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DEPARTMENT OF COMMERCE

International Trade Administration

C-580-898

Large Diameter Welded Pipe from the Republic of Korea: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of large diameter welded pipe (welded pipe) from the Republic of Korea (Korea). For information on the estimated subsidy rates, *see* the “Final Determination” section of this notice.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: George Ayache or Robert Palmer, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2623 or (202) 482-9068, respectively.

SUPPLEMENTARY INFORMATION:

Background

The petitioners in this investigation are American Cast Iron Pipe Company, Berg Steel Pipe Corp./Berg Spiral Pipe Corp, Dura-Bond Industries, Skyline Steel, Stupp Corporation, Greens Bayou Pipe Mill, LP, JSW Steel (USA) Inc., and Trinity Products LLC (collectively, the petitioners). In addition to the Government of Korea (GOK), the mandatory respondents in this

investigation are Husteel Co., Ltd. (Husteel), Hyundai Steel Company (Hyundai Steel), and SeAH Steel Corporation (SeAH Steel).

The events that occurred since Commerce published the *Preliminary Determination*¹ on June 29, 2018, are discussed in the Issues and Decision Memorandum, which is hereby adopted by this notice.² The Issues and Decision Memorandum also details the changes we made since the *Preliminary Determination* to the subsidy rates calculated for the mandatory respondents and all other producers/exporters. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.³ If the new deadline falls on a non-business day, in accordance with

¹ See *Large Diameter Welded Pipe from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 30690 (June 29, 2018) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Large Diameter Welded Pipe from Korea: Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation," dated concurrently with this determination (Issues and Decision Memorandum).

³ See Memorandum to the Record from 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, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

Commerce's practice, the deadline will become the next business day. The revised deadline for the final determination of this investigation is now February 19, 2019.

Period of Investigation

The period of investigation is January 1, 2017, through December 31, 2017.

Scope of the Investigation

The product covered by this investigation is welded pipe from Korea. For a full description of the scope of this investigation, see the "Scope of the Investigation" in Appendix I of this notice.

Scope Comments

During the course of this investigation and the concurrent less-than-fair-value investigations of large diameter welded pipe from Canada, Greece, Korea, the People's Republic of China (China) and Turkey, and the concurrent countervailing duty (CVD) investigations of large diameter welded pipe from China, India, Korea and Turkey, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum⁴ to address these comments. In the *Preliminary Determination*, Commerce set aside a period of time for parties to address scope issues in scope case and rebuttal briefs.⁵ No interested parties submitted comments regarding the Preliminary Scope Decision Memorandum. Therefore, for this final determination, the scope of this investigation remains unchanged from that published in the *Preliminary Determination*.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal

⁴ See Memorandum, "Scope Comments Decision Memorandum for the Preliminary Determinations," dated June 19, 2018 (Preliminary Scope Decision Memorandum).

⁵ 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).

briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making these findings, Commerce relied, in part, on facts available. Further, because one or more respondents did not act to the best of their ability to respond to Commerce’s requests for information, an adverse inference was drawn, where appropriate, in selecting from among the facts otherwise available.⁷ For further information, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Act, during September 2018, Commerce verified the subsidy information reported by the GOK, Husteel, Hyundai Steel, and SeAH Steel. We used standard verification procedures, including an examination of relevant accounting records and original source documents provided by the respondents.⁸

⁶ *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ *See* sections 776(a),(b), and 782(d) of the Act.

⁸ *See* Memoranda, “Verification of the Questionnaire Responses of the Government of Korea,” “Verification of the Questionnaire Responses of Husteel Co., Ltd.,” “Verification of the Questionnaire Responses of Hyundai Corporation,” “Verification of the Questionnaire Responses of Hyundai Steel Company,” and “Verification of the Questionnaire Responses of SeAH Steel Corporation and ESAB SeAH Corporation,” all dated October 26, 2018.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, verification, and the minor corrections presented at verification, we made certain changes to the respondents' subsidy rate calculations. As a result of these changes, Commerce has also revised the "all-others" rate. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for Husteel and Hyundai Steel, two producers/exporters of subject merchandise selected for individual examination in this investigation. Commerce assigned a rate based entirely on facts otherwise available with adverse inferences pursuant to section 776 of the Act to SeAH Steel.

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act. Where the rates for the individually investigated companies are all zero or *de minimis*, or determined entirely using facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs Commerce to establish an all-others rate using "any reasonable method." According to section 705(c)(5)(A)(ii) of the Act, one such "reasonable method" includes "averaging the weighted average countervailable subsidy rates determined for the exporters and producers individually investigated." Here, the countervailable subsidy rates for all of the individually investigated respondents are zero or *de minimis* or are based on adverse facts available (AFA). Therefore, consistent with section 705(c)(5)(A)(ii) of the Act, we have

averaged the rates of the three individually investigated respondents to establish the estimated all others rate. This approach is also consistent with our practice in other investigations.⁹

Commerce determines the total estimated net countervailable subsidy rates to be:

Company	Subsidy Rate
Husteel Co., Ltd.	0.01 percent (<i>de minimis</i>)
Hyundai Steel Company	0.44 percent (<i>de minimis</i>)
SeAH Steel Corporation	27.42 percent
All-Others Rate	9.29 percent

Disclosure

Commerce will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* in the *Federal Register*, except for Husteel and Hyundai Steel.¹⁰ In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or

⁹ See, e.g., *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy: Final Affirmative Determination and Final Affirmative Critical Circumstances, in Part*, 81 FR 35326, 35327 (June 2, 2016).

¹⁰ See *Preliminary Determination*, 83 FR at 30694. Because the rates for Husteel and Hyundai Steel were zero or *de minimis* in the *Preliminary Determination*, Commerce did not suspend entries of merchandise from these companies.

withdrawn from warehouse, on or after October 26, 2018, but to continue the suspension of liquidation of all entries from June 29, 2018, through October 25, 2018.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of welded pipe from Korea no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by

Commerce, countervailing duties on all imports of the subject merchandise, other than those produced and exported by Husteel and Hyundai Steel because their rates are *de minimis*, that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: February 19, 2019

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 I

Scope of the Investigation

The merchandise covered by this investigation is welded carbon and alloy steel pipe (including stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this investigation, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope large diameter welded pipe.

The large diameter welded pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6010, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary

II. Background

III. Use of Facts Otherwise Available and Adverse Inferences

IV. Subsidies Valuation

V. Analysis of Programs

VI. Analysis of Comments

Comment 1: Application of Adverse Facts Available (AFA) to SeAH Steel for Unreported Affiliates

Comment 2: Application of AFA to SeAH Steel for SPP Pipe

Comment 3: Whether the Demand Response Resources (DRR) Program is Countervailable

Comment 4: Whether Tax Credits under Restriction of Special Taxation Act (RSTA) Articles 25(2), 25(3), and 26 Are Countervailable

Comment 5: Whether a Benefit Exists in the Modal Shift Program

VII. Recommendation

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