

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-580-825]

**Oil Country Tubular Goods, Other Than Drill Pipe, from Korea: Preliminary Results of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**SUMMARY:** In response to requests filed by U.S. Steel Corporation (U.S. Steel) (the "petitioner"), SeAH Steel Corporation ("SeAH"), Husteel Co, Ltd ("Husteel") and Nexteel Co., Ltd ("Nexteel") (collectively, the "respondents"), the U.S. Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on oil country tubular goods, other than drill pipe ("OCTG"), from Korea. This review covers the following producers/exporters: SeAH, Husteel, and Nexteel. The period of review ("POR") is August 1, 2005 through July 24, 2006.

We preliminarily find that Husteel made sales at less than normal value ("NV"), and Nexteel and SeAH did not sell subject merchandise at less than NV during the POR. If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on Husteel's entries of merchandise during the POR, and to liquidate Nexteel's and SeAH's entries during the POR without regard to antidumping duties. The preliminary dumping margins are listed below in the section entitled "Preliminary Results of Review."

**EFFECTIVE DATE:** September 11, 2007.

**FOR FURTHER INFORMATION CONTACT:** Scott Lindsay, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-0780.

**SUPPLEMENTARY INFORMATION:****Background**

On August 11, 1995, the Department published in the **Federal Register** an antidumping duty order on OCTG from Korea (60 FR 41058). On August 1, 2006, the Department published the notice of opportunity to request an administrative review of the antidumping order on OCTG from Korea. See *Antidumping or Countervailing Duty Order, Finding, or*

*Suspended Investigation; Opportunity To Request Administrative Review*, 70 FR 43441 (August 1, 2006). On August 31, 2006, the Department received a properly filed, timely request for an administrative review of Husteel and SeAH from petitioner and a request from SeAH, Husteel, and Nexteel for a review of their sales. On September 29, 2006, the Department published a notice of initiation for this antidumping duty administrative review. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006).

On October 26, 2006, the Department issued questionnaires<sup>1</sup> to Husteel, SeAH, and Nexteel. All three companies submitted Section A responses on December 14, 2006, and submitted their Section B-D responses on January 3, 2007. The Department issued supplemental questionnaires to Husteel, SeAH, and Nexteel on April 11, 2007. The Department received responses from Husteel and Nexteel on May 2, 2007, and from SeAH on May 8, 2007.

On May 7, 2007, the Department published a notice extending the deadline for the preliminary results of this administrative review from May 3, 2007 until no later than August 31, 2007. See *Oil Country Tubular Goods, Other than Drill Pipe, from Korea: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 25745 (May 11, 2007).

**Scope of the Order**

The products covered by this order are OCTG, hollow steel products of circular cross-section, including only oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute ("API") or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing or tubing pipe containing 10.5 percent or more of chromium, or drill pipe. The products subject to this order are currently

<sup>1</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under sub-headings: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. The HTSUS sub-headings are provided for convenience and customs purposes. The written description remains dispositive of the scope of the order.

**Analysis****Product Comparisons**

In accordance with section 771(16) of the Tariff Act of 1930, as amended ("the Act"), we considered all products manufactured by SeAH and Nexteel that are covered by the description contained in the "Scope of the Order" section above and that were sold in the comparison market during the POR, to be the foreign like product for purposes of determining the appropriate product comparisons to U.S. sales. See "Selection of Comparison Market" section below. Where SeAH made no sales of identical merchandise in the comparison market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's October 26, 2005 antidumping questionnaire. Nexteel's comparison market sales were identical to its U.S. sales of subject merchandise during the POR, so we did not need to match its U.S. sales to the most similar foreign like product.

Because neither Husteel's home market sales nor its third country sales pass the viability test, we are using constructed value ("CV") as the basis for normal value ("NV") for Husteel. See

“Selection of Comparison Market” section, below.

#### **Date of Sale**

It is the Department’s practice to use the invoice date as the date of sale. However, 19 CFR 351.401(i) states that the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.” See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087,1090–1093 (CIT 2001).

*U.S. Sales:* Husteel, SeAH, and Nexteel each reported that the material terms of their respective U.S. sales are subject to change until they issue the invoice to the unaffiliated U.S. customer. However, we note that, for both HuSteel and SeAH, shipment date always precedes the date that Husteel and SeAH issue their invoice to the U.S. unaffiliated customer. We also find that for some of Nexteel’s U.S. sales, shipment dates precedes invoice date. Thus, to the extent that shipment occurs prior to invoice date, we are following our practice of using shipment date as date of sale. See, e.g., *Magnesium Metal from the Russian Federation: Notice of Final Determination of Sales at Less Than Fair Value*, 70 FR 9041 (February, 24, 2005), and accompanying *Magnesium Metal from the Russian Federation: Notice of Final Determination of Sales at Less Than Fair Value Issues and Decisions Memorandum at Comment 14*. For Nexteel’s sales where Nexteel issues the invoice prior to shipping the merchandise, we will use invoice date as the date of sale.

*Comparison Market Sales:* Since we are using CV for purposes of NV for HuSteel, the issue of appropriate date of sale in the comparison market is moot for HuSteel. For their respective sales to Canada, Nexteel and SeAH reported that the material terms of sale are subject to change until they issue the invoice to their respective unaffiliated Canadian customers. We find that Nexteel issued its invoices to its Canadian customers prior to shipment. As such we will use invoice date as date of sale for Nexteel’s Canadian sales. However, the Department finds that SeAH’s shipment date always precedes the date it issues its invoice to the unaffiliated Canadian customer. Thus, because SeAH’s shipment occurs prior to invoice date, we are following our practice of using shipment date as date of sale. See, e.g., *Magnesium Metal from the Russian Federation: Notice of Final Determination of Sales at Less Than*

*Fair Value*, 70 FR 9041 (February, 24, 2005), and accompanying *Magnesium Metal from the Russian Federation: Notice of Final Determination of Sales at Less Than Fair Value Issues and Decisions Memorandum at Comment 14*.

#### **Normal Value Comparisons**

To determine whether Husteel’s, SeAH’s, or Nexteel’s sales of subject merchandise to the United States were made at less than NV, we compared each company’s constructed export price (CEP), or export price (EP) to the NV, as described in the “Constructed Export Price” or “Export Price” and “Normal Value” sections of this notice, in accordance with section 777A(d)(2) of the Act.

#### **Selection of Comparison Market**

The Department determines the viability of a comparison market by comparing the aggregate quantity of comparison market sales to U.S. sales. A home market is not considered a viable comparison market if the aggregate quantity of sales of the foreign like product in that market amounts to less than five percent of the quantity of sales of subject merchandise to the United States during the POR. See section 773(a)(1)(C)(ii) of the Act; see also 19 CFR 351.404(b). Husteel, SeAH, and Nexteel each reported that the aggregate quantity of sales of the foreign like product in Korea during the POR amounted to less than five percent of the quantity of each company’s sales of subject merchandise to the United States during the POR.

*Husteel:* In its January 3, 2007 questionnaire response, Husteel reported having no sales of OCTG to any other countries besides the United States during the POR. Since Husteel has no third country sales of foreign-like product during the POR, the Department is using CV for Husteel as the basis for NV for this review based on Husteel’s cost of production (“COP”), in accordance with section 773(a)(4) of the Act.

*SeAH:* In its January 3, 2007 questionnaire response, SeAH reported no home market sales of OCTG during the POR. It reported sales of OCTG to Canada, Indonesia, and China during the POR. Since the quantity of foreign like product sold by SeAH to Canada was more than five percent and the quantities sold to Indonesia and China were less than five percent of the quantity of subject merchandise sold to the United States, the Department determined that only Canada qualified as a viable comparison market in accordance with section 773(a)(1) of the

Act. Therefore, we are basing NV on sales to Canada except where there were no usable product matches. In those instances, in accordance with section 773(a)(4) of the Act, the Department used CV as the basis for NV.

*Nexteel:* In its January 9, 2007 questionnaire response, Nexteel reported sales of OCTG to Canada and the United States during the POR. Since the quantity of foreign like product sold by Nexteel to Canada was more than five percent of the quantity of subject merchandise sold to the United States, the Department determined that only Canada qualified as a viable comparison market based on the criterion established in section 773(a)(1) of the Act. Because these sales to Canada were identical to all U.S. sales we are basing NV on sales to Canada.

#### **United States Price/Constructed Export Price and Export Price**

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d) of the Act. In Husteel’s and SeAH’s questionnaire responses, both companies classified their export sales of OCTG to the United States as CEP sales. In accordance with section 772(a) of the Act, EP is defined as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States . . .,” as adjusted under subsection (c). For purposes of this review, Nexteel classified all of its U.S. sales as EP sales.

*Husteel:* We preliminarily determine that all of Husteel’s export sales of OCTG to the United States are properly classified as CEP sales because they were made for the account of Husteel by its affiliate in the U.S., Husteel USA. Husteel reported one channel of distribution in the U.S. market: “produced to order” sales, shipped directly from Korea to the unaffiliated U.S. customers.

The Department calculated Husteel’s starting price as its gross unit price to its unaffiliated U.S. customers, taking into account, where necessary, billing adjustments and discounts, pursuant to section 772(c)(1) of the Act. The

Department made deductions from the starting price for movement expenses, including foreign inland freight, foreign and U.S. brokerage and handling, international freight, marine insurance and U.S. customs duties in accordance with section 772(c)(2) of the Act. See *Memorandum from Scott Lindsay, Case Analyst, to the File: Analysis of Husteel Co., Ltd. ("Husteel") for the Preliminary Results of the Administrative Review of Oil Country Tubular Goods, Other Than Drill Pipe from Korea, dated August 31, 2007 ("Husteel's Preliminary Analysis Memo")*, on file in the Central Records Unit ("CRU"), which can also be accessed directly on the Web at <http://ia.ita.doc.gov>. In accordance with section 772(d)(1) of the Act, the Department also deducted U.S. credit expenses, inventory carrying costs, and indirect selling expenses to derive Husteel's net U.S. price. We also deducted CEP profit in accordance with section 772(d)(3) of the Act.

*SeAH*: We preliminarily determine that all of *SeAH*'s export sales of OCTG to the United States are properly classified as CEP sales because they were made for the account of *SeAH* by *SeAH*'s affiliate in the U.S., PPA. *SeAH* reported one channel of distribution in the U.S. market: merchandise was shipped by *SeAH* to PPA, then sold out of inventory by PPA to the unaffiliated customers. Many of *SeAH*'s sales to the United States are further manufactured by an affiliated U.S. company.

The Department calculated *SeAH*'s starting price as its gross unit price to its unaffiliated U.S. customers, taking into account, where necessary, billing adjustments and early payment discounts, pursuant to section 772(c)(1) of the Act. Where applicable, the Department made deductions from the starting price for movement expenses, including foreign inland freight, foreign and U.S. brokerage and handling, international freight, marine insurance and U.S. customs duties in accordance with section 772(c)(2) of the Act. See *Memorandum from Scott Lindsay, Case Analyst, to the File: Analysis of SeaH Steel Corporation ("SeAH") for the Preliminary Results of the Administrative Review of Oil Country Tubular Goods, Other Than Drill Pipe from Korea, dated August 31, 2007 ("SeAH's Preliminary Analysis Memo")*, on the record of this review and on file in the CRU. In accordance with section 772(d)(1) of the Act, the Department also deducted U.S. credit expenses, inventory carrying costs, and indirect selling expenses incurred in the United States. We also deducted the cost of further manufacturing, where applicable, in accordance with section

772(d)(2) of the Act. In addition, we deducted CEP profit in accordance with section 772(d)(3) of the Act.

*Nexteel*: *Nexteel* has reported that it sold subject merchandise to importers directly to unaffiliated customers in the U.S. and to unaffiliated resellers, and that it did not make any U.S. sales through an affiliated U.S. importer. Therefore, we preliminarily determine that *Nexteel*'s transactions were EP sales.

We calculated EP in accordance with section 772(a) of the Act. We based EP on *Nexteel*'s CNF price to its unaffiliated U.S. customers. We then made appropriate deductions for domestic inland freight from warehouse to port, domestic brokerage and handling, and international freight pursuant to section 772(c) of the Act. See *Memorandum from Scott Lindsay, Case Analyst, to the File: Analysis of Nexteel Co., Ltd. ("Nexteel") for the Preliminary Results of the Administrative Review of Oil Country Tubular Goods, Other Than Drill Pipe from Korea, dated August 31, 2007 ("Nexteel's Preliminary Analysis Memo")*, on the record of this review and on file in the CRU.

#### Normal Value

*SeAH*: Where appropriate, we made adjustments to NV in accordance with section 773(a)(6) of the Act. From the starting price, we deducted movement expenses, including foreign inland freight, third country brokerage, international freight, and marine insurance as well as direct selling expenses, such as credit expenses, and comparison market packing expenses. We made further adjustments for differences in costs attributable to differences in physical characteristics of merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We also made a CEP offset in accordance with section 773(a)(7)(B) of the Act (see "Level of Trade/CEP Offset" section below).<sup>2</sup> Finally, the Department added U.S. packing expenses to calculate the foreign unit price in dollars ("FUPDOL") to use as the NV.

*Nexteel*: Where appropriate, we made adjustments to NV in accordance with section 773(a)(6) of the Act. From the starting price, we deducted movement expenses, including inland freight from plant to port of export; international freight; and domestic brokerage and handling, direct selling expenses such as credit expenses and bank charges, as

<sup>2</sup> The CEP offset is equal to the lesser of the total weighted average comparison market inventory carrying costs and indirect selling expenses or the sum of indirect selling expenses and inventory carrying costs for U.S. sales.

well as comparison market packing expenses. Finally, the Department added U.S. packing expenses to calculate the foreign unit price in dollars ("FUPDOL") to use as the NV.

#### Cost Of Production Analysis

Because we are using CV for *Husteel*'s NV, and there has been no cost allegation for *Nexteel*, we are only examining whether *SeAH*'s sales to its comparison third country market are below the cost of production.

Pursuant to section 773(b)(1) of the Act, we examined whether *SeAH*'s sales in the comparison market were made at prices below the COP. We compared sales of the foreign like product in the comparison market with model-specific COP figures in the POR. In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general and administrative (SG&A) expenses, and financial expenses and packing. In our sales-below-cost analysis, we used comparison market sales and COP information provided by *SeAH* in its questionnaire responses. See *SeAH*'s January 3, 2007 section D Questionnaire Response.

We compared the weighted-average COPs to third country sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard third-country sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with sections 773(b)(1)(A) and (B) of the Act.<sup>3</sup> On a product-specific basis, we compared the COP to third-country prices, less any movement charges, discounts and rebates, and direct and indirect selling expenses. See *Treatment of Adjustments and Selling Expenses in Calculating the Cost of Production and Constructed*

<sup>3</sup> Section 773(b)(2)(ii)(B-C) of the Act defines extended period of time as a period that is normally 1 year, but not less than 6 months, and substantial quantities as sales made at prices below the cost of production that have been made in substantial quantities if (i) the volume of such sales represents 20 percent or more of the volume of sales under consideration for the determination of normal value, or (ii) the weighted average per unit price of the sales under consideration for the determination of normal value is less than the weighted average per unit cost of production for such sales.

Value Import Policy Bulletin (March 25, 1994).

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given model were at prices less than the COP, we did not disregard any below-cost sales of that model because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given model were at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act. Because we compared prices to average costs in the POR, we also determined that the below-cost prices did not permit the recovery of costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

In certain instances, we found that more than 20 percent of SeAH's third country sales of a given model(s) during the POR were at prices below the COP, and, in addition, the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act. We therefore excluded the below-cost sales and used the remaining sales, if any, or went to CV, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### Constructed Value

*Husteel*: We used CV as the basis for NV for all sales because, as discussed above, *Husteel* had no viable comparison market in accordance with section 773(a)(4) of the Act. We calculated CV in accordance with section 773(e) of the Act. We added the costs of materials, labor, and factory overhead to calculate the cost of manufacturing ("COM") in accordance with section 773(e)(1) of the Act. We then added interest expenses; selling, general and administrative expenses ("SG&A"); profit; and U.S. packing expenses to COM to calculate the CV in accordance with sections 773(e)(2) and (3) of the Act. In accordance with section 773(e)(2)(B)(iii) of the Act, we calculated profit and selling expenses based on SeAH's 2005 public financial statements. *See, e.g., Oil Country Tubular Goods, Other Than Drill Pipe, from Korea: Final Results of Antidumping Duty Administrative Review*, 72 FR 9924 (March 6, 2007).

*SeAH*: We used CV as the basis for NV for sales in which there were no usable contemporaneous sales of the foreign like product in the comparison market,

in accordance with section 773(a)(4) of the Act. We calculated CV in accordance with section 773(e) of the Act. We added reported materials, labor, and factory overhead costs to derive the COM, in accordance with 773(e)(1) of the Act. We then added interest expenses, SG&A, profit, and U.S. packing expenses to derive the CV, in accordance with sections 773(e)(2) and (3) of the Act. We calculated profit based on the total value of sales and total COP reported by SeAH in its questionnaire response, in accordance with section 773(e)(2)(A) of the Act. Finally, we deducted comparison market credit expenses from CV to calculate the FUPDOL, pursuant to section 773(e)(2)(b) of the Act.

#### Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales made in the comparison market at the same level of trade ("LOT") as the CEP sales. The NV LOT is based on the starting price of the sales in the comparison market. In *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1315 (Fed. Cir. 2001) ("*Micron Technology*"), the Court of Appeals for the Federal Circuit held that the statute unambiguously requires Commerce to remove the selling activities set forth in section 772(d) of the Act from the CEP starting price prior to performing its LOT analysis. As such, for CEP sales, the U.S. LOT is based on the starting price of the sales, as adjusted under section 772(d) of the Act.

To determine whether NV sales are at a different LOT than the CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. If the comparison market sales are at different levels of trade, and the difference in levels of trade affects price comparability, as manifested in a pattern of consistent price differences, we make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) ("*South African Plate Final*").

Sales are made at different LOTs if they are made at different marketing

stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.* In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the channel of distribution),<sup>4</sup> including selling functions,<sup>5</sup> class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for CEP and comparison market sales (*i.e.*, NV based on either home market or third country prices), we consider the starting prices before any adjustments. Consistent with *Micron Technology*, 243 F.3d at 1315, the Department will adjust the U.S. LOT, pursuant to section 772(d) of the Act, prior to performing the LOT analysis, as articulated by 19 CFR 351.412.

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the CEP sales, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing CEP sales to sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

In determining whether separate LOTs exist, we obtained information from SeAH regarding the marketing stages for the reported U.S. and comparison market sales, including a description of the selling activities performed for each channel of distribution. Generally, if the reported LOTs are the same, the functions and activities of the seller at each level should be similar. Conversely, if a party reports that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group should be dissimilar.

<sup>4</sup> The marketing process in the United States and in the comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of each respondent to properly determine where in the chain of distribution the sale occurs.

<sup>5</sup> Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common selling functions into four major categories: sales process and marketing support, technical service, freight and delivery, and inventory maintenance.

In the current review, SeAH reported one channel of distribution in the Canadian comparison market. All sales to the Canadian market were made between PPA and the unaffiliated customer and shipped directly to the customer from Korea. The selling functions performed by SeAH and PPA for the Canadian market were identical for each customer. As such, we preliminarily find that all of SeAH's sales in the Canadian market were made at one LOT.

SeAH reported one channel of distribution for its sales to the United States. We examined the selling functions performed by SeAH and PPA for the U.S. sales and found that all sales of the subject merchandise were inventoried and most were further manufactured by PPA in the United States before being sold to the unaffiliated customer. The selling functions performed by SeAH and PPA in the U.S. market were identical for each customer. Therefore, we preliminarily find that SeAH made its U.S. sales at one LOT. SeAH claimed that once adjustments for PPA's activities for U.S. sales are made, pursuant to section 772(d) of the Act, the LOT in the U.S. market is less advanced than the Canadian LOT.

To determine whether NV is at a different LOT than the U.S. transactions, the Department compared SeAH's selling activities for the Canadian market with those for the U.S. market. We grouped SeAH's selling activities for the Canadian market and U.S. market into the following categories: selling and marketing, technical service, freight, and inventory. See SeAH's Section A questionnaire response at Exhibit A-15. In accordance with *Micron Technology*, we removed the selling activities set forth in section 772(d) of the Act from the U.S. LOT prior to performing the LOT analysis. See *SeAH's Preliminary Analysis Memo*. After removing the appropriate selling activities, we compared the U.S. LOT to the Canadian LOT. Based on our analysis, we find that the U.S. sales are at a less advanced LOT than the Canadian sales. See *SeAH's Preliminary Analysis Memo*.

Therefore, because the sales in Canada are being made at a more advanced LOT than the sales to the United States, an LOT adjustment is appropriate for the Canadian sales in this review. However, as SeAH sold only through one channel of distribution to Canada, there is not sufficient data to evaluate whether an LOT adjustment is warranted. Therefore, we made a CEP offset in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). This

offset is equal to the amount of indirect selling expenses and inventory carrying costs incurred in the comparison market up to but not exceeding the sum of indirect selling expenses and inventory carrying costs from the U.S. price in accordance with section 772(d)(1)(D) of the Act.

#### Level of Trade/EP Sales

To determine whether NV sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer in the comparison market. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

In this current review, Nexteel claims a single LOT in the comparison market and a single LOT in the U.S. market. In our original questionnaire, we asked Nexteel to provide a complete list of all the selling activities performed and services offered in the U.S. market and the comparison market for each claimed LOT. Pursuant to 19 CFR 351.412(c)(2), substantial differences in selling activities are a necessary condition for determining there is a difference in the stage of marketing. While Nexteel reported two U.S. distribution channels, we find that there are not significant differences in selling functions offered in the two U.S. distribution channels. As such, we find that a single LOT exists in the United States. See *Nexteel's Preliminary Analysis Memo*.

#### Currency Conversions

We made currency conversions in accordance with section 773A of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

#### Preliminary Results of Review

As a result of this review, we preliminarily find that the following weighted average dumping margins exist:

Manufacturer/Exporter	Margin
SeAH Steel Corporation	0.30% ( <i>de minimis</i> )
Husteel Co., Ltd .....	0.64%
Nexteel Co., Ltd. ....	0.00%

#### Cash Deposit Requirements

Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the

Department revoked this order and notified U.S. Customs and Border Protection (CBP) to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after July 25, 2006, the effective date of revocation of this antidumping duty AD order. See *Oil Country Tubular Goods from Argentina, Italy, Japan, Korea, and Mexico; Revocation of Antidumping Duty Orders Pursuant to Second Five-year (Sunset) Reviews*, 72 FR 34442-34443 (June 22, 2007).

#### Duty Assessment

Upon publication of the final results of this review, the Department shall determine and CBP shall assess antidumping duties on all appropriate entries made prior to the effective date of the revocation, July 25, 2006. Pursuant to 19 CFR 351.212(b)(1), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. HuSteel and SeAH each made all their sales to the United States through an affiliated importer. HuSteel and SeAH have reported entered values for all of their respective sales of subject merchandise to the United States during the POR. We have compared the entered values reported by HuSteel and SeAH with the entered values that they reported to CBP on their customs entries and preliminarily find that HuSteel's and SeAH's reported entered values are reliable. See *Husteel's Preliminary Analysis Memo* and *SeAH's Preliminary Analysis Memo*. Therefore, for HuSteel, in accordance with 19 CFR 351.212(b)(1), we will calculate importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales and the total entered value of the examined sales. These rates will be assessed uniformly on all entries the respective importers made during the POR if these preliminary results are adopted in the final results of review. For SeAH, if the preliminary results remain unchanged in the final results, we will instruct CBP to liquidate SeAH's entries of subject merchandise during the POR without regard to antidumping duties.

Nexteel did not act as importer of record on its sales to the United States and thus did not report the entered value for any of their respective sales of subject merchandise to the United States during the POR. Therefore, for Nexteel we have calculated an entered value. In accordance with 19 CFR 351.106(c)(s), if the preliminary results remain unchanged in the final results,

we will instruct CBP to liquidate Nexteel's entries of subject merchandise during the POR without regard to antidumping duties. *See Nexteel's Preliminary Analysis Memo*. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Notice of Policy Concerning Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (Assessment Policy Notice). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these final results of reviews for which the reviewed companies did not know that the merchandise it sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. *See the Assessment Policy Notice* for a full discussion of this clarification.

#### Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to any party to the proceeding the calculations performed in connection with these preliminary results within five days after the date of publication of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: 1) a statement of the issues; 2) a brief summary of the argument; and 3) a table of authorities. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will publish the final results of this administrative review,

including the results of its analysis of issues raised in any case brief, rebuttal brief, or hearing no later than 120 days after publication of these preliminary results, unless extended. *See* 19 CFR 351.213(h).

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of administrative review and this notice are issued and published in accordance with sections 751(a)(1) and 777(I)(1) of the Act.

Dated: August 31, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-840]

#### Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Orange Juice from Brazil

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** Fischer S/A—Agroindustria (Fischer Agroindustria) has requested a changed circumstances review of the antidumping duty order on certain orange juice from Brazil pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b). The Department of Commerce (the Department) is initiating this changed circumstances review and issuing this notice of preliminary results pursuant to 19 CFR 351.221(c)(3)(ii). We have preliminarily determined that Fischer S.A. Comercio, Industria and Agricultura (Fischer Comercio) is the successor-in-interest to Fischer Agroindustria.

**EFFECTIVE DATE:** September 11, 2007.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood, AD/CVD Operations, Office 2, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3874.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 9, 2006, the Department published in the **Federal Register** an antidumping duty order on certain orange juice from Brazil.

On May 21, 2007, Fischer Agroindustria requested an expedited changed circumstances review to determine that Fischer Comercio is the successor-in-interest to Fischer Agroindustria and, therefore, that Fischer Comercio is subject to the antidumping duty order on certain orange juice from Brazil.

On May 29, 2007, we requested additional information from Fischer Agroindustria regarding the factors the Department examines when conducting a changed circumstances review. On June 27, 2007, Fischer Agroindustria submitted this requested information, indicating that assets of Fischer Agroindustria were spun off and merged with Fischer Comercio. On August 2, 2007, we requested additional supporting documentation from Fischer Agroindustria to substantiate its assertions that the management, suppliers, and customers of the company had not changed as a result of the merger. On August 9 and 13, 2007, Fischer submitted this requested information. According to Fischer Agroindustria, it is necessary for the Department to determine that Fischer Comercio is the successor-in-interest to Fischer Agroindustria so that Fischer Comercio's entries of subject merchandise continue to receive Fischer Agroindustria's antidumping duty rate from U.S. Customs and Border Protection (CBP).

##### Scope of the Order

The scope of this order includes certain orange juice for transport and/or further manufacturing, produced in two different forms: (1) frozen orange juice in a highly concentrated form, sometimes referred to as FCOJM; and (2) pasteurized single-strength orange juice which has not been concentrated, referred to as NFC. At the time of the filing of the petition, there was an existing antidumping duty order on FCOJ from Brazil. *See Antidumping Duty Order; Frozen Concentrated Orange Juice from Brazil*, 52 FR 16426 (May 5, 1987). Therefore, the scope of this order with regard to FCOJM covers only FCOJM produced and/or exported by those companies which were