

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-879]

Certain Corrosion-Resistant Steel Products From the Republic of Korea: Notice of Court Decision Not in Harmony With the Final Results of Countervailing Duty Administrative Review; Notice of Amended Final Results

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

SUMMARY: On February 20, 2024, the U.S. Court of International Trade (CIT) issued its final judgment in *Hyundai Steel Co. v. United States*, Court No. 21-00304, sustaining the U.S. Department of Commerce (Commerce)'s remand results pertaining to the administrative review of the countervailing duty (CVD) order on certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea) covering the period January 1, 2018, through December 31, 2018 (POR). Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the countervailable subsidy rate assigned to Hyundai Steel Company (Hyundai).

DATES: Applicable March 1, 2024.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2371.

SUPPLEMENTARY INFORMATION:**Background**

On June 1, 2021, Commerce published its *Final Results* of the 2018 CVD administrative review of CORE from Korea.¹ Commerce determined that Hyundai received countervailable subsidies from the Government of Korea (GOK) under various programs, including the Reduction for Sewerage Fees program and the Provision of Port Usage Rights at the Port of Incheon program.² With respect to the sewerage fees program, we found that Hyundai's reduced sewerage bill reflected revenue

forgone, and we calculated a 0.01 percent *ad valorem* subsidy rate for the program.³ With respect to the Port of Incheon program, we found that Hyundai received a financial contribution in the form of revenue forgone, because the GOK gave Hyundai the right to collect berthing income and harbor facility usage fees which otherwise would have been collected by the GOK. We calculated a 0.01 percent *ad valorem* subsidy rate for the Port of Incheon program.⁴

Hyundai appealed Commerce's *Final Results*. On January 11, 2022, the CIT, at Commerce's request, remanded Commerce's determination related to the sewerage fees program.⁵ Thus, in its first remand redetermination, issued April 11, 2022, Commerce reexamined the Reduction for Sewerage Fees program and determined that the program was not countervailable. On September 26, 2023, the CIT sustained Commerce's first remand determination, and further remanded Commerce's final determination that the Port of Incheon program conferred a benefit.⁶ In its second remand redetermination, issued January 24, 2024, Commerce reexamined the Port of Incheon program and determined that the program does not provide a measurable benefit. As a result of these two remand redeterminations, we adjusted the final subsidy rate calculation from the previous rate of 0.51 percent for Hyundai to a new subsidy rate of 0.49 percent.⁷ On February 20, 2024, the CIT sustained Commerce's second remand redetermination.⁸

Timken Notice

In its decision in *Timken*,⁹ as clarified by *Diamond Sawblades*,¹⁰ the U.S. Court of Appeals for the Federal Circuit held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must

publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's February 20, 2024, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to the subsidy rate assigned to Hyundai as follows:

Company	Subsidy rate (percent ad valorem)
Hyundai Steel Company	* 0.49

* De minimis.

Cash Deposit Requirements

Because Hyundai has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate for Hyundai.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were produced and/or exported by Hyundai Steel Co., Ltd., (a/k/a Hyundai Steel Company or Hyundai Steel), and were entered, or withdrawn from warehouse, for consumption during the period January 1, 2018, through December 31, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess countervailing duties on unliquidated entries of subject merchandise produced and/or exported by Hyundai Steel in accordance with 19 CFR 351.212(b). We will instruct CBP to assess countervailing duties on all appropriate entries covered by this review when the *ad valorem* rate is not zero or *de minimis*. Where an *ad valorem* subsidy rate is zero or *de minimis*,¹¹ we will instruct CBP to liquidate the appropriate entries without regard to countervailing duties.

³ *Id.* at 6-7 and Comment 3.

⁴ *Id.* at 7 and Comment 2.

⁵ See *Hyundai Steel Co. v. United States*, Court No. 21-00304, ECF No. 26 (CIT January 11 2022).

⁶ *Hyundai Steel Co. v. United States*, 658 F. Supp. 3d 1331 (CIT September 26, 2023).

⁷ See *Final Results of Redetermination Pursuant to Court Remand, Hyundai Steel Co. v. United States*, Court No. 21-00304 (CIT January 11, 2022), dated April 11, 2022; see also, *Final Results of Redetermination Pursuant to Court Remand, Hyundai Steel Co. v. United States*, Court No. 21-00304, Slip Op. 23-142 (CIT September 26, 2023), dated January 23, 2024.

⁸ See *Hyundai Steel Company v. United States*, Court No. 21-00304, ECF No. 60 (CIT Feb. 20, 2024).

⁹ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁰ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹¹ See 19 CFR 351.106(c)(2).

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

² See *Final Results* IDM at Comments 2 and 3.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: March 6, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–126; C–570–127]

Non-Refillable Steel Cylinders From the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping and Countervailing Duty Orders

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that non-refillable steel cylinders with water capacities between 100 and 299 cubic inches produced in the People's Republic of China (China) and exported to the United States, are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on certain non-refillable steel cylinders (non-refillable cylinders) from China.

DATES: Applicable March 12, 2024.

FOR FURTHER INFORMATION CONTACT: Alex Cipolla, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4956.

SUPPLEMENTARY INFORMATION:

Background

On May 11, 2021, Commerce published in the *Federal Register* the AD and CVD orders on non-refillable cylinders from China.¹ On June 1, 2023, Commerce published the initiation of this circumvention inquiry.² On November 21, 2023, Commerce published the affirmative *Preliminary*

Determination of the circumvention inquiry of the AD and CVD *Orders* on non-refillable cylinders from China with respect to non-refillable cylinders with water capacities between 100 and 299 cubic inches produced in China and exported to the United States.³

Although we invited parties to comment on the *Preliminary Determination* of this inquiry, we received no comments. Commerce conducted this circumvention inquiry pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.226(j).

Scope of the Orders

The merchandise covered by these *Orders* is certain seamed (welded or brazed), non-refillable steel cylinders meeting the requirements of, or produced to meet the requirements of, U.S. Department of Transportation (USDOT) Specification 39, TransportCanada Specification 39M, or United Nations pressure receptacle standard ISO 11118 and otherwise meeting the description provided below (non-refillable steel cylinders). The subject non-refillable steel cylinders are portable and range from 300-cubic inch (4.9 liter) water capacity to 1,526-cubic inch (25 liter) water capacity. Subject non-refillable steel cylinders may be imported with or without a valve and/or pressure release device and unfilled at the time of importation. Non-refillable steel cylinders filled with pressurized air otherwise meeting the physical description above are covered by these *Orders*.

Specifically excluded are seamless non-refillable steel cylinders.

The merchandise subject to these *Orders* is properly classified under statistical reporting numbers 7311.00.0060 and 7311.00.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). The merchandise may also enter under HTSUS statistical reporting numbers 7310.29.0025 and 7310.29.0050. Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers non-refillable cylinders with water

capacities between 100 and 299 cubic inches produced in China and exported to the United States.

Statutory and Regulatory Framework

We conducted this circumvention inquiry pursuant to section 781(c) of the Act and 19 CFR 351.226(j). For a complete description of the methodology underlying the *Preliminary Determination*, see the *Preliminary Decision Memorandum*. The *Preliminary Decision Memorandum* is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the *Preliminary Decision Memorandum* can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Affirmative Final Determination of Circumvention

As detailed in the *Preliminary Determination*, we determine that non-refillable cylinders with water capacities between 100 and 299 cubic inches produced in China and exported to the United States constitute merchandise altered in form or appearance in such minor respects that they should be included within the scope of the *Orders*, pursuant to section 781(c) of the Act and 19 CFR 351.226(j). Commerce continues to apply this affirmative circumvention finding on a country-wide basis. Because we received no comments regarding our *Preliminary Determination*, our final determination remains unchanged from our *Preliminary Determination*, and no memorandum accompanies this notice. Therefore, we determine that it is appropriate to include this merchandise within the scope of the *Orders* and to instruct U.S. Customs and Border Protection (CBP) to continue to suspend any entries of non-refillable cylinders with water capacities between 100 and 299 cubic inches produced in China and exported to the United States.

Suspension of Liquidation and Cash Deposit Requirements

In accordance with 19 CFR 351.226(l)(3), based on this final determination in this circumvention inquiry, Commerce will direct CBP to begin or continue to suspend liquidation and to require cash deposits of estimated duties equal to the AD and CVD rates in effect for non-refillable cylinders from China with water capacities between 100 and 299 cubic inches produced in China and exported

¹ See *Certain Non-Refillable Steel Cylinders from the People's Republic of China: Amended Final Antidumping Duty Determination and Antidumping Duty and Countervailing Duty Orders*, 86 FR 25839 (May 11, 2021) (*Orders*).

² See *Non-Refillable Steel Cylinders from the People's Republic of China: Initiation of Circumvention Inquiry of the Antidumping and Countervailing Duty Orders; Water Capacities Between 100 and 299 Cubic Inches*, 88 FR 35839 (June 1, 2023) (*Initiation Notice*).

³ See *Non-Refillable Steel Cylinders from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping and Countervailing Duty Orders*, 88 FR 81051 (November 21, 2023) (*Preliminary Determination*), and accompanying *Preliminary Decision Memorandum*.