<sup>4</sup> As discussed below, pursuant to the *Remand Order*, and under respectful protest, we have considered Hyundai’s construction costs in the benefit calculation; however, we disagree that the construction costs should be considered in the benefit determination. Consequently, for the purpose of these final results of redetermination, Commerce has revised the subsidy rate for this program from 0.01 percent *ad valorem* to zero percent, and the overall subsidy rate calculated for Hyundai to be 0.49 percent *ad valorem*, which is *de minimis*.

## II. BACKGROUND

On September 9, 2019, Commerce initiated a CVD administrative review concerning imports of CORE from Korea covering the period January 1, 2018, through December 31, 2018.<sup>5</sup> On December 10, 2019, Commerce selected Hyundai and Dongbu Steel Co., Ltd./Dongbu Incheon Steel Co., Ltd. as mandatory respondents in this administrative review.<sup>6</sup> In its *Preliminary Results*, Commerce determined that the Provision of Port Usage Rights at the Port of Incheon program was a countervailable subsidy because Hyundai received a financial contribution and benefit in the form of fees it was exempted from paying the Government of Korea (GOK).<sup>7</sup> In the *Final Results*, Commerce affirmed its preliminary determination.<sup>8</sup> We

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<sup>3</sup> See *Remand Order* at 10-11.

<sup>4</sup> *Id.* at 11.

<sup>5</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 47242 (September 9, 2019).

<sup>6</sup> See Memorandum, “Respondent Selection,” dated December 10, 2019.

<sup>7</sup> See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; 2018*, Memorandum, 85 FR 74692 (November 23, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM) at 23-25.

<sup>8</sup> See *Final Results* IDM at 8 and Comment 2.

found that Hyundai received a financial contribution in the form of revenue forgone from the GOK because the fees that the GOK gave Hyundai the right to collect, which would have otherwise been collected by the GOK absent the agreement between the parties, represented revenue forgone within the meaning of section 771(5)(D)(ii) of the Tariff Act of 1930, as amended (the Act). Further, we found that this program was specific within the meaning of section 771(5A)(D)(iii)(I) of the Act and conferred a benefit within the meaning of section 771(5)(E) of the Act.<sup>9</sup> Commerce further clarified in the *Final Results* that the benefit was further supported by its regulations at 19 CFR 351.503(b).<sup>10</sup> We determined that Hyundai had received a measurable benefit from this program in the form of berth occupancy charges and harbor facility usage fees that it collected from third parties, that would have otherwise been collected by the GOK.<sup>11</sup> Thus, for the *Final Results*, Commerce calculated a 0.01 percent *ad valorem* rate for the Provision of Port Usage Rights at the Port of Incheon program.<sup>12</sup>

Hyundai filed suit at the CIT challenging Commerce's findings in the *Final Results* regarding the countervailability of the Provision of Port Usage Rights at the Port of Incheon program. On September 26, 2023, the CIT remanded Commerce's benefit determination on this program. Specifically, the CIT found that Commerce erred as a matter of law in not considering the costs of constructing the facility in its benefit determination. We have addressed this issue in our analysis below.

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See *Preliminary Results* PDM at 24.

<sup>12</sup> See *Final Results* IDM at 8.

### III. ANALYSIS

As required by the *Remand Order*, we have, under respectful protest, accounted for the construction costs attributable to the POR in Hyundai's benefit calculation.<sup>13</sup> From the benefit that Hyundai received for the POR (*i.e.*, the sum of the berth occupancy charges and harbor facility usage fees that it collected from third parties), we subtracted the amount reported by Hyundai as the cost of construction for the North Incheon Harbor applicable to the POR.<sup>14</sup> We then divided the net benefit amount by Hyundai's total sales, which results in a rate of less than 0.005 percent *ad valorem*. The specific calculation can be found in the Remand Calculation Memorandum.

### IV. INTERESTED PARTY COMMENTS

On December 18, 2023, Commerce released the draft results of redetermination to all interested parties and invited parties to comment.<sup>15</sup> On December 27, 2023, Hyundai submitted comments agreeing with Commerce's draft results of redetermination.<sup>16</sup> No other parties submitted comments.

### V. FINAL RESULTS OF REDETERMINATION

Pursuant to the *Remand Order*, we have determined that the Provision of Port Usage Rights at the Port of Incheon program does not provide a measurable benefit during the relevant period. As a result, the overall subsidy rate calculated for Hyundai for the POR is 0.49 percent *ad valorem*, which is *de minimis*. Because the overall subsidy rate is revised from the *Final Results*, should the CIT affirm these final results of redetermination, we intend to publish a

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<sup>13</sup> See Memorandum, "Draft Remand Calculation for Hyundai Steel Company," dated December 18, 2023 (Remand Calculation Memorandum).

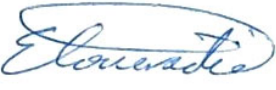
<sup>14</sup> See Hyundai's Letter, Second Supplemental Questionnaire Response, dated November 4, 2020, at 9.

<sup>15</sup> See Draft Results of Redetermination Pursuant to Court Remand, *Hyundai Steel Co. v. United States*, Court No. 21-00304, Slip Op. 23-142 (CIT September 26, 2023), dated December 18, 2023.

<sup>16</sup> See Hyundai's Letter, "Comments in Support of Draft Results of Redetermination Pursuant to Court Remand," dated December 27, 2023.

notice of court decision not in harmony with the results of administrative review<sup>17</sup> and notice of amended final results in the *Federal Register*, and issue appropriate instructions to U.S. Customs and Border Protection, consistent with the discussion above.

1/23/2024

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Signed by: ABDELALI ELOUARADIA

Abdelali Elouaradia  
Deputy Assistant Secretary  
for Enforcement and Compliance

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<sup>17</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990); see also *Diamond Sawblades Manufacturers Colalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010)