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MEMORANDUM TO: James J. Jochum  
Assistant Secretary for  
Import Administration

FROM: Jeffrey May  
Deputy Assistant Secretary, Group I  
Office of AD/CVD Enforcement

SUBJECT: Issues and Decision Memorandum for the Antidumping Duty  
Administrative Review on Certain Steel Concrete Reinforcing Bars  
from Turkey -- April 1, 2001, through March 31, 2002

Summary

We have analyzed the comments of the interested parties in the 2001-2002 administrative review of the antidumping duty order covering certain steel concrete reinforcing bars (rebar) from Turkey. As a result of our analysis of the comments received from interested parties, we have made changes in the margin calculations as discussed in the "Margin Calculations" section of this memorandum. We recommend that you approve the positions we have developed in the "Discussion of the Issues" section of this memorandum. Below is the complete list of the issues in this administrative review for which we received comments from parties:

1. Interest Rate Used to Calculate Home Market Credit
2. Exchange Rates Used for Currency Conversions
3. Errors Discovered at Verification
4. Habas's U.S. Short-term Interest Rate
5. Revocation for ICDAS
6. Level of Trade (LOT) for ICDAS
7. Short-length Rebar Sales for ICDAS
8. Calculation of ICDAS's Home Market Indirect Selling Expense Ratio
9. Home Market Indirect Selling Expenses of ICDAS's Affiliated Parties
10. Credit Expenses Reported by ICDAS's Affiliated Parties
11. Start-up Adjustment for ICDAS
12. Amortization Rate Applied to the Start-Up Adjustment
13. Cost of Sales

14. General and Administrative (G&A) Expenses
15. Foreign Exchange Gains and Losses

### Background

On May 6, 2003, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on rebar from Turkey. See Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke in Part, 68 FR 23972 (May 6, 2003) (Preliminary Results). The product covered by this order is rebar. The period of review (POR) is April 1, 2001, through March 31, 2002.

We invited parties to comment on our preliminary results of review. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results.

### Margin Calculations

We calculated export price (EP) and normal value using the same methodology stated in the preliminary results, except as follows:

- We revised Colakoglu's cost of manufacturing (COM) to include a co-product adjustment for each month of the POR based on data submitted by Colakoglu at the Department's request after the preliminary results. Accordingly, we also revised Colakoglu's G&A expenses to eliminate a deduction from the cost of sales. Because the nature of these adjustments is proprietary, we are not able to discuss them here. For further discussion see the September 3, 2003, memorandum from Nancy Decker to Neal Halper entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Final Results."
- We revised the U.S. credit expenses reported by Habas to use the interest rate discussed in Comment 4, below.
- We made an adjustment for home market credit expenses reported by ICDAS's affiliated parties, rather than basing the amounts of these expenses on facts available. See Comment 9. However, we recalculated the average credit periods for one of these affiliates in order to match its sales and accounts receivables data appropriately.
- We revised the amortization period for ICDAS's start-up adjustment to use the weighted-average useful lives of the Biga mill's new assets. See Comment 12.
- We revised the cost of sales amount to reflect the adjustments made to start-up costs and applied the G&A and financing ratios to the revised per-unit COMs. See Comment 13.

- We revised ICDAS's cost of production (COP) to include an amount for G&A expenses. See Comment 14.
- We revised ICDAS's financing expense ratio to include exchange gains on accounts receivable. See Comment 15.

## Discussion of the Issues

### General Issues

#### Comment 1: *Interest Rate Used to Calculate Home Market Credit*

During the POR, Turkey's economy experienced significant inflation. Therefore, for purposes of the preliminary results, we calculated home market credit expenses using an annualized rate for each month of the POR in accordance with our practice. The petitioners contend that the Department should derive the actual monthly rates from these annual rates and use them instead because the short-term home market interest rates in question vary monthly. In their case brief, the petitioners provide an example of a monthly rate calculation.

Colakoglu contends that the Department has consistently used annualized daily interest rates to calculate home market credit expenses in each prior segment of this proceeding, and it should continue to do so here. Colakoglu argues that, while the petitioners are correct in noting that the interest rates in Turkey change on a monthly basis, there is no need to revise the calculation to account for this because the Department's calculation divides the number of days the receivable is outstanding by 365. Moreover, Colakoglu notes that the Department has confirmed at verification that if Colakoglu were to borrow money from a commercial bank even for 30 days, the bank would use the annual rate, rather than a monthly rate, to calculate the amount of interest due. Finally, Colakoglu asserts that it would be inappropriate to rely on the petitioners' methodology for deriving the monthly interest rates in this case because the petitioners' formula systematically understates the actual rates.

ICDAS argues that the Department should reject the petitioners' proposed calculations of the monthly interest rates in Turkey because they are incorrectly based on nominal interest rates which are then reverse-compounded to determine a monthly rate. ICDAS maintains that it properly calculated the short-term home market borrowing rate used to calculate credit expenses because it based this calculation on the interest actually charged by the company's banks. ICDAS contends that, if the Department determines that any change is necessary in the calculation of the short-term borrowing rate, it should apply daily compounding to ICDAS's daily interest rate.

#### Department's Position:

In cases involving significant inflation, it is the Department's practice to calculate credit expenses using interest rates for each month of the POR (stated either on a monthly or annual-equivalent basis). Consistent with this practice, we have used annualized daily interest rates for Turkish Lira in the past segments of this proceeding. See Certain Steel Concrete Reinforcing Bars from Turkey: Final Results of Antidumping Duty Administrative Review, 66 FR 56274 (Nov. 7, 2001) (1999-2000 Rebar Final) and Certain Steel Concrete Reinforcing Bars From Turkey: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 67 FR 66110 (Oct. 30, 2002).

In this case, we have re-examined the respondents' calculations of the monthly weighted-average Turkish lira borrowing rate and determined that, contrary to the petitioners' claim, the rates calculated by the respondents are not overstated. Rather, because the respondents did not take compounding into account when converting the daily rates to annual rates, they potentially understated the annual borrowing rate applied to home market sales for purposes of imputed credit expenses. Nevertheless, because these rates provided by the respondents are conservative, and because these rates are not so incomplete that they cannot serve as a reliable basis for calculating credit expenses, we have accepted them for purposes of the final results.

Regarding the petitioners' proposal to reverse-compound the annual interest rates calculated by the respondents in order to derive a monthly effective rate, we find that this methodology is inappropriate. Specifically, we note that this approach begins with an annual rate which has not been adjusted for compounding and then reverse-compounds it to derive a monthly rate that is much lower than the actual effective rate would be, had compounding been accounted for in the calculation of the annual rate. Because this methodology yields less accurate results than the respondents' own, we have not adopted it here.

Comment 2:    *Exchange Rates Used for Currency Conversions*

For purposes of the preliminary results, we used exchange rates published by the Dow Jones News/Retrieval Service because the Department's preferred source, the Federal Reserve Bank, does not publish exchange rates for the Turkish Lira. According to the petitioners, these exchange rates differ significantly from the exchange rates found at the website [www.oanda.com](http://www.oanda.com). The petitioners assert that the Department should re-examine its use of the rates relied on in the preliminary results to determine if they are the most accurate rates for the POR. In the event that the Department determines that the rates used are not appropriate, the petitioners argue that the Department should reject them in favor of exchange rates obtained from multiple, reliable sources for purposes of the final results.

Colakoglu contends that the Department has historically relied on the exchange rates published by the Dow Jones News/Retrieval Service in this and other Turkish antidumping proceedings. According to Colakoglu, the Department should continue to follow its practice here. In support of its position, Colakoglu cites to the following precedents: 1999-2000 Rebar Final and accompanying Issues and Decision Memorandum at Comment 2; and Notice of Final Determination of Sales at Less Than Fair

Value: Certain Steel Concrete Reinforcing Bars from Turkey, 62 FR 9737, 9741 (Mar. 4, 1997), citing Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey, 61 FR 20209, 30315 (June 14, 1996).

ICDAS argues that the Department should reject the petitioners' suggestion to use exchange rates from a website rather than those from the Dow Jones News/Retrieval Service because the petitioners did not provide a valid basis to do so. Rather, ICDAS maintains that the Dow Jones New/Retrieval Service is a well-established, reliable source of commercially available exchange rates, and as such the Department should continue to rely on it.

Department's Position:

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for Turkish Lira. Therefore, in accordance with our practice, we have continued to make currency conversions based on the daily exchange rates from Dow Jones New Retrieval Service for purposes of the final results. See 1999-2000 Rebar Final at Comment 2 and Certain Steel Concrete Reinforcing Bars from Turkey: Preliminary Results of Antidumping Duty Administrative Review, 67 FR 21634, 21637 (May 1, 2002) (unchanged by the final results). We find that this source is preferable to other sources of exchange rates data because: 1) the Department has a consistent history of relying on it, and thus its use promotes transparency and consistency both within this proceeding and across other cases; and 2) the petitioners have provided no valid reason for rejecting this source (rather they have merely noted that the rates published there differ from other published rates). Absent a clear reason showing that the other rates are better, we have declined to depart from our well-established practice in this area.

Comment 3: Errors Discovered at Verification

According to the petitioners, the Department found various errors and/or omissions at the verifications of the sales data reported by each of the respondents. The petitioners contend that, when a pattern of errors or omissions establishes their self-serving nature, the Department should apply remedial measures across the board, both to the examined sales as well as to those which were not examined at verification.

Colakoglu contends that, because the petitioners have not identified any pattern of errors or omissions of a self-serving nature with regard to Colakoglu, no adjustment to the preliminary results is required for it.

While ICDAS agrees with the petitioners that the Department should correct for errors identified at verification, it contends that the Department mis-labeled certain intentional and reasonable calculations as "errors." According to ICDAS, these mischaracterized items relate to ICDAS's indirect selling

expense ratio, as well as the indirect selling expense ratios and credit expenses reported for certain of ICDAS's affiliated resellers.

Department's Position:

We agree that the petitioners did not specifically identify any pattern of self-serving errors or omissions with regard to any of the respondents. Moreover, in reviewing the verification reports ourselves, we have identified no such pattern of errors. As a result, we have continued to rely on the sales data reported by the respondents, except where discussed below. For further discussion on the indirect selling and credit expenses reported by ICDAS, see Comments 8, 9, and 10, below.

Company-Specific Issues

A. Habas

Comment 4: *Habas's U.S. Short-term Interest Rate*

According to the petitioners, the Department correctly noted in its calculation memorandum for Habas that the U.S. short-term borrowing rate should be revised for purposes of the preliminary results. However, the petitioners contend that the Department inadvertently failed to make this adjustment and should revise its calculations for the final results accordingly.

Habas did not comment on this issue.

Department's Position:

We agree with the petitioners that we inadvertently failed to adjust the U.S. short-term borrowing rate as intended in our preliminary results. We have revised our margin calculations for Habas accordingly.

B. ICDAS

Comment 5: *Revocation for ICDAS*

As part of its request for administrative review in this case, ICDAS requested that the Department revoke the antidumping duty order on rebar from Turkey with respect to it. However, our preliminary analysis showed that ICDAS did not qualify for revocation because this company did not ship the subject merchandise in commercial quantities during the first of the three review periods under consideration. See the April 30, 2003, memorandum to Louis Apple, Director, Office 2, Office of Antidumping and CVD Enforcement, from the team entitled "Request by ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S. for Revocation in the 2001 - 2002 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey" (the revocation memo).

ICDAS disagrees with this finding because it asserts that it did, in fact, ship merchandise to the United States in commercial quantities in each of the three years at issue. According to ICDAS, the Department's conclusion to the contrary is based solely on the fact that the Department used an inappropriate benchmark to measure the commercial nature of the company's shipments (*i.e.*, the average quantity of shipments by the respondents in the less-than-fair-value (LTFV) investigation in this case).<sup>1</sup> ICDAS asserts that use of this benchmark is not proper because: 1) it is contrary to the Department's stated policy, whereby a company's entitlement to revocation is judged on the basis of the company's own commercial practice (rather than an industry average)<sup>2</sup>; and 2) it fails to take into account that ICDAS was a new entrant into the U.S. rebar market that needed time to establish a customer base. Regarding this latter point, ICDAS asserts that the Department has recognized in at least one previous case that the sales of a "relatively new company" should increase over time. See Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke Order in Part, 64 FR 12977, 12980 (March 16, 1999) (Magnesium from Canada).

Finally, ICDAS asserts that the Department's use of an industry average unfairly penalizes ICDAS because it presumes (with no basis) that ICDAS's shipment volume would have been identical to the industry average during the period of investigation (POI), had ICDAS shipped rebar to the United States then. In any event, ICDAS asserts that this approach has not been adopted in any other case before the Department and should similarly be rejected here.

ICDAS proposes that the Department use ICDAS's own shipment volume during the new shipper review as the relevant benchmark. According to ICDAS, this is appropriate because it allows the Department to perform an apples-to-apples comparison when determining ICDAS's normal commercial practice (*i.e.*, ICDAS-specific data is compared to ICDAS-specific data). ICDAS notes that, under this methodology, the Department would find that the shipment quantities in each of the three years under consideration are at commercial levels because they are each significantly higher than the quantity shipped during the new shipper review. Indeed, ICDAS asserts that the Department has

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<sup>1</sup> ICDAS asserts that, in calculating this average, the Department failed to take into consideration the shipment volume of one respondent which did not fully participate in the investigation. According to ICDAS, this is inappropriate because the figure calculated does not represent a true "industry" average.

<sup>2</sup> To support this contention, the petitioners cite Oil Country Tubular Goods From Mexico; Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke in Part, 66 FR 15832, (Mar. 21, 2001) and accompanying Issues and Decision Memorandum at Comment 1 (OCTG from Mexico) and Pure Magnesium From Canada; Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke the Antidumping Duty Order in Part, 65 FR 55502 (Sept. 14, 2000) and accompanying Issues and Decision Memorandum at Comment 2 (Magnesium from Canada).

precedent that would support such a finding because in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1998- 1999 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part, 66 FR 1953 (Jan. 10, 2001) and accompanying Issues and Decision Memorandum at Comment 21, the Department used a respondent's shipment volume as the benchmark in the ninth review of that proceeding because it was the "earliest time period for which we have on the record volume data." Moreover, ICDAS asserts that, although the Department seeks to be cautious about using shipment levels from new shipper reviews as a benchmark, revocation requests made by new shippers should be viewed as presenting one of the "unusual instances {where} flexibility may be warranted in order to properly evaluate the company's normal commercial practice." See Professional Electric Cutting Tools From Japan: Final Results of the Fifth Antidumping Duty Administrative Review and Revocation of the Antidumping Duty Order, in Part, 64 FR 71411, 71417 (Dec. 21, 1999) (PECTs from Japan).

Alternatively, ICDAS proposes that the Department use the shipment volume of the smallest exporter investigated during the LTFV phase, Izmir Metalurji Fabrikasi Turk A.S. (Metas), as the benchmark. ICDAS asserts that this company's shipment volume more closely approximates the normal commercial practice of a new entrant into the rebar market, given that Metas had relatively few shipments to the United States during the POI. ICDAS notes that, under this alternative, the Department would also find that its shipment quantities are commercial because they are at least four times higher than the relative level of shipments in any prior case where the Department has not found commercial quantities.

According to ICDAS, when the Department uses an appropriate benchmark, it will find that the company is entitled to revocation from the order because: 1) it had sales and shipments of subject merchandise in each of the three years under consideration; and 2) maintaining the order with respect to it is not otherwise necessary to offset dumping. Regarding this latter point, ICDAS asserts that it is entitled to a presumption that the order is unnecessary for it because it has not made sales at less than normal value over a three-year period. According to ICDAS, this presumption is consistent with the intent of the Department's regulations, which states "in cases where there is an absence of dumping . . . for three . . . consecutive years, the Department intends to presume that an order is not necessary in the absence of additional evidence." See Amended Regulation Concerning the Revocation of Antidumping and Countervailing Duty Orders, 64 FR 51236, 51238 (Sept. 22, 1999). ICDAS asserts that the petitioners have offered no "additional evidence" to rebut the presumption in this case and thus it should stand.

The petitioners agree with the Department's preliminary finding that ICDAS is not entitled to revocation in this segment of the proceeding. According to the petitioners, this finding is not only dictated by the Department's regulations, but it is also consistent with both Departmental precedent in this area and the facts of this case.

Regarding the first point, the petitioners note that the Department's regulations at 19 CFR 351.222(d) require companies requesting revocation to have exports to the United States in commercial quantities



during the periods under consideration, not merely sales. The petitioners contend that, because ICDAS did not export during the second year, it fails to qualify for revocation on that basis alone.

In any event, the petitioners agree with the Department's choice of benchmark to measure commercial activity in the first and third years under consideration. According to the petitioners, use of the POI industry-average shipment volume is wholly appropriate in cases where the Department's preferred benchmark (*i.e.*, a company's own shipments during the LTFV investigation) is not available. The petitioners assert that this benchmark maintains the logical foundation upon which the Department's preference for the original POI is based, in that it provides evidence of "normal commercial behavior without the discipline of the antidumping duty order." See OCTG from Mexico at Comment 1. The petitioners maintain that, in using POI data, the Department's goal is to judge whether the respondent engaged in normal commercial behavior when sales occurred at not less than normal value.

The petitioners disagree with ICDAS's argument that use of the industry average unfairly penalizes it because it was a new entrant into the market and needed time to establish a customer base. The petitioners maintain that rebar is a highly fungible, commodity product which is sold overwhelmingly on price, rather than on establishing a "customer base." Therefore, the petitioners assert that ICDAS's sales during the new shipper review should have been sufficient for the company to establish a market presence. Because ICDAS was able to make only a single sale in each of the first two years under consideration, the petitioners conclude that the company's lack of market presence has less to do with its customer base than the fact that the sales at issue do not reflect normal commercial activity.

The petitioners contend that the case cited by ICDAS to support its position does not apply here. Specifically, the petitioners note that in Magnesium from Canada the Department consistently denied the respondent's requests for revocation. Moreover, the petitioners point out that in that case, the respondent was a "new company," not a "new entrant" into the U.S. market; ICDAS, on the other hand, has been a steel manufacturer since 1962.

The petitioners similarly disagree with ICDAS that either of its alternative benchmarks is appropriate, or that the case precedent cited by ICDAS requires the Department to deviate from its preliminary analysis. Specifically, the petitioners contend that PECTs from Japan does not support the selection of the new shipper shipment volume as the relevant benchmark, because the facts in that case were markedly different than those here. According to the petitioners, the "unusual circumstances" in that case involved the establishment of a U.S. subsidiary which explained the decreased export volumes. The petitioners assert that the ICDAS's claimed status as a new shipper is not a "significant change in business practice," like in PECTs from Japan. Regarding the use of Metas' data from the LTFV investigation as the relevant benchmark, the petitioners contend that this suggestion is self-serving. The petitioners assert that, if the Department accepted this benchmark, it might as well invite ICDAS, and future respondents requesting revocation, to create their own "normal commercial practice" from whole cloth.

Department's Position:

In determining whether the three years of no dumping are a sufficient basis to make a revocation determination, the Department must be able to determine that the company has participated meaningfully in the U.S. market during each of the three years at issue. See, e.g., Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Antidumping Duty Administrative Reviews and Determination To Revoke in Part, 64 FR 2173, 2175 (Jan. 13, 1999) (Carbon Steel Plate from Canada). This practice has been codified by 19 CFR 351.222(d)(1), which states that

before revoking an order or terminating a suspended investigation, the Secretary must be satisfied that, during each of the three (or five) years, there were exports to the United States in commercial quantities of the subject merchandise to which a revocation or termination will apply.

The preamble explains that the assumption underlying a revocation based on the absence of dumping is that a respondent has demonstrated that it will not resume dumping following the revocation of the order. But “{i}f the respondent is not selling in commercial quantities characteristic of that company or industry, this assumption becomes weaker.” 62 FR at 27326. Accordingly, for purposes of revocation, the Department seeks to determine whether past margins that are the basis for revocation are based on sales reflective of a company's normal commercial activity. In general, the Department has found that sales during a POR which, in the aggregate, are of an abnormally small quantity, either in absolute terms or in comparison to an appropriate benchmark period, do not provide a reasonable basis for determining that the discipline of the order is no longer necessary to offset dumping. See Carbon Steel Plate from Canada, 64 FR at 2175 and Magnesium from Canada, 64 FR at 12978.

Neither the Tariff Act of 1930, as amended, (the Act) nor the Department's regulations prescribes a specific standard for determining whether sales have been made in commercial quantities. See section 751(d) of the Act and 19 CFR 351.222. See also Notice of Final Results of Antidumping Duty Administrative Review and Determination Not To Revoke the Antidumping Duty Order: Brass Sheet and Strip from the Netherlands, 65 FR 742 (Jan. 6, 2000). The determination as to whether or not sales volumes are made in commercial quantities is made on a case-by-case basis, based on the unique facts of each proceeding.

Where possible, the Department generally uses the original POI (i.e., pre-order shipment levels) as a benchmark for a company's normal commercial behavior. The POI generally provides a valid benchmark for assessing whether sales reflect a company's normal commercial activity because it demonstrates a company's behavior absent the existence of an antidumping duty order. However, as ICDAS correctly notes, we are unable to use ICDAS's shipment levels during the POI because the company's first export of rebar to the United States was after the imposition of the dumping order.

ICDAS has requested that the Department use ICDAS's shipment levels during the new shipper review as the benchmark in this revocation analysis. As a general rule, we believe that the Department should be cautious about using shipment levels during a new shipper review as an indication of a company's usual commercial practice. This is because many companies that are seeking to enter the United States market will make a "test" shipment in order to establish their own dumping rate. In selecting an appropriate benchmark, however, we look for an indication of what quantities are characteristic of the particular respondent or the industry as a whole. In this case, because ICDAS participated in the U.S. market for the first time in the new shipper review, there is no history regarding the company's shipment/sales pattern prior to the order for us to examine. In fact, ICDAS's only history of shipments to the United States occurred in the period immediately preceding the first year under consideration here. Moreover, when compared to the quantities shipped by the other Turkish rebar companies prior to the order and even at the same time<sup>3</sup> (i.e., the first administrative review), we determine that the quantity shipped by ICDAS in the new shipper period is not characteristic of ICDAS's normal commercial activity or of the industry in general, and thus not a commercial quantity. Therefore, in light of these circumstances, we find that the new shipper review period is not an appropriate benchmark against which to measure ICDAS's shipments in the three years under consideration.

Given that ICDAS did not ship subject merchandise to the United States during the POI (i.e., our preferred benchmark) and that we have determined that the new shipper review period is not a valid benchmark, we have compared ICDAS's shipment in the first year under consideration to those made by the respondents in the LTFV investigation of Turkish rebar.<sup>4</sup> Specifically, we compared ICDAS's shipment quantity to the average of the total quantities shipped by the respondents during the POI. We find that this data continues to be relevant because the POI covered calendar year 1995 and ICDAS's shipment in question occurred in 1999. Using this benchmark, we have found that ICDAS's quantity relative to the average quantities shipped by the investigated respondents is too small to be deemed characteristic of the industry and thus a commercial quantity.

When the aggregate amount of sales during a POR are of an unusually small quantity, as here, normally the Department finds that such quantities do not provide a reasonable basis for establishing that the discipline of the order is no longer necessary to offset dumping. See Magnesium from Canada, 64 FR at 12978. Therefore, we determine that ICDAS's volume of exports to the United States in the 1999-2000 POR was not made in commercial quantities and, thus, we have decided not to revoke the antidumping duty order with respect to ICDAS.

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<sup>3</sup> We note that the single respondent in the first administrative review shipped a total of approximately 4000 MT.

<sup>4</sup> We agree with ICDAS that this average should include the shipment data of, Izmir Demir Celik Sanayi A.S., the respondent which did not fully participate in the investigation. We have revised our calculations to take the shipments of this company into account.

We disagree with ICDAS that the Department is required to use a company's own shipment data as the relevant benchmark. As noted above, the preamble to the Department's regulations makes clear commercial quantities refers to quantities which are characteristic of that company or industry. See 62 FR at 27326. Therefore, use of an industry-wide benchmark is clearly contemplated under the regulations.

Moreover, we note that, in other revocation cases where a respondent did not ship to United States during the POI, the Department has not automatically adopted the respondent's shipment volume in the first year of export as the benchmark. For example, in Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and Singapore: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Review in Part, and Determination Not To Revoke Order in Part, 68 FR 35623 (June 16, 2003) and the accompanying Issues and Decision Memorandum at Comment 27, the Department used the respondent's home market sales volume as the benchmark after concluding that the first year of exports was too small to form an appropriate benchmark.<sup>5</sup> Applying that analysis here, we find that ICDAS was not only capable of shipping at the level of the industry average, but also of significantly exceeding it. Specifically, we have found that ICDAS's U.S. sales in the first year under consideration were, in the aggregate, insignificant in comparison to its home market sales. See the September 3, 2003, memorandum to the file from Irina Itkin entitled "Comparison of ICDAS's Home Market and U.S. Sales Volumes." This finding supports our conclusion that ICDAS's volume of exports to the United States in the 1999-2000 POR was not made in commercial quantities.

We disagree with ICDAS that Metas' shipment volume constitute an appropriate benchmark. We do not believe that, in circumstances in which a respondent's own shipments do not form an appropriate basis for use as a benchmark, it is appropriate to select as a benchmark the pre-investigation shipments of a single company when data is available on a number of companies. Rather than assume that a respondent is comparable to a single company, it is far preferable to compare a respondent's shipments to the average of all those in the industry about whom shipment data is on record. We find that ICDAS has failed to demonstrate that the two companies were similarly situated or to provide any logical or factual basis supporting the conclusion that their commercial behavior was comparable. Rather, ICDAS has merely posited that, because Metas' U.S. sales volumes were small in relation to the other Turkish rebar exporters during the POI, its commercial behavior is most like that of a new entrant into the U.S. market. We find that there is no support for this conclusion on the record of this case and consequently we have accorded it no weight. Indeed, when we compare the business operations of

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<sup>5</sup> See also Magnesium from Canada, 64 FR at 12980, where we stated: "In addition to examining NHCI's commercial activity during the period of investigation, the Department also examined information regarding NHCI's sales of pure magnesium to other markets for the three years in question. Examination of the number and volume of sales made in these markets further supports our determination that the sales to the United States were not made in commercial quantities."

ICDAS and Metas, we find that ICDAS is a much larger company with significantly greater production capability and thus it is not reasonable to assume that the two companies would exhibit the same commercial behavior.

Finally, we find that ICDAS's reliance on Magnesium from Canada and PECTs from Japan is misplaced. Unlike ICDAS, the respondent in the former case was a new company, not a new entrant into the U.S. market. Like ICDAS, however, the Department found that the respondent in Magnesium from Canada was not selling in commercial quantities during the period under consideration. In PECTs from Japan, the Department found that a decline in the respondent's export volume was attributable to "unusual" circumstances (i.e., the shift of certain production facilities for subject merchandise to the United States). We note that the set of "unusual" circumstances in PECTs from Japan are not present here.

Due to our decision not to grant ICDAS's request for revocation based on the commercial-quantity requirement, we have not addressed the petitioners' argument concerning whether ICDAS's sale during the 2000-2001 review period constitutes a valid transaction for purposes of this analysis.

Comment 6:    *LOT for ICDAS*

In the preliminary results, the Department found that ICDAS's sales in the home market were made at two different LOTs: 1) sales made directly to home market customers by ICDAS; and 2) sales made to home market customers by ICDAS's affiliated resellers. According to ICDAS, this finding is not only inconsistent with the administrative record in this case, but it is also contrary to the Department's regulations and practice (including previous findings on the same issue in this proceeding). Specifically, ICDAS claims that its direct sales and the sales made by its affiliated resellers lack the "substantial differences" required under 19 CFR 351.412 (c)(2) to establish multiple LOTs. Furthermore, ICDAS argues that the Department has not demonstrated a pattern of price consistent differences between the two types of home market sales. ICDAS cites section 773(a)(7)(A) of the Act as support for its position.

ICDAS claims that, contrary to the requirement in the law and regulations, in making its determination regarding multiple LOTs, the Department failed to cite to any substantial differences in the selling activities performed by ICDAS and its affiliated resellers. Indeed, ICDAS claims that the Department found that ICDAS and its affiliated resellers performed the same selling functions, not different ones.

According to ICDAS, the Department's practice has been to find a single LOT where a respondent directly shipped the foreign like product from its mill to both its unaffiliated customers and the customers of its affiliated reseller. See Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey, 63 FR 35190 (June 29, 1998)(Pipe and Tube from Turkey). In addition, ICDAS claims that it has been the Department's practice to find a single LOT where a respondent performed similar selling functions for its direct sales

and for those sales made through its affiliated reseller. See Notice of Preliminary Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products from Turkey, 67 FR 31264, 31267 (May 9, 2002)(Carbon Steel Flat Products from Turkey).

Finally, ICDAS argues that the Department should be consistent with the case precedent in this proceeding. Specifically, ICDAS states that, in the new shipper review involving ICDAS, the Department found that ICDAS made home market sales through two different channels of distribution (*i.e.*, direct sales and sales through affiliated resellers); notwithstanding these facts, it found that ICDAS made sales at a single LOT in the home market. ICDAS contends that the Department should continue to do so here.

According to the petitioners, the question of level of trade should be left to the Department's judgement. Therefore, the Department should continue to find that ICDAS made home market sales at two LOTs for the final results.

Department's Position:

The framework for determining the number of levels of trade in a given market is set out in 19 CFR 351.412(c)(2). According to this provision, the Department

will determine that sales are made at different levels of trade if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing. Some overlap in selling activities will not preclude a determination that two sales are at different stages of marketing.

In determining whether substantial differences in selling activities exist, the Department examines all selling activities which occur along the chain of distribution. Contrary to ICDAS's assertion, this does not simply involve comparing its own selling functions to the selling function performed by its affiliated resellers. Rather, when a producer sells through an affiliated reseller, we consider the relevant functions to be the selling functions of both the producer and the reseller (*i.e.*, the cumulative selling functions along the chain of distribution) for purposes of comparing the selling activities related to the affiliate's sale with those related to the producer's sale to its customers.<sup>6</sup> If the reseller performs selling functions which add substantial selling activity to make the sale, we may find that sales by the reseller are made at a different LOT than the LOT of the producer. See Notice of Final Determination of Sales at Less

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<sup>6</sup> In other words, we compare the cumulative selling functions performed by both the producer and reseller in selling to the reseller's customers with the selling functions performed by the producer in selling to its customers.

Than Fair Value: Structural Steel Beams from Spain, 67 FR 35482 (May 20, 2002) and the accompanying Issues and Decision Memorandum at Comment 1.

In this case, we found that ICDAS performed the following selling functions/services to sell to both its unaffiliated customers and its affiliated resellers in the home market: order processing, sales and marketing support, freight coordination, and extension of credit terms. In addition, ICDAS's affiliated resellers performed all of these same selling functions/services to sell to their customers. Thus, ICDAS performs an additional layer of selling functions on its sales through affiliated distributors which is not performed on sales to unaffiliated customers (*i.e.*, in the chain of distribution, these selling functions are performed twice for downstream sales and only once for direct sales). Because these additional selling functions are significant, we find that ICDAS's sales through affiliated distributors are at a different LOT than its direct sales to unaffiliated parties. Accordingly, we found that ICDAS made sales through two LOTs in the home market: sales through affiliated resellers and direct sales. We also found that the U.S. LOT is the same as the home market LOT for ICDAS's direct sales because the selling functions performed by ICDAS are substantially the same in both markets. Consequently, in the U.S. market, we matched ICDAS's EP sales to its sales at the same LOT in the home market. Where we could not match EP sales to home market sales at the same LOT, we made an LOT adjustment in accordance with section 773(a)(7)(A) of the Act.

We disagree with ICDAS that we are precluded from considering this issue anew in this administrative review, or that the facts in a prior segment of a proceeding control our findings in this segment. The Department has long held that each segment of the proceeding stands on its own. Based on the fact pattern set forth above, we find that the selling functions performed by ICDAS and its affiliated resellers to make downstream sales in the home market are substantially different from those performed by ICDAS alone in making sales directly to the first unaffiliated customer.

Moreover, we disagree with ICDAS that either Pipe and Tube from Turkey or Carbon Steel Flat Products from Turkey applies here. In both cases, the Department found no meaningful difference in the selling functions performed on sales by the respondent and its resellers. In contrast, here, while the selling functions performed by ICDAS and its affiliates may be the same, the magnitude and frequency of their performance differs significantly across levels. Finally, regarding ICDAS's contention concerning a pattern of price consistent differences between the two types of home market sales, we find that a preponderance of sales by ICDAS are made at higher prices at one of the LOTS than the other. See the output of the final Cost of Production and Concordance Program at page 1, attached to the September 3, 2003, memorandum to the file entitled, "Calculations Performed for ICDAS Celik Enerji Tersane ve Ulasim Sanayi A.S. (ICDAS) for the Final Results in the 2001-2002 Antidumping Duty Administrative Review on Steel Concrete Reinforcing Bars (Rebar) from Turkey." Specifically, a preponderance of models and quantities sold in the home market were priced higher at one level of trade across all home market sales. This difference in prices demonstrates a pattern of price consistent differences between the two LOTs. Therefore, for the final results, we have continued to make a LOT adjustment for ICDAS.

Comment 7:    *Short-length Rebar Sales for ICDAS*

For purposes of the preliminary results, we excluded ICDAS's home market sales of short-length rebar from our analysis because ICDAS did not have any sales of such merchandise to the United States. According to the petitioners, the Department should revise its calculations to include sales of cut-to-length rebar because, unlike second-quality rebar, this merchandise is not of inferior quality to the subject merchandise. The petitioners contend that excluding these sales prevents the proper functioning of the margin calculation program, because failure to incorporate these sales into the analysis results in less similar matches.

According to ICDAS, the Department should continue to exclude cut-to-length home market sales from the margin calculation analysis. ICDAS argues that the Department has a longstanding and consistent practice in this proceeding to exclude such sales. ICDAS contends that the Department's decision to exclude these sales is reasonable because: 1) the merchandise is non-standard; 2) ICDAS did not have sales of such merchandise to the United States; and 3) these sales are not better matches to the standard rebar products sold to the United States.

Department's Position:

We note that this issue was raised by the petitioners in the 1999-2000 administrative review. In that review, we found it inappropriate to compare standard-length models of rebar to non-standard length models. See 1999-2000 Rebar Final at Comment 1. In this segment of the proceeding, the petitioners have provided no compelling argument or additional reasoning to cause us to reconsider this issue or alter this finding. Therefore, in accordance with our practice regarding short-length rebar, we are continuing to exclude the sales in question from our margin calculations for the final results.

Comment 8:    *Home Market Indirect Selling Expenses of ICDAS's Affiliated Parties*

For purposes of the preliminary results, the Department based the amount of home market indirect selling expenses for five of ICDAS's affiliated resellers on adverse facts available (AFA) because it found at verification that the calculation of these expenses contained errors that could not be fixed in the time allotted for verification. ICDAS disagrees with this approach, contending that the errors found at verification are not material enough to warrant the use of AFA. According to ICDAS, certain of the figures in question could be tied to corresponding financial statements, while others were incorrect simply due to inadvertent errors. ICDAS asserts that this approach is particularly inappropriate given that the Department requested that ICDAS report these expenses for the first time in the verification outline. ICDAS argues that, because the company officials preparing for verification were already overwhelmed with extensive verification preparations, they were not able to fully check and revise the data provided by the affiliated resellers. Moreover, ICDAS claims that its error with respect to the indirect selling expense ratio for three of the five affiliates was contrary to its own interests; therefore, it argues that the Department should use the rates provided at verification.



According to the petitioners, the Department found that errors at verification were significant enough to render the figures in question unreliable. Therefore, the petitioners argue that the Department should continue to base the indirect selling expenses of the affiliated resellers in question on adverse facts available for purposes of the final results.

Department's Position:

As noted in the preliminary results, we disagree with ICDAS that we requested the indirect selling expenses of the affiliated resellers for the first time in the verification outline; rather, we requested them in the original questionnaire sent to ICDAS on May 2, 2002, six full months prior to verification. Specifically, the questionnaire stated:

Report the unit cost of indirect selling expenses incurred to sell the product in the foreign market. Where indirect selling expenses have been incurred by the producer and an affiliated reseller, create separate fields for the expenses of each company.

Although ICDAS failed to provide this information in response to the questionnaire, we accorded it an additional opportunity to do so at verification. Therefore, despite the fact that our request was repeated in the verification outline issued to the respondent, this request was itself by no means new.

At verification, the Department found that the submitted indirect selling expense ratios of certain of ICDAS's affiliated resellers were unable to be tied to these companies' financial statements. Although we provided ICDAS an opportunity to present the corrected worksheets at verification, it was unable to do so in the time available. Regarding ICDAS's contention that the errors in question were not material enough to warrant the use of AFA, we are unable to rely on this statement in light of the fact that ICDAS was unable to provide the source documents necessary to support its claim.

Therefore, because we: 1) provided ICDAS ample opportunity to report these expenses prior to verification; 2) found at verification that these items did not tie to source documents; and 3) did not have the information available at verification to properly amend the calculation, we are continuing to apply facts available to the indirect selling expenses of five of ICDAS's affiliated resellers, in accordance with section 776(a)(2)(D) of the Act. Moreover, as noted in the preliminary results, because ICDAS had the ability to provide accurate information to the Department, we find that ICDAS failed to cooperate by not acting to the best of its ability, in accordance with section 776(b) of the Act, and thus we find that an adverse inference is appropriate. As AFA, we have continued to assign the highest indirect selling expense ratio reported for ICDAS or its affiliates as the indirect selling expenses of the five affiliates in question.

Comment 9:     *Calculation of ICDAS's Home Market Indirect Selling Expense Ratio*

For purposes of the preliminary results, the Department adjusted ICDAS's home market indirect selling expenses to include certain sales-related items which ICDAS had neither reported as part of indirect selling nor in G&A expenses. ICDAS argues that this action is inappropriate because the items in question are related to expense accruals pertaining to two types of lawsuits involving home market customers. Specifically, ICDAS claims that both relate to sales provisions, rather than actual write-offs for bad debt. In fact, ICDAS notes that it did not write off or abandon any customer accounts receivable amounts during the 2001 fiscal year or the POR. Accordingly, ICDAS argues that neither of the items in question should be considered an indirect selling expense for purposes of the final results. As support for its position, ICDAS cites Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings from Italy, 65 FR 81830 (Dec. 27, 2000) (Butt-Weld Pipe Fittings) and accompanying Issues and Decision Memorandum at Comment 6, in which the Department stated that its practice is not to include bad debt reserves in the calculation of indirect selling expenses.

According to the petitioners, the Department has the discretion to determine the appropriate calculation of indirect selling expenses. Furthermore, the petitioners contend that, should the Department decide not to recognize the accruals in question, it should recognize any actual expenses in any future administrative reviews.

Department's Position:

It is the Department's practice to include all bad debt amounts recognized in a company's books and records during the POR as part of indirect selling expenses. See Butt-Weld Pipe Fittings at Comment 6. Specifically, Butt-Weld Pipe Fittings states:

We agree with the petitioners and have revised ISE {indirect selling expenses} to include the bad debts provision. It is the Department's practice not to include bad debt reserves in the calculation of ISE. However, we do include amounts {sic} expensed in the relevant period. See, e.g., Cookware 65 FR at 30070; AFBs 64 FR at 35607. In this case, we found that Coprosider's bad debts provision was included in the production operating costs for fiscal year 1999, and therefore it was expensed in the financial statements reported in Section A, Exhibit 6B at line 12.

Therefore, we find that, contrary to supporting ICDAS's position, Butt-Weld Pipe Fittings actually contradicts it. In this case, we found that the expenses in question were included in the G&A costs for fiscal year 2001, and therefore these expenses<sup>7</sup> were recognized in the financial statements of ICDAS.

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<sup>7</sup> We note that, in order for a company to accrue (and thus recognize in a given year) an expense, it debits the expense and credits the corresponding reserve account. The expense is reflected on the company's profit and loss statement, while the provision appears on its balance sheet. When a

Accordingly, for purposes of the final results, we have continued to include the amounts in question in our calculation of the home market indirect selling expenses for ICDAS.

Comment 10: *Credit Expenses Reported by ICDAS's Affiliated Parties*

For the preliminary results, the Department based the home market credit expenses reported by ICDAS's affiliated resellers on AFA because: 1) ICDAS based the credit period for these affiliates on the average age of their accounts receivables; and 2) we found at verification that payments for individual transactions could reasonably be tied to corresponding invoices. We applied an adverse inference because we determined that ICDAS had not acted to the best of its ability in providing transaction-specific information. According to ICDAS, this treatment was not warranted because it was not administratively feasible for its affiliates to capture their payment information in a systemic and timely manner. Specifically, ICDAS contends that not only would this task have required countless hours of work for ICDAS personnel, but it would also have opened the door for human error because the correlation between invoice and payment is not always clear. As support for its position, ICDAS provides an example of an invoice examined at verification, pointing out that the Department understated the payment date referenced in the verification report for this invoice by a day because of an incorrect calculation of the weighted-average payment date. Given that a manual analysis for each sale would have imposed an unreasonable and unnecessary burden on the respondent, ICDAS argues that the Department should accept ICDAS's reported payment dates for the affiliated resellers. ICDAS asserts that this approach is valid, given that the reported payment periods are based on the accounts receivable and sales data that is taken from the financial system of ICDAS and its affiliates which can easily be traced to their financial statements.

According to the petitioners, the Department found significant errors at verification so as to render the payment dates in question unreliable. Therefore, the petitioners argue that the Department should continue to apply facts available to home market credit expenses for purposes of the final results.

Department's Position:

Section 781(e) of the Act directs the Department not to decline to consider information submitted by an interested party that does not meet all applicable requirements if 1) the information is submitted by the established deadline, 2) the information can be verified, 3) the information is not so incomplete that it cannot serve as a reliable basis for making the applicable determination, 4) the interested party has acted to the best of its ability in providing the information, and 5) the information can be used without undue difficulties. We have re-examined our verification documents and have confirmed the following

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company actually writes off a bad debt under a provision system, it does not recognize an additional expense. Rather, it debits the provision (i.e., liability) and credits its accounts receivable (i.e., asset).

with regard to the payment information maintained by ICDAS's affiliated parties: 1) many sales were not paid for in a single installment; 2) the affiliates' accounting systems do not track payments by invoice number; and 3) for many of the sales examined at verification, company officials were not able to provide documentation to substantiate the payment date for each portion of the invoiced amount. Therefore, because we find that ICDAS was not able to report transaction-specific payment dates for sales made by its affiliated parties but otherwise acted to the best of its ability to provide such information, we have relied on the payment dates reported by the affiliated resellers in our margin calculations for the final results. This information was submitted by the appropriate deadlines and is not so incomplete that it cannot serve as a reliable basis for calculating ICDAS's credit expenses.

Comment 11: Start-up Adjustment for ICDAS

During the POR, ICDAS produced straight rebar and wire rod<sup>8</sup> in a new rolling mill located in Biga, Turkey. Although ICDAS recognized all costs incurred in producing these products in its financial statements at the time that they were incurred, it requested that the Department make an adjustment to them to account for the start-up period, in accordance with section 773(f)(1)(C)(ii) of the Act. In its questionnaire response, ICDAS calculated a start-up cost adjustment for straight rebar for the period May to July 2001 and wire rod for the period November to December 2001.

We accepted ICDAS's claim in part for purposes of the preliminary results, but we revised the reported costs by allowing a start-up adjustment only for the month of May 2001 for straight rebar and for the month of November 2001 for wire rod. In addition, we decreased the time period used by ICDAS to amortize the difference between the actual costs and the COP calculated for the start-up costs to correspond with the depreciation method ICDAS uses in its normal books and records.

ICDAS contends that for the preliminary results, the Department made a clerical error in the calculation of the start-up adjustment for the Biga plant that resulted in the overstatement of the costs for straight rebar and an understatement of the costs for wire rod and related to the period December 2001 to March 2002. ICDAS states that the start-up amounts consist of three components: 1) straight-rebar-specific costs; 2) common costs; and 3) wire rod-specific costs. According to ICDAS, during the POR the Biga mill operated on a toggle basis, under which it could only roll one type of product (*i.e.*, either straight rebar or wire rod) at a time. Therefore, ICDAS explains that common costs were allocated monthly between straight rebar and wire rod production based on the relative actual time the plant was used for producing each product. ICDAS asserts that for this reason, the company separately calculated three streams of start-up costs and amortization amounts based on the three components previously mentioned. ICDAS contends that the Department incorrectly included common

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<sup>8</sup> We note that this category of merchandise includes both subject and non-subject merchandise (*i.e.*, rebar in coils and plain bar).

cost amortization amounts in the straight rebar cost specifically for the period December 2001 to March 2002, rather than allocating the amounts between straight rebar and wire rod. ICDAS maintains that for the final results, the Department should correct this error.

The petitioners argue that ICDAS's claims are unsupported and that, accordingly, the Department should not consider them. Rather, the petitioners maintain that the Department should ensure that start-up costs are accurately and reasonably allocated to subject merchandise based on objective record evidence.

Department's Position:

We disagree with ICDAS that, when revising the reported start-up adjustment, we incorrectly included a portion of the amortized common costs for wire rod in the COP for straight rebar. In accordance with section 773(f)(1)(C)(iii) of the Act, the start-up adjustment is calculated by replacing the per-unit production costs of the subject merchandise incurred during the start-up period with the per-unit production costs incurred at the end of the start-up period. Further, the Statement of Administrative Action (SAA), H.R. Doc 316, Vol. 1, 103d Cong., 2d Sess., at 837 states as the start-up adjustment results in some actual costs not being counted during the start-up period, the difference between the actual costs and the costs of production calculated for start-up costs will be amortized over a reasonable period of time subsequent to the start-up period over that life of the product or machinery, as appropriate, and included in the reported cost of the subject merchandise. During the POR, ICDAS claimed two separate start-up adjustments, one for straight rebar and another for wire rod. According to ICDAS, its start-up period for straight rebar production at its Biga plant was January to July 2001. However, for the preliminary results, we determined that the start-up period for straight rebar ended in May 2001, rather than July 2001, because we found that production began at commercial levels in June. See the September 3, 2003, memorandum from Sheikh M. Hannan to Neal M. Halper, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Final Results" (Final Cost Calculation Memo). Therefore, we revised ICDAS's reported start-up adjustment, including the amortized portion, to end in May.

We also disagree with ICDAS's claims that the Department made a clerical error related to the allocation of the amortized common cost portion of the start-up adjustment for straight rebar for the period December 2001 to March 2002. The Department intended to allocate the amortized common costs in the manner described in the preliminary results.

We disagree with ICDAS that we made any error in reallocating the common costs in question. ICDAS asserts that the amortized common costs for that period should be allocated to both straight rebar and wire rod production, not only to straight rebar production. However, we note that the expenses in question are related to the amortization and allocation of the common costs that were incurred during the period January to May 2001, well before any wire rod was produced. In addition, we note that in its normal books and records ICDAS allocated all common costs incurred during the

claimed straight rebar start-up period and the month subsequent to the end of the claimed straight rebar start-up period to straight rebar production. As the amortized common costs in question arose solely related to straight rebar production activity during the start-up period, we deem it reasonable to allocate the amortization of such deferred costs solely to straight rebar production. Thus, consistent with ICDAS's treatment of these expenses in its normal books and records, we consider it appropriate for the start-up adjustment for straight rebar, calculated in accordance with section 773(f)(1)(C)(iii) of the Act, to be amortized and included only in the COP for straight rebar. As a result, consistent with our preliminary results, we have determined that it is appropriate to include the total amortized start-up costs (straight-rebar-specific and common) for the period in question in the per-unit COP calculation for straight rebar.

Comment 12: Amortization Rate Applied to the Start-Up Adjustment

ICDAS contends that, for the preliminary results, the Department made a methodological error when it used a 36-month period instead of the claimed 180-month period to amortize its start-up costs. ICDAS explains that the Department calculated the 36-month amortization period by dividing the 2001 depreciation expense of the Biga mill by the value of the assets used as a basis to calculate this depreciation expense. ICDAS maintains that this method for obtaining an accounting life for the mill is flawed because it is based on accounting amounts, rather than on an estimated useful life or the accounting life of the Biga mill. ICDAS contends that, by using the ratio of depreciation expense to the asset value, the Department calculated a shorter amortization period than the average accounting life maintained in ICDAS's normal books and records because ICDAS calculates depreciation expenses under the double declining balance method. According to ICDAS, the depreciation rate for a significant portion of the Biga mill's assets is 20 percent, which translates to an accounting life of 60 months. However, because there are assets that are depreciated at a lower rate, the average accounting life of the Biga mill is more than 60 months. ICDAS states that under Turkish Generally Accepted Accounting Principles (Turkish GAAP), new plant start-up and intangibles expenses that are capitalized shall be amortized at book value in equal portions over five years. ICDAS argues that the start-up amounts should be amortized over the lower of the average accounting life of the assets or the period suggested by Turkish GAAP. Therefore, ICDAS contends that for the final results, the Department should amortize the start-up amount over a 60-month period because the period suggested by Turkish GAAP is less than the average accounting life of the Biga mill.

ICDAS maintains that under both Turkish and U.S. GAAP, the straight-line method is preferred for amortizing start-up expense amounts. ICDAS asserts that U.S. GAAP refers to the useful life of the asset, citing to the Accounting Principles Board, Statement No. 17, and that Turkish GAAP mandates an amortization period of five years, citing the Republic of Turkey Official Gazette Publication Date January 4, 1961 No: 10703-10705 No 213 Tax Regulation Article 326. ICDAS maintains that Article 326 is the basis of GAAP in Turkey for this subject.

The petitioners maintain that the Department was correct to use the actual recorded depreciation and amortization costs in calculating the start-up adjustment. The petitioners also contend that ICDAS submitted new factual information pertaining to Turkish GAAP and that this information should be rejected and struck from the record. The petitioners argue that even if accepted as true, the mere existence of a different GAAP-consistent method of calculating costs does not render the respondent's actual, recorded costs any less accurate or unusable. Furthermore, the petitioners argue that the proposed departure from actual recorded costs in favor of a much longer depreciation period would, if accepted, require significant additional information that is not on the record.

Department's Position:

We disagree with ICDAS that the amortization period for the start-up adjustment should be the lower of the average accounting life of the assets per ICDAS's normal books and records or another acceptable method under Turkish GAAP.<sup>9</sup> However, we agree with ICDAS that the amortization period should be based on the weighted-average useful lives of the assets at the new facility. The SAA at 837 requires that the actual costs not being counted during the start-up period, *i.e.*, the difference between the actual costs and the costs of production calculated for start-up costs, be amortized over a reasonable period of time subsequent to the start-up phase over the life of the product or machinery. In the instant case, although ICDAS uses the double-declining balance method to calculate depreciation expense in its normal books and records, the SAA states that the amortization period should be based on the life of the product or machinery, rather than on the amount of depreciation recognized in a particular year. Therefore, we consider the weighted-average useful lives of the Biga mill's new assets to be the appropriate basis for determining the amortization period because it is based on the recorded useful lives of the new machinery. Thus, for the final results, we have revised the amortization period accordingly and recalculated the start-up adjustment.

Comment 13: Cost of Sales

ICDAS contends that for the preliminary results, the Department made adjustments to the submitted start-up costs which resulted in an increase in the reported per-unit COMs of the subject merchandise. However, the Department did not revise the cost of sales amount used the denominator of the G&A and net interest expense ratios. Therefore, for the final results, ICDAS contends that the Department should revise the cost of sales amount to reflect the adjustments made to the submitted start-up costs.

The petitioners did not comment on this issue.

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<sup>9</sup> The Department views ICDAS's citation to publicly available Turkish GAAP requirements as a reference to information in the public realm rather than as the submission of new factual information. Nonetheless, while we have not rejected this information because it is in the public realm, we have not relied on it when making our decision.

Department's Position:

We agree with ICDAS that, for the preliminary results, we inadvertently did not revise the cost of sales used in the calculation of the G&A and interest expense ratios. For the final results, we have: 1) revised the cost of sales amount to reflect the adjustments made to the submitted start-up costs; 2) recalculated the G&A and interest expense ratios; and 3) applied the ratios to the revised per-unit COMs in order to ensure the denominator used in calculating the ratio and the amount to which the ratio is applied are on the same basis.

Comment 14: *G&A Expenses*

The petitioners argue that the Department erred in its preliminary results by not including G&A expenses in its calculation of ICDAS's COP.

ICDAS agrees with the petitioners.

Department's Position:

We agree. Accordingly, we have included ICDAS's G&A expenses, as adjusted for reclassification of foreign exchange gains and losses on home market sales made in foreign currency from G&A expenses to financing expenses, in the calculation of the COP for the final results. See the Final Cost Calculation Memo.

Comment 15: *Foreign Exchange Gains and Losses*

ICDAS notes that, in the preliminary results, the Department implemented a change in practice regarding the treatment of foreign exchange gains and losses. According to ICDAS, the Department now includes in the net interest expense ratio computation all foreign exchange gains and losses with the exception of exchange gains and losses on raw material purchases incurred in Turkish high inflation economies. However, in implementing this change for the preliminary results, ICDAS contends that the Department unintentionally excluded exchange gains and losses on export sales from the interest expense ratio computation because these amounts were included in the sales revenue in its income statement, and not in the income and expenses from other operations category. ICDAS maintains that, had it been aware of the Department's change in methodology, it would have included this item in the submitted net interest expense rate computation.

In addition, ICDAS claims that the Department incorrectly included import expenses for secondary materials in the net interest expense ratio calculation. ICDAS argues that for the final results, the Department should exclude this item because ICDAS would have provided proof at verification that the import expenses for secondary materials consisted only of foreign exchange losses.



The petitioners contend that the Department should use the consolidated net interest expenses in accordance with its policy and that narrow selective changes should not be accepted. With regard to import expenses for secondary materials, the petitioners maintain that the Department should reject ICDAS's argument because it relies on explanations that appear to represent new information and speculation about what might have been corrected at verification.

Department's Position:

We agree with ICDAS. As noted in the preliminary results, we recently implemented a change in practice regarding the treatment of foreign exchange gains and losses. We now include in the net interest expense rate computation all foreign exchange gains and losses, with the exception of exchange gains and losses on raw material purchases incurred in Turkish high inflation economies. See Preliminary Results; see also Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review, 68 FR 11045, 11048 (Mar. 7, 2003), unchanged by the final results. With regard to foreign exchange gains and losses generated by purchased raw materials, in Turkish high-inflation cases we will continue to follow our practice of excluding these amounts due to the fact that they have been accounted for through the replacement cost methodology. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Turkey, 67 FR 62126 (Oct. 3, 2002), and accompanying Issues and Decision Memorandum at Comment 8.

ICDAS submitted a reconciliation of the U.S. sales to the audited financial statements in exhibit SA-19 of its October 21, 2002, supplemental response. We have noted from this exhibit that the foreign exchange gains and losses earned from export sales were included in the sales revenue which reconciles to the amount shown on the audited income statement. Therefore, for the final results we have included foreign exchange gains and losses from export sales in the calculation of the net interest expense rate.

Further, with respect to secondary materials, we note that in ICDAS's December 4, 2002, supplemental section D response it stated that the expenses recorded in the general ledger account at issue here relate to foreign exchange gains and losses from purchases of secondary materials. As a result, ICDAS excluded these expenses from the reported costs. Therefore, for the final results, we have relied on the statement made by ICDAS in its supplemental section D response and excluded import expenses for secondary materials from the net interest expense rate calculation. We excluded these foreign exchange losses on secondary materials because ICDAS used the replacement cost methodology in calculating its costs for them.

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review and the final weighted-average dumping margins for the reviewed firms in the Federal Register.

Agree \_\_\_\_\_

Disagree \_\_\_\_\_

\_\_\_\_\_  
James J. Jochum  
Assistant Secretary for  
Import Administration

\_\_\_\_\_  
(Date)