Final Results of Redetermination Pursuant to Court Remand
Oil Country Tubular Goods from the Republic of Korea
***Nexteel Co. v. United States*,**
Consolidated Court No. 17-00091, Slip. Op. 19-01 (CIT January 2, 2019)

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 (CIT or the Court) in *Nexteel Co. v. United States*, Consol. Court No. 17-00091, Slip. Op. 19-01 (January 2, 2019) (*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; 2014-2015,* 82 FR 18105 (April 17, 2017), and accompanying Issues and Decision Memorandum (IDM), as amended by *Certain Oil Country Goods from the Republic of Korea: Amended Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 31750 (July 10, 2017) (collectively, *Final Results*).

In the *Remand Order*, the Court remanded three issues to Commerce: (1) particular market situation (PMS), finding that Commerce's methodology was sound, in theory, but that Commerce failed to substantiate its finding of a PMS with record evidence; (2) classification of proprietary SeAH Steel Corporation (SeAH) grades, finding that Commerce failed to meaningfully distinguish between a product's physical characteristics and production processes and remanded the issue for further consideration; (3) deduction of general and administrative (G&A) expenses as U.S. selling expenses, finding that Commerce's determination was not supported by record evidence and remanded the issue for clarification or reconsideration.

On March 13, 2019, we released our Draft Results of Redetermination to interested parties.[1] On March 18, 2019, we received comments from SeAH;[2] NEXTEEL Co., Ltd. (NEXTEEL) and Hyundai Steel Company (Hyundai Steel);[3] and Maverick Tube Corporation, TMK IPSCO, Vallourec Star, L.P., Welded Tube USA, and United States Steel Corporation (collectively, the petitioners).[4] We respond to these comments below. After considering these comments and analyzing the record, for purposes of these final results of redetermination, we have revised our application of PMS and further explained our methodology employed in the *Final Results*. Based upon the result of our analyses, we have recalculated the weighted-average dumping margins for SeAH, NEXTEEL, and non-examined companies, which have changed from 2.76 percent to 3.31 percent, 29.76 percent to 3.63 percent, and 16.26 percent to 3.47 percent, respectively.

B. Background

During the antidumping administrative review, Commerce received an allegation from Maverick Tube Corporation (Maverick) that a particular market situation existed in the Republic of Korea (Korea).[5] On October 13, 2016, Commerce published the *Preliminary Results*, in

[1] *See* "Draft Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea," dated March 13, 2019 (Draft Results of Redetermination).
[2] *See* SeAH Letter, "Administrative Review of the Antidumping Duty Order on Certain Oil Country Tubular Goods from Korea – Comments on Draft Redetermination on Remand," dated March 18, 2019 (SeAH Draft Remand Comments).
[3] *See* NEXTEEL and Hyundai Steel Letter, "Oil Country Tubular Goods from the Republic of Korea: Comments on the Department's Draft Remand Redetermination," dated March 18, 2019 (NEXTEEL and Hyundai Steel Draft Remand Comments).
[4] *See* Petitioners Letter, "Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review, 2014-2015, Remand: Comments on Draft Results of Redetermination Pursuant to Court Remand," dated March 18, 2019 (Petitioners Draft Remand Comments).
[5] *See* Maverick Letters, "Oil Country Tubular Goods from the Republic of Korea: Submission of Factual Information," dated November 25, 2015; and "Certain Oil Country Tubular Goods from the Republic of Korea: Particular Market Situation Allegation on Electricity," dated February 3, 2016.

which we found that there was insufficient evidence to support the allegation of a PMS.[6] Accordingly, we made no PMS adjustment in the *Preliminary Results*. In the *Final Results*, after considering the arguments and comments submitted by interested parties on this issue, we reconsidered Maverick's allegations and found that record evidence supported a finding that a PMS existed in Korea which distorted the OCTG costs of production. Our finding of the existence of a PMS was based on the "cumulative effect on the Korean OCTG market through the cost of OCTG inputs."[7] We stated that, "{a}lthough {Commerce} preliminarily found insufficient support for the allegations when it individually considered them as four separate particular market situations, {Commerce} refocused the analysis on the totality of the conditions in the Korean market and finds that the allegations represent, instead, facets of a single particular market situation." We additionally stated that "{r}ecord evidence shows subsidization of {hot-rolled coil (HRC)} by the Korean government and purchases of HRC by the mandatory respondents from POSCO, which received such subsidies,"[8] and that "{r}ecord evidence also shows that subsidies received by Korean hot-rolled steel producers totaled up to 60 percent of the cost of hot-rolled steel, the primary input into OCTG production."[9]

In its *Remand Order*, issued during the partial government shutdown, the Court held that Commerce's PMS approach "was reasonable in theory," but that "Commerce failed, however, to substantiate its finding of one particular market situation with evidence on the record."[10] The Court instructed Commerce to reverse its finding of a PMS and recalculate its dumping margin

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[6] *See Certain Oil Country Tubular Goods from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2014-2015* 81 FR 71074 (October 13, 2016) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.
[7] *See Final Results* and accompanying Issues and Decision Memorandum, at 40.
[8] *See Final Results*, citing Petitioner PMS Case Brief, at 6 and footnote 18, and sources cited therein.
[9] *See Final Results*, citing Petitioner PMS Case Brief, at 6, citing *Hot-Rolled Steel from Korea CVD Final Determination*, 81 FR at 53439.
[10] *See Remand Order*, at 15.

for the mandatory respondents and non-examined companies.[11] We note that parties have filed motions for reconsideration, which remain pending before the Court.

The Court also remanded for reconsideration the classification of proprietary SeAH products. In our initial questionnaire, Commerce asked SeAH to report the grade of OCTG, and to use a separate reporting code for any proprietary/non-API grades of OCTG that were not listed in the API Specification 5CT.[12] SeAH reported that it assigned a separate grade code "075" for "an OCTG product that has the same tensile strength required by the N-80 specification but is not heat treated…in the manner required by the N-80 norms."[13] In the *Final Results*, Commerce stated that SeAH acknowledged that the "mechanical properties" of SeAH's proprietary grades (*i.e.*, tensile and hardness requirements) were equivalent to grade N-80, and that it was appropriate to classify SeAH's proprietary grades of OCTG as grade code "080" in the control number (CONNUM) construction.[14] The Court found that this conclusion was unsupported by substantial evidence and remanded the issue to Commerce for further consideration.[15]

Lastly, the Court remanded for clarification or reconsideration the deduction of G&A expenses related to resold U.S. products for SeAH's U.S. affiliate Pusan Pipe America Inc. (PPA) as U.S. selling expenses.[16] SeAH argued that the G&A expenses were related to company's overall activities, and that, therefore, it would be improper for these selling expenses

[11] *Id.*, at 18.
[12] *See* Commerce Letter, "Request for Information Antidumping Duty Administrative Review, SeAH Steel Corporation, Republic of Korea, Oil Country Tubular Goods," dated February 12, 2016 (Antidumping Questionnaire), at B-9 and C-8.
[13] *See* SeAH Letter, "Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from Korea – Response to February 12 Questionnaire," dated March 31, 2016 (SeAH's Sections B and C Questionnaire Response), at 8 and 55.
[14] *See Final Results* and accompanying Issues and Decision Memorandum, at 96-97.
[15] *See Remand Order*, at 30-31.
[16] *Id.*, at 34-35.

to be deducted.[17] In the *Final Results*, however, Commerce allocated the G&A expenses related to resold U.S. products for PPA[18] In the *Final Results*, Commerce also stated that "PPA's G&A activities support the general activities of the company as a whole, including its sales and further manufacturing functions of all products," and applied the G&A ratio to further manufactured and resold products.[19] The Court found that Commerce's explanation did not "clarify why Commerce deducted PPA's G&A expenses for resold products, nor does it clarify how Commerce determined that it would apply to all PPA's G&A expenses to resold products."[20]

C. Analysis

1) Particular Market Situation

In the *Remand Order*, the Court remanded Commerce's application of a PMS adjustment to the mandatory respondents' reported costs of production for Korean OCTG.[21] The Court held that, "Commerce's market situation approach was reasonable, in theory," but that Commerce did not demonstrate "its finding of one particular market situation with evidence on the record."[22] The Court ordered Commerce to reverse its finding of a PMS and recalculate the dumping margin for the mandatory respondents and non-examined companies.[23] Although we agree with the Court that our particular market situation approach was reasonable, we respectfully disagree with the remainder of Court's decision on this issue.[24] Even so, we have complied with the

[17] *See* Administrative Review of the Antidumping Order on Oil Country Tubular Goods from Korea – Case Brief of SeAH Steel Corporation, dated February 9, 2017, (SeAH's Case Brief), at 38-39.
[18] *See Final Results* and accompanying Issues and Decision Memorandum, at 87.
[19] *Id.*, at 87-88.
[20] *See Remand Order*, at 34-35.
[21] *Id.*, at 10-18.
[22] *Id.*, at 15.
[23] *Id.*, at 18
[24] We did not solicit comments on this issue because the Court's *Remand Order* directed Commerce to reverse its PMS finding. Pending before the Court is a motion for reconsideration on the PMS issue. On March 28, 2019, the Court denied the United States' February 1, 2019 motion for an extension to file a motion for reconsideration.

Court's *Remand Order* and, under protest, recalculated the margins of the mandatory respondents, SeAH and NEXTEEL, and the non-examined companies without the application of a PMS adjustment, as ordered by the Court.[25]

2) Classification of Proprietary SeAH Products

The product grade field of Commerce's initial questionnaire listed multiple API standard OCTG grades and asked respondents to report a separate grade code for any proprietary grades of OCTG that are not listed in API Specification 5CT.[26] SeAH reported that it sold three proprietary grades of OCTG in the United States during the period of review (POR) that had the same tensile strength and hardness required by grade N-80 specifications but were not heat treated as required by the N-80 specification.[27] SeAH provided a separate grade code for these products, *i.e.*, code "075." In the *Final Results*, we combined the three proprietary grades that SeAH reported under code "075" with N-80 grade reported under code "080" for purposes of SeAH's margin calculation.[28] Commerce argued before the Court that "heat treatment is not a 'physical characteristic' of a product but rather a 'production process' feature."[29] The Court determined that Commerce failed to meaningfully distinguish between a product's physical characteristics and production process and did not adequately address evidence on the record in making its determination.[30] The Court found that Commerce's decision was unsupported by

[25] *See* Memorandum, "Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea 2014-2015: SeAH Analysis Memorandum," dated concurrently with this memorandum (SeAH Final Remand Analysis Memorandum); *see also* Memorandum, "Results of Redetermination Pursuant to Court Remand Oil Country Tubular Goods from the Republic of Korea 2014-2015: NEXTEEL Analysis Memorandum," dated concurrently with this memorandum (NEXTEEL Final Remand Analysis Memorandum).
[26] *See* Antidumping Questionnaire, at B-9 and C-8.
[27] *See* SeAH's Sections B and C Questionnaire Response, at 8 and 55.
[28] *See Final Results* and accompanying Issues and Decision Memorandum, at 87-88.
[29] *See* Defendant's Response in Opposition to Motions for Judgment Upon the Administrative Record in *Hyundai Steel Company, Husteel Co., Ltd., Aju Besteel Co., Ltd., Maverick Tube Corporation, and SEAH Steel Corporation, and Iljin Steel Corporation v. United States* Court No. 17-00091, Slip. Op. 19-01 (January 2, 2019) (Commerce's Court Brief), at 35.
[30] *See Remand Order*, at 31.

substantial evidence and remanded for further consideration.[31]

We have reconsidered this issue and will provide further explanation. This issue is related to Commerce's model match methodology, which, in this case, was adopted with input from all interested parties during the original investigation and ensures that products with identical or similar physical characteristics are compared in determining the dumping margin. Our model match methodologies, in general, and the model match methodology in this proceeding, specifically, contain a hierarchy of model match criteria. The more important matching characteristics are listed higher in the model match methodology than less important criteria.

Commerce's established model matching hierarchy for this proceeding not only reflects the differences between products, but also ranks those differences in order of importance. Physical characteristics (such as grade) are ranked above production processes (such as heat treatment) in the CONNUM construction.[32] Specifically, grade is the third-highest product characteristic, while heat treatment is the ninth-highest.[33] SeAH contends that its proprietary grades are distinct from the N-80 grade of OCTG because they are not heat treated. However, on this record, the absence of the heat treatment process is the sole distinguishing characteristic between N-80 grade products and SeAH's proprietary products. Under our model match hierarchy, the differences related to heat treatment are captured by the ninth-highest criteria and not the third-highest criteria, which is the grade. Indeed, in our view, it makes no sense to identify heat-treatment as a separate and distinct criterion in our model match methodology, while at the same time creating a grade distinction at a higher level of model match hierarchy

[31] *Id.*
[32] *See* Antidumping Questionnaire, at sections B and C.
[33] *Id.*

based solely on heat treatment (*i.e.*, the same criterion, which exists at a lower level of the model match hierarchy).

SeAH's explanation for not classifying its proprietary grade products under the codes assigned to grades J-55 or K-55 is that its proprietary grade products offer higher strength levels than J-55 or K-55, equivalent with N-80 grade products.[34] In fact, SeAH reported that its products have the same "mechanical properties" (*i.e.*, tensile strength and hardness) required by the N-80 specification, which have the assigned code of "080."[35] Because OCTG are used "in the well" and, thus, must withstand significant internal and external pressures at various depths, the key physical properties, such as tensile strength and hardness, are essential to determining the capabilities of a particular OCTG product. SeAH even noted that its proprietary grade products have "the same tensile strength required by the N-80 specification,"[36] which, we find, supports physical properties such as tensile strength being essential in determining comparable grades. In fact, SeAH itself cited a difference in physical characteristics when it explained that its proprietary grades were dissimilar to grades J-55 and K-55.[37] Furthermore, SeAH stated that it developed its proprietary grades specifically to compete with N-80 grade products and upgradeable L-80 products in the North American market, but without going through the heat treatment process.[38] This record evidence supports our determination that it is reasonable to classify SeAH's proprietary products as substantially the same grade with N-80 grade product, the products they compete against, and compare them. Since SeAH reported that its proprietary

[34] *See* SeAH Case Brief, at 10-11; *see also* SeAH's Sections B and C Questionnaire Response, at 8 and 55.
[35] *See* SeAH's Sections B and C Questionnaire Response, at 8 and 56.
[36] *Id.*
[37] *See* SeAH Case Brief, at 10-11.
[38] *See* Letter, "Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from Korea Response to July 1 Supplemental Questionnaire," dated July 28, 2016 (SeAH Supplemental B & C Questionnaire Response), at 11, fn 6.

grade products have an "equivalent" tensile strength as N-80 grade products and compete with N-80 grade products in the North American market,[39] we continue to find that it was reasonable for Commerce to find them to be comparable for purposes of CONNUM construction in the *Final Results*. As comparable products, Commerce reasonably coded SeAH's proprietary grade OCTG as "080," the same as N-80 grade OCTG.

This does not mean, however, that we have ignored the differences in heat treatment, which SeAH identified. Within the model match methodology, Commerce differentiated between SeAH's proprietary grades of OCTG and N-80 grade OCTG by accepting a different heat treatment field value in the ninth-highest field of our model match methodology, which allows for the distinction of production process that SeAH reported. We find that this is reasonable because, while the physical characteristics of SeAH's proprietary products are comparable to N-80, certain aspects of the production process are not. We consider heat treatment to be a production process feature of OCTG, in that it does not, in and of itself, indicate a product's performance capabilities, nor does it, in and of itself, account for significant differences in mechanical and physical characteristics. To the extent that differences in production process could, in theory, result in different physical or mechanical characteristics, on this record, we see no evidence that heat treatment resulted in differences that are so significant that they must be captured at the earlier stage of our model match methodology than the heat treatment criterion.

This is not, as SeAH suggests, an attempt by Commerce to rewrite the model match methodology.[40] Rather, this explanation seeks to further distinguish between a product's

[39] *See* SeAH's Sections B and C Questionnaire Response, at 8 and 56, and SeAH Supplemental B & C Questionnaire Response, at 11, fn 6.
[40] *See* SeAH's Draft Remand Comments, at 2-5

physical characteristics and its production processes, as instructed by the Court.[41] In the CONNUM characteristics in this proceeding, grade is the third-highest product characteristic, and SeAH acknowledges that grade standards have different criteria and dimensions.[42] Within the grade product characteristic, and consistent with our practice, Commerce must determine if the differences in grade, including, but not limited to, physical characteristics and productions processes, can be captured in lower product characteristics so that comparable products can be determined.

Specifically, as explained above, SeAH's proprietary grades have the same "mechanical properties" (*i.e.*, tensile strength and hardness) required by the N-80 specification, but do not undergo heat treatment. Since the primary difference between SeAH's proprietary grade products and N-80 grade products is heat treatment, a production process, we find that it would disrupt the intended model matching hierarchy to consider heat treatment in the third-highest product characteristic field for grade, rather than in the model match field specifically intended for addressing differences in heat treatment. We find that it is appropriate to capture any differences in heat treatment (a production process) in the appropriate heat treatment field of the model match methodology. In fact, SeAH itself acknowledged that certain production costs relating to heat treatment would be captured in the CONNUM field for heat treatment.[43]

We find no compelling reason to change the model match methodology that we adopted in the original investigation by elevating heat treatment differences to a higher level in our model match hierarchy. The existing model match methodology captures the similarities and differences (heat treatment) between SeAH's proprietary grades and the N-80 grade at the

[41] *See* Remand Order, at 31.
[42] *See* SeAH's Draft Remand Comments, at 2-5
[43] *See* Administrative Review of the Antidumping Order on Oil Country Tubular Goods from Korea – Case Brief of SeAH Steel Corporation, dated February 9, 2017, at 13 (SeAH's Case Brief).

appropriate level in its hierarchy. Such an approach provides for predictability and consistent treatment of similarly situated products in all segments of this proceeding; it combines product grades with comparable physical characteristics, but still differentiates between products with differences in heat treatment through a separate field in our model match hierarchy.

3) Deduction of G&A Expenses as U.S. Selling Expenses

The Court determined that Commerce's decision to deduct G&A expenses from constructed export price (CEP) in the *Final Results* was unsupported by substantial evidence on the record and remanded the issue to Commerce to clarify or reconsider its methodology.[44] The Court found that Commerce's explanation did not clarify why Commerce deducted PPA's G&A expenses for resold products, or how Commerce determined that it would apply all of PPA's G&A expenses to resold products.[45]

To address the Court's concerns about the lack of clarity in our original explanation, we will clarify our explanation on this technical issue here. We previously explained that "{b}ecause PPA's G&A activities support the general activities of the company as a whole, including its sales and further manufacturing functions of all products," we applied the "G&A ratio to the total cost of further manufactured products…as well as to the cost of all resold products."[46] The Court stated that Commerce "must explain cogently why it has exercised its discretion in a given manner" and that our original explanation does not "clarify how Commerce determined that it would apply all of PPA's G&A expenses to resold products."[47]

Consistent with the Court's decision, we will explain further why we exercised our statutory discretion in this manner. To clarify, Commerce did not apply "all" of PPA's G&A

[44] *See Remand Order*, at 35.
[45] *Id*.
[46] *See Final Results* and accompanying Issues and Decision Memorandum, at 87-88.
[47] *See Remand Order*, at 35.

expenses to directly resold products, as the Court's opinion appears to suggest. To the contrary, the record evidence demonstrates that Commerce allocated PPA's G&A expenses *proportionately* to all of the products PPA sold (*i.e.*, products which PPA directly resold and products which PPA further processed and then resold).[48]

We believe that Commerce's approach in the *Final Results* was a reasonable approach, because G&A expenses relate to the entire activities of the company and, thus, it is appropriate to allocate proportionally such G&A expenses to the entire activities of the company, which here incorporate both directly resold products and products resold after further processing.

Our approach of allocating the G&A expenses of SeAH's U.S. affiliate PPA, both to directly resold products and to further manufactured products, is consistent with Commerce's normal practice.[49] In *Hot-Rolled Steel from Brazil,* for example, Commerce explained how the G&A expenses of an affiliated U.S. importer, which engaged in both further manufacturing and selling activities, should be treated:

> G&A activities support the general activities of a company as a whole, including its sales and manufacturing functions. Therefore, consistent with our decision in *Line Pipe from Korea*, we find it is appropriate to allocate G&A expenses to all company activities where the company engages in both further manufacturing and reselling activities…. Thus, if we are now applying the G&A expense ratio to the total cost of all further manufactured and non-further manufactured goods, then the denominator of the ratio, which as reported includes only further processing costs, must be revised to include not only the further processing costs, but also the cost of the imported coils that were further processed, as well as the cost of all non-further manufactured products.[50]

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[48] *See* Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Final Results – SeAH Steel Corp., Ltd.," dated April 10, 2017, at 2-4.

[49] *See Welded Line Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 80 FR 61366 (October 13, 2015) (*Welded Line Pipe from the Republic of Korea*) and accompanying Issues and Decision Memorandum, at Comment 20; *see also Certain Hot-Rolled Steel Flat Products from Brazil; Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 53424 (August 12, 2016) (*Hot-Rolled Steel from Brazil*) and accompanying Issues and Decision Memorandum, at Comment 5.

[50] *See Hot-Rolled Steel from Brazil* and accompanying Issues and Decision Memorandum, at Comment 5.

This is exactly the calculation methodology that Commerce applied in this case.

In *CTL Plate France*, Commerce also faced the same issue and used the same allocation of G&A:

> The record evidence indicates that BSPC engages in both further manufacturing and reselling activities. Therefore, consistent with our decisions in *Cold-Rolled Steel from Brazil*, *Line Pipe from Korea*, and *Hot-Rolled Steel from Brazil*, we find that it is appropriate to allocate G&A expenses to all company activities.[51]

Therefore, we find that it would distort the accuracy of calculations if we were to allocate a company-wide G&A expense rate to only the further manufacturing portion of cost, but not to the full cost of the further manufactured products (*i.e.*, pipe costs plus the costs of further manufacturing (FURMANU) or to the pipe costs of the directly resold products, both of which are represented in the denominator of the G&A rate calculation.[52]

The antidumping statute, 19 U.S.C. § 1677a(d), provides that the price used to establish CEP must be reduced by certain expenses, such as direct selling expenses, indirect selling expenses, and costs of any further manufacture or assembly. The courts explained that, "in calculating U.S. prices using the {constructed export price} methodology, Commerce is to deduct any expenses generally incurred by or for the account of . . . the affiliated seller in the United States, in selling subject merchandise."[53] In other words, the statute requires that Commerce deduct both the selling expenses and costs of further manufacture from the price used

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[51] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from France: Final Determination of Sales at Less Than Fair Value*, 82 FR 16363 (April 4, 2017) (*CTL Plate France*) and accompanying Issues and Decision Memorandum at Comment 17 (Where Commerce explained: "In such instances, it is appropriate that the denominator of the G&A expense ratio be revised to include not only the further processing costs, but also the cost of the imported subject merchandise that was further processed and the cost of all non-further manufactured products (*i.e.*, the total cost of goods sold) because the G&A expenses incurred relate to all of the company's operations. Further, to ensure that the denominator of the ratio and the per-unit cost to which it is applied are on the same basis, we apply the G&A expense ratio to the per-unit further manufacturing cost plus the COP of the underlying subject merchandise.").
[52] *See* SeAH Court Brief, at 38-40.
[53] *See United States Steel Corp. v. United States*, 712 F. Supp. 2d 1330, 1336 (CIT 2010).

to determine CEP. Accordingly, if all G&A expenses can be treated as indirect selling expenses when reselling activity occurs, and all G&A expenses can be treated as further manufacturing expenses when further manufacturing activity occurs, Commerce unquestionably has the authority to allocate G&A expenses to both types of activity when both activities occur.

Further, our approach is mathematically balanced and reasonable. PPA, SeAH's affiliated reseller in the United States, employs individuals responsible for overseeing, coordinating, and supporting sales of both further manufactured and non-further manufactured products. Thus, PPA's G&A activities support the general activities of the company, encompassing the sale and further manufacture of products, and the sale of non-further manufactured products. Moreover, the denominator of the G&A expense ratio as calculated by SeAH (*i.e.*, the cost of goods sold from the financial statements) includes both directly resold and further manufactured OCTG (*i.e.*, the cost of the imported pipe plus the further manufacturing costs). Accordingly, for further manufactured products, we applied PPA's G&A expense ratio to the total cost of further manufacturing, plus the cost of production (COP) of imported OCTG pipe that was further manufactured, and we included the amount as further manufacturing under 19 U.S.C. § 1677a(d)(2). Additionally, we applied PPA's G&A expense ratio to the COP of the imported OCTG for products not further manufactured and included the amount as indirect selling expenses under 19 U.S.C. § 1677a(d)(1)(D).

To be clear, our application of PPA's G&A rate does not over- or under-apply G&A expenses, but, rather, properly assigns the reseller's G&A expenses proportionally to both groups of products. If an affiliated importer is engaged in both directly reselling subject merchandise and further manufacturing activities for other merchandise, the G&A ratio should not be applied solely to the further manufacturing activities, but, rather, should be also applied to the cost of the

imported pipe, whether such pipe is resold further manufactured or without further manufacturing. Further manufacturing activity does not extinguish or reduce the cost of such pipe, but rather increases such cost by the cost of the further manufacturing activity. Here, the denominator used in PPA's G&A expense ratio includes the cost of all imported pipe, plus the cost of further manufacturing activities, thus capturing all relevant costs. Accordingly, applying such a ratio to only the cost of further manufacturing would improperly result in a mismatch between the basis used in the G&A expense ratio calculation and the basis on which the ratio is applied. Second, PPA performs G&A activities for both further manufactured products (which are not performed in-house, but, rather, tolled out to unaffiliated processors) and products that were directly resold without undergoing further manufacture. Thus, it is appropriate to assign PPA's G&A expenses to both imported non-further manufactured products and imported products that were further manufactured.

Finally, this approach is fully consistent with how Commerce treated SeAH's home market costs. While SeAH's reported G&A expenses are included as part of the cost of production of the OCTG as directed under 19 U.S.C. § 1677b(b)(3)(B), SeAH did not report or disclose purchased and directly resold products in the home market, so there was no need to allocate SeAH's G&A to such product,[54] as it is likely that SeAH would not be the producer. Moreover, record evidence shows that when SeAH calculated its G&A expense ratio, it allocated SG&A accounts line-by-line to direct selling, indirect selling, and G&A expenses.[55] The record shows that significant proportions were allocated between indirect selling and G&A expenses.

[54] *See* SeAH Letter, "Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from Korea – Response to February 12 Questionnaire," dated March 18, 2016 (SeAH Section A Questionnaire Response), at 41.
[55] *See* SeAH Letter, "Administrative Review of the Antidumping Duty Order on Oil Country Tubular Goods from Korea – Response to July 20 and August 1 Questionnaire," dated August 15, 2016 (SeAH Section D Supplemental Response), at Appendix SD-17.

Accordingly, we will continue to apply the G&A expense ratio to both PPA's resold and further manufactured products.

D. Interested Party Comments on Draft Results of Redetermination

On March 13, 2019, we released our Draft Results of Redetermination to interested parties.[56] On March 18, 2019, we received comments from SeAH;[57] NEXTEEL and Hyundai Steel;[58] and the petitioners.[59] No other interested party submitted comments.

Issue 1: Particular Market Situation

SeAH's Comments:[60]

- While it would make sense to postpone the deadline until the Court rules on all motions for reconsideration, Commerce must follow the Court's instructions and recalculate the dumping margins for the respondent regardless of the status of the request for reconsideration.

NEXTEEL and Hyundai's Comments:[61]

- Commerce should not defer resolution of the PMS issue and should comply with the Court's instruction. The motion for reconsideration does not supersede the Court's ruling.

No other interested parties submitted comments on this issue.

[56] *See* Draft Results of Redetermination.
[57] *See* SeAH Draft Remand Comments.
[58] *See* NEXTEEL and Hyundai Steel Draft Remand Comments.
[59] *See* Petitioners Draft Remand Comments.
[60] *See* SeAH Draft Remand Comments, at 1-2.
[61] *See* NEXTEEL and Hyundai Steel Draft Remand Comments, at 1-3.

Commerce's Position:

As explained above, we agree with the Court's finding that our PMS approach was reasonable, but we respectfully disagree with the remainder of the Court's decision on this issue. For these final results, we have complied with the Court's instruction in the *Remand Order* under protest and revised the margins of the mandatory respondents and non-examined companies without the application of a PMS adjustment.[62]

Issue 2: Classification of Proprietary SeAH Products

Petitioners' Comments:[63]

- Commerce's Draft Results of Redetermination complies with the Court's instructions and further explains the difference between a product's physical characteristics and production processes.
- Commerce correctly framed the issue as relating to the model match methodology to ensure that products with identical or similar physical characteristics are compared.
- Commerce showed with record evidence that the absence of heat treatment is the only distinguishing characteristic between SeAH's proprietary grades and N-80 grade products.

SeAH's Comments:[64]

- Commerce is using the remand to rewrite its model matching methodology; tensile strength is not a matching characteristic.
- There is overlap in the strength requirements for different API grades and tensile strength alone does not provide a sufficient basis for determining a product's grade.

[62] *See* SeAH Final Remand Analysis Memorandum and NEXTEEL Final Remand Analysis Memorandum.
[63] *See* Petitioners Draft Remand Comments, at 2-6.
[64] *See* SeAH Draft Remand Comments, at 2-5.

- Heat treatment is no less important in determining a product's grade than tensile strength.
- OCTG that has been stenciled as a certain grade cannot be sold as a different grade. This includes SeAH's proprietary grades.
- Commerce has a practice of relying grade, not strength, to determine a product's model match CONNUM.[65]

No other interested parties commented on this issue.

Commerce's Position:

We disagree with SeAH. As explained above, the model match methodology was established to compare identical and similar products according to a hierarchy of product characteristics. Because heat treatment is the only established difference between SeAH's three proprietary grades and N-80 grade products, this sole difference is rightly captured in the ninth-highest heat treatment field of the CONNUM.

With respect to SeAH's argument that we have used this remand redetermination to rewrite our model matching methodology to replace grade with tensile strength as a matching criterion, we disagree. To the contrary, SeAH seeks to change our model match hierarchy by elevating heat treatment from the ninth-highest product matching characteristic (heat treatment) to the third-highest (product grade). We have provided further explanation to distinguish between a product's physical characteristics and its production processes, as instructed by the Court.[66] As noted above, grade is the third-highest product characteristic used to create the CONNUM, and SeAH itself acknowledges that a particular grade may contain different criteria

[65] *See* SeAH Draft Remand Comments, at 4-5, citing *Welded Line Pipe from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 80 FR 61366 (October 13, 2015), and accompanying Issues and Decision Memorandum, at Comment 4.
[66] *See* Remand Order, at 31.

and dimensions.[67] Within the grade product characteristic, and consistent with our practice, Commerce must determine if the differences in grade, including, but not limited to, physical characteristics and productions processes, can be captured in lower product characteristics so that comparable products can be determined.

Regarding SeAH's argument that tensile strength alone does not provide a sufficient basis for determining a product's grade, and that overlap exists in the strength requirements for different API grades, we find that, as explained above, the model match methodology accounts for these differences when comparing similar grades. Therefore, where, as here, the only difference is a heat treatment between one grade and another, and other qualities, including hardness and tensile strength, remain identical, as is the case between SeAH's proprietary grades and N-80 grade products, then the model match methodology recognizes the extreme likeness of those products, as well as the sole difference of heat treatment. Furthermore, SeAH stated that it developed its proprietary grades specifically to compete with N-80 grade products and upgradeable L-80 products in the North American market, but without going through the heat treatment process.[68] Under these circumstances, we find that it is reasonable to match SeAH's proprietary grade with N-80 grade at the grade level field, and, then, address the heat treatment differences in the heat treatment field.

Regarding SeAH's argument that heat treatment is just as important in determining a product's grade as is tensile strength, we have not made a new determination regarding a hierarchy within the grade qualities. Rather, our existing model match methodology already contains an established hierarchy among a range of qualities, including grade and heat treatment. As explained above, grade is third-highest and heat treatment is ninth-highest. Because the sole

[67] *See* SeAH's Draft Remand Comments, at 2-5.
[68] *See* SeAH Supplemental B & C Questionnaire Response, at 11, fn 6.

difference is heat treatment between SeAH's proprietary grades, we continue to find that it is appropriate to capture that difference in the heat treatment quality field of the CONNUM.

Finally, SeAH argued that OCTG that has been stenciled as a certain grade, including SeAH's proprietary grades, cannot be sold as a different grade. The CONNUM model match methodology is designed to compare similar or identical products. As explained above, by SeAH's own admission, its proprietary grade products were designed specifically to compete with N-80 grade products because they are so similar, possessing the same physical characteristics such as hardness and tensile strength. Therefore, we continue to find it reasonable to code these products with the same grade, while recognizing different heat treatment values, to establish similar products for comparison when determining the dumping margin.

Thus, we continue to find, as explained in the Analysis section, above, that we appropriately assigned the grade characteristic for SeAH's proprietary grades for purposes of CONNUM construction in the *Final Results*.

Issue 3: Deduction of G&A Expenses as U.S. Selling Expenses

Petitioners' Comments:[69]

- As instructed by the Court, Commerce clarified that it did not apply all of PPA's G&A expenses to directly resold products.
- Commerce confirmed that its approach complies with the statutory requirement that Commerce must deduct both the selling expenses and costs of further manufacturing from the price used to determine CEP.
- Consistent with the Court's instructions, Commerce confirmed that its approach to PPA's G&A is fully consistent with how it treated SeAH's home market costs.

[69] *See* Petitioners Draft Remand Comments, at 6-10.

SeAH's Comments:[70]

- In the Draft Results of Redetermination, Commerce conceded that PPA's G&A expenses relate to all PPA's activities and are not specifically incurred to support sales or further manufacturing functions.
- The statute does not allow Commerce to deduct all expenses incurred by a U.S. affiliate when calculating CEP.
- Commerce's practice is to recognize G&A expenses of a company that performs both sales and manufacturing activities as G&A expenses, not selling expenses.
- G&A expenses that are properly allocated to other activities cannot be deducted from CEP, because they remain G&A expenses.
- None of the expenses recorded in the administrative cost centers are allocated by SeAH to selling activities or reported as indirect selling expenses.

No other interested parties commented on this issue.

Commerce's Position:

We disagree with SeAH. As explained above, it would distort the accuracy of calculations if we were to allocate a company-wide G&A expense rate to only the further manufacturing portion of cost, but not to the full cost of the further manufactured products. The approach used in this administrative review is consistent with Commerce's established practice.[71] Additionally, Commerce is required to deduct certain costs from the CEP because the CEP must be reduced by certain expenses. As stated above, our application of PPA's G&A rate does not over- or under-apply G&A expenses, but, rather, properly assigns the reseller's G&A expenses

[70] *See* SeAH's Draft Remand Comments, at 5-8.
[71] *See Welded Line Pipe from the Republic of Korea* and *Hot-Rolled Steel from Brazil.*

proportionally to both groups of products. This is consistent with Commerce's treatment of SeAH's home market costs.

SeAH argues that Commerce's practice is to recognize G&A expenses of a company that performs both sales and manufacturing activities as G&A expenses, not selling expenses; however, we find that, as stated above, the antidumping statute requires that Commerce deduct both the selling expenses and costs of further manufacture from the price used to determine CEP.[72]

With respect to SeAH's argument that G&A expenses that are properly allocated to other activities cannot be deducted from CEP because they remain G&A expenses, we find that, as stated above, G&A expenses can be treated as indirect selling expenses when reselling activity occurs, and all G&A expenses can be treated as further manufacturing expenses when further manufacturing activity occurs, since Commerce has the authority to allocate G&A expenses to both types of activity when both activities occur.

Finally, SeAH argues that none of the expenses recorded in the administrative cost centers are assigned to selling expenses. Nevertheless, even if SeAH is correct that all of the expenses in question are directly assigned, rather than allocated, within the system, the question is whether it is proper to assign G&A expenses to: (1) both purchased and resold and processed products; or (2) only to processed products. As stated above, SeAH did not have purchased and resold products in the home market during the POI. Therefore, there cannot be an imbalance in the allocation of G&A expenses between the normal value side and the U.S. price side as SeAH claims.

[72] *See* 19 U.S.C. § 1677a(d)(1)(D); 19 U.S.C. § 1677a(d)(2).

E. Final Results of Redetermination

Pursuant to the Court's remand order, we have revised our application of PMS, and we have further explained our methodology employed in the *Final Results* with respect to the classification of SeAH's proprietary grades of OCTG and the deduction of G&A expenses as U.S. selling expenses. Based upon the result of our analyses, we have recalculated the weighted-average dumping margins for SeAH, NEXTEEL, and the non-examined companies. Accordingly, SeAH's margin changed from 2.76 percent in the *Final Results* to 3.31 percent in these final results of redetermination. NEXTEEL's margin changed from 29.76 percent in the *Final Results* to 3.63 percent in these final results of redetermination. The non-examined companies' margin changed from 16.26 percent in the *Final Results* to 3.47 percent in these final results of redetermination. Upon a final and conclusive decision in this litigation, Commerce will instruct U.S. Customs and Border Protection to liquidate appropriate entries for the July 18, 2014, through August 31, 2015, POR consistent with these final results of redetermination.

4/2/2019

X 

Signed by: GARY TAVERMAN

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