

RESULTS OF REDETERMINATION
PURSUANT TO REMAND

SEAH STEEL CORPORATION V. UNITED STATES (DEFENDANT) AND
BRISTOL METALS (DEFENDANT-INTERVENOR)

Court No. 09-00248

Slip Op. 11-33

SUMMARY

The Department of Commerce (the Department) has prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade (CIT) in SeAH Steel Corporation v. United States and Bristol Metals, Slip Op. 11-33 (March 29, 2011) (SeAH II).

In accordance with Court's instructions, the Department has recalculated the margin for SeAH Steel Corporation (SeAH) in the administrative review of the antidumping duty order covering certain welded stainless steel pipes from the Republic of Korea for the period December 1, 2006, through November 30, 2007. In this recalculation, the Department has used a single unadjusted weighted average per unit cost of production for the cost recovery test.

BACKGROUND

The Department issued its final results in the antidumping duty review of certain welded stainless steel pipes from the Republic of Korea covering the period of review (POR) of December 1, 2006, through November 30, 2007. See [Certain Welded Stainless Steel Pipes From the Republic of Korea: Final Results of Antidumping Duty Administrative Review](#), 74 FR

31,242 (June 30, 2009) (Final Results).¹ SeAH challenged the following aspects of the Department's Final Results: 1) the decision to depart from its practice of using an annual cost averaging period and to instead rely on quarterly costs for the sales below cost test; 2) the decision not to apply its normal "90/60" day window period for comparing home market and U.S. sales; 3) the use of a cost recovery methodology that is adjusted using an indexing methodology; and 4) the application of the major input rule with regard to hot-rolled stainless steel coils purchased from SeAH's affiliate.

In SeAH Steel Corporation v. United States, Slip Op. 10-60 (May 29, 2010) (SeAH I), the CIT affirmed the Department's decisions to rely on quarterly average costs and not to apply the "90/60" day window in making price-to-price comparisons. The CIT also granted the Department's request for a voluntary remand to consider steel specification for the major input analysis. However, the CIT remanded to the Department for further explanation its application of the cost recovery test in the Final Results. Specifically, the Court ordered the Department to (1) calculate the normal value of SeAH's home market sales using both the restated indexed weighted average cost for the POR in the cost recovery test and alternatively using the ordinary weighted average cost for the entire POR in the cost recovery test; (2) include in the record specific figures resulting from these calculations; (3) identify all those sales that are recovered using the ordinary weighted-average cost of production for the POR, but excluded from the normal value calculation under the indexing methodology of the cost recovery test; and (4) explain which of the two methodologies the Department adopts to conduct the cost recovery test,

¹ The antidumping duty order in this proceeding was published in the Federal Register on December 30, 1992. See Antidumping Duty Order and Clarification of Final Determination: Certain Welded Stainless Steel Pipes From Korea, 57 FR 62,301 (December 30, 1992).

and the reason that methodology is appropriate in the context of the requirements of Section 773(b)(2)(D) of the Tariff Act of 1930, as amended.

On September 17, 2010, the Department filed its remand redetermination explaining its indexed cost recovery methodology in detail. The remand addressed the statutory text and argued that the Department's indexing methodology conformed with the requirement that the Department use a POR weighted average cost. The Department also determined in its remand results that it was appropriate to consider steel specification data in conducting the major input analysis, and accordingly recalculated the major input adjustments made for the Final Results.

On March 29, 2011, the CIT held in SeAH II that the indexing cost recovery methodology violated the requirements imposed by the statute and directed the Department to employ a cost recovery test using an annual unadjusted cost of production. The CIT also affirmed the use of steel specification with respect to the major input analysis.

DISCUSSION

For the Final Results, the Department concluded that the application of its standard methodology for calculating the weighted-average per-unit cost for the cost recovery test would result in a flawed dumping margin due to the significant changes in its total cost of manufacturing that were primarily attributable to the price volatility for nickel, a major input consumed in the production of stainless steel pipe. Consequently, the Department employed an indexed POR cost recovery methodology that we explained controls for distortions arising from significantly changing raw material costs.

As noted above, the CIT found in SeAH II that the statute states that the cost recovery test must compare sales below cost against a single weighted average per unit cost of production for the POR (i.e., “the weighted average per unit cost of production for the period of...review”).

The CIT further upheld the Department's consideration of steel specification with respect to the major input analysis.

As directed by the CIT in SeAH II, we have recalculated the dumping margin for SeAH in this review by employing in the cost recovery test an unadjusted annual average cost for the POR. We have also incorporated in the margin calculation our revised major input adjustments resulting from our determination that it is appropriate to consider both steel grade and steel specification in the major input analysis. The Department's recalculations are discussed further in the memorandum to the file titled "Adjustments to the Cost of Production ("COP") and Constructed Value Information Pursuant to Second Court Remand – SeAH Steel Corporation," issued concurrently with these remand results.

COMMENTS

We issued our draft results of redetermination to all interested parties on April 18, 2011, and invited parties to comment on the draft results. The only party which responded to the Department's request for comments was SeAH. SeAH submitted a letter expressing its view that the draft remand complied with the court's order.

WEIGHTED-AVERAGE DUMPING MARGIN

Our recalculation results in a weighted-average margin for SeAH of 6.01 percent for the period of December 1, 2006, through November 30, 2007.

Paul Piquado
Acting Deputy Assistant Secretary
for Import Administration

Date