




UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-489-816
Investigation
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February 14, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination in the Antidumping Duty Investigation of Certain
Oil Country Tubular Goods from the Republic of the Turkey

SUMMARY

The U.S. Department of Commerce (the Department) preliminarily determines that certain oil country tubular goods (OCTG) from the Republic of the Turkey (Turkey) are being, or are likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Preliminary Determination" section of accompanying *Federal Register* notice. Interested parties are invited to comment on this preliminary determination.

BACKGROUND

On July 2, 2013, the Department received an antidumping duty (AD) petition¹ concerning imports of OCTG from Turkey filed in proper form on behalf of United States Steel Corporation, Vallourec Star L.P., TMK IPSCO, Energex (division of JMC Steel Group), Northwest Pipe Company, Tejas Tubular Products, Welded Tube USA Inc., Boomerang Tube LLC, and Maverick Tube Corporation (collectively, the petitioners).

On July 22, 2013, the Department initiated the AD investigation on OCTG from Turkey.²

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of the date of signature

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam, dated July 2, 2013.

² See *Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 78 FR 45505 (July 29, 2013) (*Initiation Notice*).



of the *Initiation Notice*.³ On August 12, 2013, WSP Pipe Co., Ltd. (WSP) submitted Scope Comments.⁴ Specifically, WSP requested that the Department exclude “pierced billets” from the scope of the investigations. On August 22, 2013, the petitioners filed rebuttal comments to WSP’s scope comments.⁵

The Department also set aside a period of time for parties to comment on product characteristics for use in the AD questionnaire.⁶ Between August 5, 2013 and August 12, 2013, we received comments from the petitioners and the producers/exporter of OCTG from various countries subject to the investigations. After reviewing all comments, we have adopted the characteristics and hierarchy as explained in the “Product Comparisons” section of this notice, below.

On August 16, 2013, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of OCTG from the Turkey.⁷ On August 20, 2013, we selected Borusan Istikbal Ticaret (Istikbal) and Borusan Mannesmann Boru Sanayi ve Ticaret (BMB), as mandatory respondents in this investigation.⁸

On August 21, 2013, we issued the AD questionnaire to Istikbal and BMB.⁹ On September 16, 2013, Istikbal and BMB (collectively Borusan) submitted a letter stating that they are in substance a single entity and intended to submit a single response.¹⁰ On September 24, 2013, and October 28, 2013, we received a questionnaire response from Borusan.¹¹

On September 24, 2013, we selected Çayirova Boru Sanayi ve Ticaret A.Ş. (Çayirova) and its affiliated exporter, Yücel Boru İthalat-İhracat ve Pazarlama A.Ş. (YIIP) (collectively Yücel) as an additional mandatory respondent in this investigation.¹²

On September 27, 2013, we issued the AD questionnaire to Yücel.¹³ On November 4, 2013, and November 25, 2013, we received a questionnaire response from Yücel.¹⁴

³ See *Initiation Notice*, 78 FR at 45506.

⁴ See Letter from WSP to the Department of Commerce entitled “*Comments on scope of investigations: Antidumping Duty Investigations of Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam; Countervailing Duty Investigation of Oil Country Tubular Goods from India and Turkey*” dated August 12, 2013 (Scope Comments).

⁵ See Letter from the petitioners to the Department of Commerce entitled “*Certain Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam: Rebuttal Comments on Scope of Investigation*”, dated August 22, 2013 (Scope Rebuttal Comments).

⁶ See *Initiation Notice*, 78 FR at 45506-45507; see also the Department’s letter to all interested parties dated July 29, 2013.

⁷ See *Certain Oil Country Tubular Goods From India, Korea, the Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam: Determinations*, Investigation Nos. 701-TA-499-500 and 731-TA-1215-1223 (Preliminary), 78 FR 52213 (August 22, 2013).

⁸ See the “Selection of Respondents” section of this memorandum.

⁹ See Letter from the Department to Istikbal and BMB, dated August 21, 2013.

¹⁰ See Letter from BMB and Istikbal to the Department, “*Oil Country Tubular Goods from Turkey*, Case No. A-489-816”, dated September 16, 2013.

¹¹ See Section A response from Borusan, dated September 24, 2013, and Section B and C response from Borusan, dated October 28, 2013. As discussed below in the “Affiliation and Single Entity” section of this memorandum, we are preliminarily determining to treat Borusan as a single entity for purposes of this preliminary determination.

¹² See the “Selection of Respondents” section of this memorandum.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, 2013, through October 16, 2013. Therefore, all deadlines in this segment of the proceeding have been extended by 16 days.¹⁵ On October 24, 2013, the Department postponed the preliminary determination of this investigation by 50 days, to February 14, 2014, pursuant to section 733(c)(1)(B) of the Act and 19 CFR 351.205(b)(2).¹⁶

On November 18, 2013, the petitioners submitted a sales-below-cost allegation for Borusan.¹⁷ On December 5, 2013 we initiated a cost investigation for Borusan and requested that Borusan provide cost of production (COP) information.¹⁸ On December 20, 2013, Borusan submitted its COP information.¹⁹

On January 22, 2014, we requested that Borusan provide information on its cost of further manufacturing.²⁰ On February 5, 2014, Borusan submitted information on its cost of further manufacturing.²¹

We sent supplemental questionnaires to Borusan on November 7, 2013, December 12, 2013, December 23, 2013, January 3, 2014, January 15, 2014, and January 27, 2014.²² We received responses from Borusan to the supplemental questionnaires on November 27, 2013, and January 8, 2014, January 22, 2014, January 24, 2014, and February 7, 2014.²³ We have not had a chance to consider Borusan's submission filed on February 7, 2014, for this preliminary determination.

The petitioners submitted comments on Borusan's questionnaire and supplemental questionnaire responses on October, 24, 2013, November 12, 2013, December 11, 2013, January 3, 2013,

¹³ See Letter from the Department to Yücel, dated September 27, 2013.

¹⁴ See Section A response from Yücel, dated November 4, 2013, Sections C and D response from Yücel, dated November 25, 2013.

¹⁵ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

¹⁶ See *Certain Oil Country Tubular Goods From India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 78 FR 65268 (October 31, 2013). Due to the closure of the Federal Government on February 13, 2014, Commerce completed these determinations on the next business day (i.e., February 14, 2014). See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005).

¹⁷ See Letter from the petitioners regarding Borusan sale-below-cost allegation, dated November 18, 2013.

¹⁸ See Memorandum to Thomas Gilgunn entitled "Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Republic of Turkey: The Petitioners' Allegation of Home Market Sales at Prices Below the Cost of Production for Borusan Mannesman Boru Sanayi ve Ticaret and Borusan Istikbal Ticaret", dated December 5, 2013. See also Letter from the Department to Borusan, dated December 5, 2013.

¹⁹ See Section D response from Borusan, dated December 20, 2013.

²⁰ See Letter from Department to Borusan, dated January 22, 2014.

²¹ See Section E response from Borusan, dated February 5, 2014.

²² See Letters from Department to Borusan, dated November 7, 2013, December 12, 2013, December 23, 2013, January 3, 2014, January 15, 2014, and January 27, 2014.

²³ See Supplemental questionnaire responses from Borusan dated November 27, 2013, and January 8, 2014, January 22, 2014, January 24, 2014, and February 7, 2014.

January 17, 2014, January 28, 2014, and February 5, 2014. We have not had a chance to consider the petitioners' comments filed on February 5, 2014, for this preliminary determination.

On November 21, 2013, Borusan submitted a response to the petitioners' comments dated November 12, 2013. On February 6, 2014, Borusan submitted a response to the petitioners' comments dated February 5, 2014. We have not had a chance to consider Borusan's response to the petitioners' comments filed on February 5, 2014, for this preliminary determination.

We sent supplemental questionnaires to Yücel on December 16, 2013, December 17, 2013, January 9, 2014, and January 10, 2014.²⁴ We received responses from Yücel to the supplemental questionnaires on December 28, 2013, and January 16, 2014, and January 21, 2014.²⁵ The petitioners submitted comments concerning Yücel's questionnaire and supplemental questionnaire responses on November 18, 2013, December 11, 2013, January 9, 2014, January 31, 2014, and February 5, 2014. On February 5, 2014, Yücel submitted a response to the petitioners' comments dated January 31, 2014.

On December 18, 2013, the petitioners filed amendments to the petition, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(2)(i), alleging that critical circumstances exist with respect to imports of OCTG.²⁶ In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted 20 days or more before the scheduled date of the preliminary determination, the Department will issue a preliminary finding not later than the preliminary determination.

On January 14, 2014, Borusan requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month to a six-month period. On February 12, 2014, Yücel, requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month to a six-month period.²⁷

²⁴ See Letters from Department to Yücel, dated December 16, 2013, December 17, 2013, January 9, 2014, and January 10, 2014.

²⁵ See Supplemental questionnaire responses from Yücel, dated December 28, 2013, and January 16, 2014, and January 21, 2014.

²⁶ See Letter from the petitioners, "Amendment to Petition for the Imposition of Antidumping Duties: Oil Country Tubular Goods from the Philippines" (December 18, 2013) (Amendment to Turkey Petition).

²⁷ See Letter from Borusan, "Oil Country Tubular Goods from Turkey, Case No. A-489-816: Request for Extension of Final Determination", dated January 14, 2014. See also, Letter from Yücel, "OCTG from Turkey; request to extend final determination", dated February 12, 2014. On February 11, 2014, the petitioners requested that, in the event of a negative preliminary determination, the Department postpone its final determination under section 735(a)(2)(B) of the Act. Because the preliminary determination is affirmative, the Department does not need to consider the petitioners' request.

PERIOD OF INVESTIGATION

The period of investigation (POI) is July 1, 2012, through June 30, 2013. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, July 2013.²⁸

POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

On January 14, 2014, Borusan requested that the Department postpone the final determination, and requested that the Department extend provisional measures from four to six months, in accordance with sections 735(a)(2)(A) and 733(d) of the Act.²⁹ On February 12, 2014, Yücel requested that the Department postpone the final determination, and requested that the Department extend provisional measures from four to six months, in accordance with sections 735(a)(2)(A) and 733(d) of the Act.³⁰ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(1), because (1) our preliminary determination is affirmative, (2) the requesting exporters, Borusan and Yücel, account for a significant proportion of exports of subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request to postpone the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*. In addition, pursuant to section 733(d) of the Act and 19 CFR 351.210(e)(2), we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

SCOPE OF INVESTIGATION

The merchandise covered by this investigation is OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (e.g., whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock. For a complete description of the scope of the investigation, see the accompanying *Federal Register* notice.

SCOPE COMMENTS

In the *Initiation Notice*,³¹ the Department invited interested parties to “to raise issues regarding product coverage.”

²⁸ See 19 CFR 351.204(b)(1).

²⁹ See Letter from Borusan, “Oil Country Tubular Goods from Turkey, Case No. A-489-816: Request for Extension of Final Determination”, dated January 14, 2014.

³⁰ See Letter from Yücel, “OCTG from Turkey; request to extend final determination”, dated February 12, 2014.

³¹ See *Initiation Notice*, 78 FR at 45506.

On August 12, 2013, we received scope comments from WSP (the sole mandatory respondent in the concurrent AD OCTG from Thailand investigation), requesting that the Department clarify the scope of these OCTG investigations by excluding certain “pierced billets” from the scope.”³² WSP described the merchandise subject to the request as “billets with a chemical composition used to produce a variety of pipe and tube products (including but not limited to OCTG), which have been pierced, but which have not been otherwise further processed prior to importation into the United States.”³³ WSP further described the merchandise as “heated and pierced; it has not been rolled, sized, straightened, cut, etc., prior to importation into the United States.”³⁴ WSP stated that it did not think that such “pierced billets” constitute “unfinished OCTG, including green tubes” because the billets are not dedicated for use as OCTG or green tubes and can be used for other applications such as diesel sleeves, mine crane rear axles, and mechanical or structural pipe.³⁵ WSP also claimed that the merchandise in question requires substantial additional processing before it could be considered unfinished OCTG and thus subject to the scope of the investigations.³⁶

We received rebuttal comments from the petitioners on August 22, 2013, in which the petitioners claim that the Department should reject WSP’s request and that the merchandise in question is covered by the scope of the investigations.³⁷ The petitioners state that the scope language of the investigations covers “hollow steel products of circular cross section” that are unfinished and may be used as OCTG, and argue that the merchandise described by WSP fits this physical description and thus is clearly within the scope of the order.³⁸ The petitioners further state that the inclusion of this merchandise in the scope is consistent with previous practices and decisions by the Department.³⁹ The petitioners also argue that WSP has provided no information to substantiate the claim that “pierced billets” require substantial additional processing, and moreover that there are many types of unfinished OCTG besides “green tubes” that are covered by the scope.⁴⁰ Finally, the petitioners believe that any “pierced billets” imported into the United States would be classified under the heading 7304 of Chapter 73 of the HTS, and that such a classification would indicate that the merchandise was a form of unfinished OCTG and covered by the scope.⁴¹

In response to WSP’s arguments, the petitioners argued in part that the physical characteristics of the product in question were the same as merchandise covered by the scope of the investigation and that there was no evidence that the merchandise in question required further manufacturing. WSP never responded to the petitioners’ arguments, provided no further information, and subsequently did not respond to the Department’s AD Questionnaire. Therefore, we preliminarily find that we do not have sufficient evidence on the record to determine whether the merchandise described by WSP is not covered by the scope of these investigations. We invite

³² See Scope Comments at 2.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 2-3.

³⁷ See Scope Rebuttal Comments at 2.

³⁸ *Id.* at 2-3.

³⁹ *Id.*

⁴⁰ *Id.* at 3.

⁴¹ *Id.* at 4.

parties to comment on this in their briefs so that the issue can be addressed in the final determination.⁴²

SELECTION OF RESPONDENTS

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters or producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. In addition, section 777A(c)(2) of the Act provides that the Department will limit its examination to either (A) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (B) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

In the *Initiation Notice* we stated that in the event the Department determined that the number of known exporters or producers is large, we intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of OCTG from Turkey.⁴³ On July 24, 2013, we released the CBP data to all parties with access to information protected by administrative protective order.⁴⁴ The data on the record indicated that there were eight potential producers or exporters from Turkey that exported the subject merchandise to the United States during the POI.⁴⁵ We invited comments on CBP data and selection of respondents for individual examination.⁴⁶ We received no comments from interested parties.

Because of the large number of known producers and/or exporters, and based on our resource constraints, we determined to limit the number of companies individually examined and that we had the resources to individually examine two companies.⁴⁷ Accordingly, we selected BMB and Istikbal⁴⁸ for individual examination in this investigation.⁴⁹ These companies were the two producers/exporters of subject merchandise that accounted for the largest volume of the subject merchandise imported during the POI that we could reasonably examine in accordance with section 777A(c)(2)(B) of the Act.⁵⁰

Borusan submitted a letter on September 16, 2013, stating that BMB and Istikbal are in substance a single entity and that BMB intends to submit a single consolidated questionnaire response that will be responsive to the AD questionnaire addressed to both BMB and Istikbal.⁵¹ Borusan explained that BMB and Istikbal are both members of the Borusan Group and are

⁴² Parties are reminded to file any comments concerning the scope to all of the records of the concurrent OCTG investigations.

⁴³ See *Initiation Notice*, 78 FR at 45511.

⁴⁴ See Memorandum entitled "Release of Customs and Border Protection (CBP) data" dated July 23, 2013.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ See Memorandum to Gary Taverman entitled "Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Republic of Turkey: Respondent Selection" dated August 20, 2013 (Respondent Selection Memo).

⁴⁸ Selected respondents are listed in alphabetical order.

⁴⁹ See Respondent Selection Memo.

⁵⁰ *Id.*

⁵¹ See Letter from BMB and Istikbal to the Department, dated September 16, 2013.

affiliated through direct and indirect ownership of Borusan Holdings, the ultimate parent of the Borusan Group.⁵² Borusan also explained that BMB is the sole producer of subject merchandise in the group and that both BMB and Istikbal export subject merchandise to the United States.⁵³ Borusan also explained that, while Istikbal is a separate entity, it is in substance an export division of BMB functioning as the trading entity of the Borusan Group.⁵⁴ Finally, Borusan stated that, for purposes of AD law, all sales that are invoiced by Istikbal are U.S. sales of subject merchandise by BMB, and BMB's response will provide a complete response with respect to all its sales of OCTG to the United States, including the Istikbal-invoiced sales.⁵⁵

Because the Department has found that determinations concerning whether particular companies should be "collapsed" (*i.e.*, treated as a single entity for purposes of calculating AD rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis, the Department normally does not make collapsing decisions at the time of respondent selection.⁵⁶ Consistent with that practice, at the time of respondent selection in this investigation, the Department did not address Borusan's claims regarding affiliation and collapsing. However, in light of the information provided by Borusan and our practice with respect to unaffiliated parties with knowledge that certain sales are destined for the United States, we anticipated making a determination that BMB knew, or had reason to know, that the OCTG (the title of which it transferred to Istikbal) was destined for the United States, and therefore, for AD purposes, BMB, rather than Istikbal, would be considered the party making the first sale to the United States. Because we continued to have the resources to individually examine two mandatory respondents in this investigation, and because we concluded Istikbal would likely have no reportable transactions, consistent with our decision in the Respondent Selection Memo, we selected Yücel as an additional mandatory respondent.

AFFILIATION AND SINGLE ENTITY

Section 771(33) of the Act, in pertinent part, identifies persons that shall be considered "affiliated" or "affiliated persons" as: two or more persons directly or indirectly controlling, controlled by, or under common control with, any person (section 771(33)(F) of the Act). Section 771(33) of the Act further stipulates that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person, and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) notes that control may be found to exist within corporate groupings.⁵⁷ The Department's regulations at 19 CFR 351.102(b) state that in determining whether control over another person exists within the meaning of section 771(33) of the Act, the Department will

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ See, e.g., *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 40565 (July 10, 2012).

⁵⁷ See SAA, H.R. Doc. No. 316, 103d Cong., 2d Sess. at 838 (1994) (stating that control may exist within the meaning of section 771(33) of the Act in the following types of relationships: (1) corporate or family groupings, (2) franchises or joint ventures, (3) debt financing, and (4) close supplier relationships in which either party becomes reliant upon the other).

not find that control exists unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.

Affiliation Findings: BMB and Istikbal

As noted above, in the instant investigation Borusan provided a joint response to the Department's questionnaire on behalf of BMB and Istikbal.⁵⁸ Borusan explained that BMB and Istikbal are both members of the Borusan Group and are affiliated through direct and indirect ownership of Borusan Holdings, the ultimate parent of the Borusan Group.⁵⁹ Borusan explained that BMB is the sole producer of subject merchandise in the Borusan Group and that both BMB and Istikbal export subject merchandise to the United States.⁶⁰ Borusan also explained that, while Istikbal is a separate entity, it is in substance an export division of BMB functioning as the trading entity of the Borusan Group.⁶¹ Borusan also reported that during the POI, BMB manufactured the OCTG, which both BMB and Istikbal sold.⁶² In addition, Borusan stated that BMB sold OCTG in the home market (HM), and also exported and sold OCTG to the United States through BMB's U.S. affiliates (constructed export price (CEP) sales).⁶³ Borusan reported that BMB transferred title of OCTG to its affiliated trading company, Istikbal, who then exported and sold directly to unaffiliated customers in the United States (export price (EP) sales).⁶⁴

Borusan reported that although BMB and Istikbal have no direct ownership in one another, they are both part of the Borusan Group.⁶⁵ Specifically, Borusan Holding directly owns a majority of shares of Istikbal and Borusan Marnesmann Boru Yatirim Holding A.Ş (BMBYH). In turn, BMBYH holds a majority of shares of BMB.⁶⁶ In addition, BMB and Istikbal share common board members.⁶⁷

In light of the above, we find Borusan Holding's majority ownership of Istikbal, and its majority ownership of BMBYH, which in turn holds a majority ownership of BMB, results in operational control or direction, and this control or direction has the potential to impact decisions concerning the production, pricing, and cost of the subject merchandise. Thus, we find Istikbal and BMB are affiliated because they are under common control, pursuant to section 771(33)(F) of the Act.

Affiliation Findings: Çayirova and YIIP

The Department selected YIIP as a mandatory respondent in the above-referenced investigation.⁶⁸ As noted above, Yücel provided a joint response to the Department's

⁵⁸ See Letter from BMB and Istikbal to the Department, dated September 16, 2013.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² See Section A response from Borusan, dated September 24, 2013, at A-8.

⁶³ *Id.*, at A-8, A-18, A-19, and A-20.

⁶⁴ *Id.*, at A-8, A-18, and A-19.

⁶⁵ *Id.*, at A-8

⁶⁶ *Id.*

⁶⁷ See Section A response from Borusan, dated September 24, 2013, at A-8.

⁶⁸ See Additional Respondent Selection Memo.

questionnaire on behalf of Çayirova and YIIP.⁶⁹ Yücel explained that Çayirova and YIIP are affiliated because they are both members of the Yücel group of companies (Yücel Family Group). The Yücel Family Group consists of members of the Yücel family.⁷⁰ Pursuant to section 771(33)(A) of the Act, the Yücel family members are affiliated. Accordingly, we find that the Yücel family are members of a family grouping. That grouping collectively has a majority ownership of Çayirova and Yücel Boru ve Profil Endustrisi A.Ş (Yücel Boru). Çayirova and Yücel Boru, in turn, collectively own a majority of YIIP.⁷¹ Therefore, we preliminarily find that Çayirova and YIIP are affiliated with each other pursuant to section 771(33)(F) of the Act, because they are under the common control of the Yücel Family Group which has majority ownership of Çayirova and Yücel Boru and through those companies YIIP. Yücel also explained that Çayirova, the only producer of OCTG in the Yücel Family Group, is YIIP's affiliated producer.⁷² Yücel reported that during the POI, Çayirova manufactured the OCTG which it sold and transferred title to YIIP.⁷³ In turn, YIIP then sold the merchandise under consideration, which was produced by Çayirova, to the unaffiliated customer in the United States (EP Sales).⁷⁴ Yücel reported that YIIP did not produce OCTG, nor does it have a production facility, as it is the export trading arm of the Yücel Family Group.⁷⁵

In light of the above, we find the Yücel Family Group's ownership of Çayirova and YIIP results in operational control or direction, and this control or direction has the potential to impact decisions concerning the production, pricing, and cost of the subject merchandise. Thus, we find Çayirova and YIIP are affiliated because they are under common control, pursuant to section 771(33)(F) of the Act.

Single Entity Analysis

We next examined whether any of the affiliated companies should be considered a single entity for purposes of this investigation. 19 CFR 351.401(f) states that the Department will treat affiliated producers as a single entity where they have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Department concludes that there is a significant potential for the manipulation of price or production. 19 CFR 351.401(f) further states that in identifying a significant potential for manipulation, the Department may consider factors including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

⁶⁹ See Section A response from Yücel, dated November 4, 2013 (Yücel Section A Response), and Sections C and D response, dated November 25, 2013.

⁷⁰ See Yücel Section A Response, at 5 and at Exhibit 5

⁷¹ *Id.*, at Exhibit 5.

⁷² *Id.*, at 5.

⁷³ *Id.*, at 10.

⁷⁴ *Id.*, at 9.

⁷⁵ *Id.*, at 5.

While 19 CFR 351.401(f) applies only to producers, the Department has found it to be instructive in determining whether non-producers should be collapsed and has used the criteria in the regulation in its analysis.⁷⁶

With respect to Borusan, as explained above, we have preliminarily determined that Istikbal and BMB are affiliated; consequently, the first collapsing criterion has been satisfied. As noted above, the Department's practice with respect to affiliated exporters and producers of subject merchandise is also to examine whether the potential for manipulation of price or production exists using the regulatory criteria. With respect to the first criterion, level of ownership, we find that the level is significant. Istikbal is majority owned by Borusan Holding and BMB is majority owned by BMBYH, which in turn, is majority owned by Borusan Holding.⁷⁷ With respect to the second criteria, overlapping board members, we find that there is substantial overlap of both board members and managers between BMB and Istikbal.⁷⁸ With respect to the third criteria, intertwined operations, record evidence demonstrates that BMB's and Istikbal's operations are closely intertwined. BMB produces the subject merchandise and makes the EP sales through Istikbal.⁷⁹ Specifically, Istikbal takes title to the OCTG prior to export and then BMB invoices the unaffiliated U.S. customer on behalf of Istikbal.⁸⁰ BMB and Istikbal reported that BMB produced all of the merchandise under investigation sold by BMB or Istikbal during the POI, and for all subject merchandise invoiced in the name of Istikbal, the corresponding activities were handled by BMB. In addition, record evidence indicates that Istikbal has several employees who perform accounting functions for both BMB and Istikbal.

In consideration of the above, and in accordance with 19 CFR 351.401(f) and the Department's practice,⁸¹ we are thus treating BMB and Istikbal as a single entity for purposes of this preliminary determination.

With respect to Yücel, as explained above, we have preliminarily determined that Çayirova and YIIP are affiliated; consequently, the first collapsing criterion has been satisfied. As noted above, the Department's practice with respect to affiliated exporters and producers of subject merchandise is also to examine whether the potential for manipulation of price or production

⁷⁶ See, e.g., *Honey From Argentina: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review*, 77 FR 1458, 1461-62 (January 10, 2012), unchanged in *Honey From Argentina: Final Results of Antidumping Duty Administrative Review*, 77 FR 36253 (June 18, 2012); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil*, 69 FR 76910 (December 23, 2004) and accompanying Issues and Decision Memorandum at Comment 5. The U.S. Court of International Trade (CIT) has found that collapsing exporters is consistent with a "reasonable interpretation of the antidumping duty statute." See *Hontex Enterprises, Inc. v. United States*, 248 F. Supp. 2d 1323, 1338 (CIT 2003).

⁷⁷ For the specific ownership percentages see Memorandum to the File entitled "Certain Oil Country Tubular Goods from the Republic of Turkey – Preliminary Determination Analysis Memorandum for Borusan Mannesmann Boru Sanayi ve Ticaret and Borusan Istikbal Ticaret" dated concurrently with this memorandum. (Borusan Preliminary Analysis Memorandum).

⁷⁸ For a specific discussion of shared board members and managers see Borusan Preliminary Analysis Memorandum.

⁷⁹ See Section A response from Borusan, dated September 24, 2013, at A-8, A-18, and A-19.

⁸⁰ *Id.*

⁸¹ See *Flowers from Colombia* (citing *Granite Products from Spain*), see also *Queen's Flowers de Colombia v. United States*, 981 F. Supp. 617, 622 (1997) (in which the CIT expressly affirmed the Department's authority to collapse affiliated parties for purposes of antidumping analysis).

exists using the regulatory criteria. With respect to the first criterion, level of ownership, we find that the level is significant.⁸² The Yücel Family Group directly owns a majority of shares of Çayirova and Yücel Boru, and Çayirova and Yücel Boru collectively own a majority of YIIP. With respect to the second criteria, overlapping board members, we find that there is substantial overlap of board members between Çayirova. With respect to the third criteria, intertwined operations, Yücel's response provides evidence that Çayirova's and YIIP's operations are closely intertwined. Yücel's response states that Çayirova produces the subject merchandise and makes the EP sales through YIIP. Specifically, YIIP coordinated the sale, submitted the order details to Çayirova, takes title to the OCTG prior to the export and then invoiced the unaffiliated U.S. customer on behalf of Çayirova. Çayirova produced all of the merchandise under investigation that was sold by YIIP during the POI. For all subject merchandise invoiced in the name of Çayirova, the corresponding activities were handled by YIIP.

In consideration of the above and in accordance with 19 CFR 351.401(f) and the Department's practice, we thus are treating Çayirova and YIIP as a single entity for purposes of this preliminary determination. For more detail on the Department's full analysis, see Yücel's Preliminary Analysis Memorandum.⁸³

CRITICAL CIRCUMSTANCES

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist in an AD investigation if there is a reasonable basis to believe or suspect that: (A) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period. For the reasons explained below, we are preliminarily determining that critical circumstances do not exist for imports of OCTG from Turkey.

A History of Dumping and Material Injury

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, the Department generally considers current or previous AD orders on subject merchandise from the country in question in the United States and current orders in any other country with regard to imports of subject merchandise.⁸⁴ No parties have made any claims

⁸² See Yücel Section A Response, at Exhibit 5.

⁸³ See Memorandum to the File entitled "Certain Oil Country Tubular Goods from the Republic of Turkey – Preliminary Determination Analysis Memorandum for Çayirova Boru Sanayi ve Ticaret A.Ş. and Yücel Boru İthalat-İhracat ve Pazarlama A.Ş." dated concurrently with this memorandum. (Yücel Preliminary Analysis Memorandum).

⁸⁴ See, e.g., *Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117, 59120 (November 17, 2009) unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).

regarding completed AD proceedings for OCTG from Turkey, and the Department is not aware of the existence of any active AD orders on OCTG from Turkey in other countries. As a result, the Department does not find that there is a history of injurious dumping of OCTG from the Turkey pursuant to section 733(e)(1)(A)(i) of the Act.

Knowledge that Exporters Were Dumping

In accordance with section 733(e)(1)(A)(ii), the Department generally bases its decision with respect to the importer's knowledge on the margins calculated in the preliminary AD determination and the ITC's preliminary injury determination.⁸⁵ The Department normally considers margins of 25 percent or more for EP sales and 15 percent or more for CEP sales sufficient to impute importer knowledge of sales at LTFV.⁸⁶ In this investigation Borusan reported both EP sales and CEP sales, Yücel reported EP sales. The preliminary dumping margins we calculated of 0.00 percent for Borusan and 4.87 for Yücel, the only two mandatory respondents in this investigation, do not exceed the threshold sufficient to impute knowledge of dumping (i.e., 25 percent for EP sales and 15 percent for CEP sales). Therefore, we determine that there is no sufficient basis to find that importers knew or should have known that the exporters were selling the merchandise under consideration at LTFV. Further, we have preliminarily applied the rate calculated for Yücel to all other companies. Therefore, the record does not support imputing importer knowledge of sales at LTFV to imports of these exporters as well.

Because the statutory criteria of section 733(e)(1)(A) of the Act have not been satisfied, we did not examine whether imports from Borusan and Yücel or from all other companies were massive over a relatively short period pursuant to section 733(e)(1)(B) of the Act.⁸⁷ Accordingly, we find that the statutory criteria necessary for determining affirmative critical circumstances have not been met and, therefore, we preliminarily determine that critical circumstances do not exist for imports of OCTG from Turkey.

DISCUSSION OF METHODOLOGY

Fair Value Comparisons

To determine whether sales of OCTG from Turkey to the United States were made at LTFV, we compared the EPs and CEPs to the normal value (NV), as described in the "Export Price", "Constructed Export Price" and "Normal Value" sections of this memorandum, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared the weighted-average EP to

⁸⁵ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From Mexico*, 77 FR 17422, 17425 (March 26, 2012).

⁸⁶ *Id.*

⁸⁷ The petitioners also alleged that importers, exporters, or foreign producers, through industry media and conferences, had reason to believe that the petition was likely two months before they were filed, and thus argued that the comparison period for determining whether there have been massive imports should begin in May 2013, rather than July 2013, when the petition was filed. See Amendment to Turkey Petition. Because we have determined that the first criterion has not been satisfied, we have not reached the second criterion and thus the petitioners' argument as to early knowledge of the petition is moot.

POI weighted-average NVs for Yücel and the weighted-average EP and CEP to POI weighted-average NVs for Borusan.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average CEPs or EPs (the average-to-average or A-to-A method), unless the Secretary determines that another method is appropriate in a particular situation. In recent AD proceedings, the Department examined whether to use the average-to-transaction (A-to-T) method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. In order to determine which comparison method to apply, in recent proceedings, the Department applied a “differential pricing” (DP) analysis for determining whether application of A-to-T comparisons is appropriate pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.⁸⁸ The Department finds the DP analysis used in recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation.⁸⁹ The Department intends to continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department’s additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-to-A method in calculating weighted-average dumping margins.

The DP analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods.⁹⁰ If such a pattern is found, then the DP analysis evaluates whether such differences can be taken into account when using the A-to-A method to calculate the weighted-average dumping margin. The DP analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes as reported. Regions are defined using the reported destination code (*i.e.*, zip codes), which are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI

⁸⁸ See, e.g., *Xanthan Gum From Austria: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 2251 (January 10, 2013) and accompanying Preliminary Decision Memorandum at {insert place in PDM where discussion can be found}; unchanged in *Xanthan Gum From Austria: Final Determination of Sales at Less Than Fair Value*, 78 FR 33354 (June 4, 2013) (*Xanthan Gum From Austria*) and accompanying Issues and Decision Memorandum at 2.

⁸⁹ *Id.*; see also *Hardwood and Decorative Plywood From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying Issues and Decision Memorandum at Comment 5; *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People’s Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Reviews and New Shipper Reviews*, 79 FR 4327 (January 27, 2014) (*Tapered Roller Bearings from the PRC*); *Chlorinated Isocyanurates from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 79 FR 4876 (January 30, 2014); *Light-Walled Rectangular Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 5375 (January 31, 2014) (*Light-Walled Pipe and Tube from Mexico*).

⁹⁰ As noted above, the DP analysis has been utilized in recent AD investigations and several recent AD administrative reviews to determine the appropriate comparison methodology. See, e.g., *Tapered Roller Bearings from the PRC*; *Light-Walled Pipe and Tube from Mexico*.

being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the DP analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold (*i.e.*, 0.8) provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales were found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of EPs or CEPs that differ significantly supports the consideration of the application of the A-to-T method to all sales as an alternative to the A-to-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-to-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-to-A method, and application of the A-to-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-to-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of EPs or CEPs that differ significantly such that an alternative comparison method should be considered, then in the second stage of the DP analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-to-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the

weighted-average dumping margin between the A-to-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described DP approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

Based on the results of the DP analysis, the Department finds that 36.44 percent of Borusan's U.S. sales pass the Cohen's *d* test, and confirm the existence of a pattern of EPs and CEPs for comparable merchandise that differ substantially among purchasers, regions, or time periods. Further, the Department determines that the A-to-A method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the A-to-A method and an alternative method based on the A-to-T method. Accordingly, the Department has determined to use the A-to-A method to calculate the preliminary weighted-average dumping margin for Borusan.⁹¹

Based on the results of the DP analysis, the Department finds that 62.85 percent of Yücel's U.S. sales pass the Cohen's *d* test, and confirm the existence of a pattern of EPs for comparable merchandise that differ substantially among purchasers, regions, or time periods. Further, the Department determines that the A-to-A method can appropriately account for such differences because there is not a meaningful difference in the weighted-average dumping margins when calculated using the A-to-A method and an alternative method based on the A-to-T method. Accordingly, the Department has determined to use the A-to-A method to calculate the preliminary weighted-average dumping margin for Yücel.⁹²

Product Comparisons

As noted above, the Department gave parties an opportunity to comment on the appropriate hierarchy of product characteristics for model matching purposes within a certain deadline.⁹³ On August 5, 2013, we received comments regarding physical product characteristics from interested parties.⁹⁴ On August 12, 2013, we received rebuttal comments from interested parties.⁹⁵

⁹¹ See Borusan Preliminary Analysis Memorandum. In this preliminary determination, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006) (*Final Modification of Weighted-Average Dumping Margin*). In particular, the Department compared weighted-average EPs and CEPs with weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

⁹² See Yücel's Preliminary Analysis Memorandum, dated February 13, 2014. In this preliminary determination, the Department applied the weighted-average dumping margin calculation method adopted in *Final Modification of Weighted-Average Dumping Margin*. In particular, the Department compared weighted-average EPs with weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

⁹³ See *Initiation Notice*, 78 FR at 45506-7.

We considered the comments that were submitted and established the appropriate product characteristics to use as a basis for defining models and, when necessary, for comparing similar models, for this AD investigation. The Department identified ten criteria for matching U.S. sales of subject merchandise to NV (whether or not seamless or welded, type, grade, whether or not coupled, whether or not ends are upset, whether or not ends are threaded, nominal outside diameter, length, heat treatment, and nominal wall thickness), which were included in the questionnaires issued to the respondents on August 21, 2013.⁹⁶

The goal of the product characteristic hierarchy is to identify the best possible matches with respect to the characteristics of the merchandise. While variations in cost may suggest the existence of variation in product characteristics, such variations in costs do not constitute differences in products in and of themselves. Furthermore, the magnitude of variations in cost may differ from company to company, and even for a given company over time and, therefore, do not, in and of themselves, provide a reliable basis for identifying the relative importance of different product characteristics. The Department has noted that for defining products and creating a model match hierarchy, “{t}he physical characteristics are used to distinguish the differences among products across the industry,” that “{c}ost is not the primary factor for establishing these characteristics,” and, in short, “{c}ost variations are not the determining factor in assigning product characteristics for model-matching purposes.”⁹⁷

Therefore, based on the above, the Department is not modifying the hierarchy it proposed after the initiation of this investigation and included in its questionnaires. In accordance with section 771(16) of the Act, all products produced by Borusan, covered by the description in the “Scope of Investigation” section above, and sold in the comparison market during the POI, are considered to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. For Borusan we have relied on the above mentioned 10 criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product. Where there were no sales of identical merchandise in the comparison market to compare to subject merchandise sold in the United States, we compared these U.S. sales to comparison-market sales of the most-similar, foreign like product on the basis of the reported product characteristics and instructions provided in the AD questionnaire, which were made in the

⁹⁴ See Letters from the petitioners, as well as SeAH Steel Corporation, Oil Country Tubular Ltd., United Seamless Tubular Pvt. Ltd., and Jubail Energy Services Company and Duferco Steel Inc., dated August 5, 2013.

⁹⁵ See Letters from the petitioners, as well as AJU Besteel Co., Ltd. and Husteel Co., Ltd., Borusan Mannesmann Boru Sanayi ve Ticaret A.S., ILJIN Steel Corporation, Interpipe and North American Interpipe, Oil Country Tubular Ltd., United Seamless Tubular Pvt. Ltd., WSP Pipe Co., Ltd., and Jubail Energy Services Company and Duferco Steel Inc., dated August 12, 2013.

⁹⁶ See Letter from the Department to Istikbal and BMB, dated August 21, 2013, and Letter from the Department to Yücel, dated September 27, 2013.

⁹⁷ See *Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review*, 73 FR 12950 (March 11, 2008), and accompanying Issues and Decision Memorandum at Comment 1. Also, the Department’s “...selection of model match characteristics {is based} on unique measurable physical characteristics that the product can possess” and “differences in price or cost, standing alone, are not sufficient to warrant inclusion in the Department’s model-match of characteristics which a respondent claims to be the cause of such differences.” See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Turkey*, 65 FR 15123 (March 21, 2000), and accompanying Issues and Decision Memorandum at Model Match Comment 1.

ordinary course of trade. Where we were unable to find an HM match of such or similar merchandise, in accordance with section 773(a)(4) of the Act, we based NV on constructed value (CV). Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act. Because Yücel had no viable comparison market, we made product comparisons using CV, as discussed in the “Calculation of Normal Value Based on Constructed Value” section of this notice, below.

Date of Sale

Although the Department normally uses the date of invoice, as recorded in the producer’s or exporter’s records kept in the ordinary course of business, as the date of sale, the Department’s regulations provide that the Department 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 (*e.g.*, price and quantity).⁹⁸

Borusan reported that all of its U.S. and comparison-market sales were produced to order pursuant to sales contracts between Borusan and the customer. Borusan asserted that the price and/or quantity are subject to change after the sales contract between Borusan and the customer.⁹⁹ Thus, Borusan reported the date of invoice, which occurred after the date of the sales contract, as the date of sale.¹⁰⁰ In examining the information on the record, we preliminarily find that the material terms of Borusan’s U.S. and comparison-market sales were subject to change after the date of the sales contract.¹⁰¹ Because these material terms of sale (*e.g.*, price and quantity) could change after the date of the sales contract, we preliminarily determine that the use of the date of the sales contract as the date of sale is not warranted. Therefore, for purposes of this preliminary determination, we have used, the date of invoice as the date of sale for Borusan’s reported U.S. and comparison-market sales.

Yücel reported that all of its U.S. sales were produced to order pursuant to sales contracts between Yücel and the customer.¹⁰² Yücel asserted that in no instance did the unit price change after the date of the sales contract between Yücel and the customer, and that there was only a negligible change in quantity between the theoretical weight in the sales contract and the actual weight of the merchandise when it was weighed by customs at exportation.¹⁰³ Thus, Yücel reported the date of the sales contract as the date of sale.¹⁰⁴ We examined the information on the record and preliminarily find that the material terms of Yücel’s U.S. sales did not change after

⁹⁸ See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-92 (CIT 2001); and *Yieh Phui Enterprise Co. v. United States*, 791 F. Supp. 2d 1319, 1324 (CIT 2011) (affirming that the Department may use invoice date unless a party demonstrates that the material terms of the sale were established on another date).

⁹⁹ See Borusan’s Section A response, dated September 24, 2013, at A-18 through A-30 and Borusan’s section A supplemental questionnaire response, dated November 27, 2013, at 9-15

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² See Yücel’s Section A response, dated November 4, 2013, at 14 and Yücel’s supplemental questionnaire response at 2-4.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

the date of the sales contract. Therefore, for purposes of this preliminary determination, we have used the date of the sales contract as the date of sale for Yücel's reported U.S. sales.

U.S. Price

Section 772(a) of the Act defines EP 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)." Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States to an unaffiliated purchaser 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 subsections (c) and (d).

We calculated EP for purposes of this preliminary determination, in accordance with subsections 772(a) and (c) of the Act, where the subject merchandise was first sold in the country of manufacture (*i.e.*, Turkey) to an unaffiliated purchaser prior to importation and CEP was not otherwise warranted based on the facts of record. Therefore, with respect to Borusan's reported EP sales, we calculated EP based on the packed "Cost, Insurance, and Freight," price to unaffiliated purchasers in the United States. For all of Yücel's sales we calculated EP based on the packed "Cost and Freight, Liner Out" price to unaffiliated purchasers in the United States. For both Borusan's and Yücel's EP sales we made adjustments for credit expenses, certain direct selling expenses, and billing adjustments, as appropriate. For both Borusan and Yücel we also made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act.¹⁰⁵

In accordance with section 772(b) of the Act, we used CEP for some of Borusan's U.S. sales, because the subject merchandise was sold in the United States by a U.S. seller affiliated with the producer and EP was not otherwise indicated.

We calculated CEP based on the "free-on-board yard" or "delivered duty paid" price to unaffiliated purchasers in the United States. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses and indirect selling expenses. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

Duty Drawback

Section 772(c)(1)(B) of the Act states that EP shall be increased by "the amount of any import duties imposed by the country of exportation...which have not been collected, by reason of the exportation of the subject merchandise to the United States." In determining whether a

¹⁰⁵ See Borusan Preliminary Analysis Memorandum and Yücel's Preliminary Analysis Memorandum, dated concurrently with this memorandum.

respondent is entitled to duty drawback, the Department traditionally uses (and the Courts have sustained¹⁰⁶) the following two-prong test:¹⁰⁷ First, that the import duty paid and the rebate payment are directly linked to, and dependent upon, one another (or the exemption from import duties is linked to the exportation of subject merchandise). Second, that there were sufficient imports of the imported raw material to account for the drawback received upon the exports of the subject merchandise. While the Department has preliminarily granted adjustments for duty drawback with respect to Borusan and Yücel,¹⁰⁸ for the final determination, we intend to consider further their eligibility for this adjustment, including through possibly issuing supplemental questionnaires and examining relevant information in the context of verification.

Normal Value

1. Home Market Viability and Comparison-Market Selection

Section 773(a)(1) of the Act and 19 CFR 351.404(b)(2) state that an HM is viable if the aggregate quantity of HM sales of the foreign like product is equal to 5 percent or more of the aggregate quantity of U.S. sales of subject merchandise. Also, pursuant to section 773(a)(1)(B)(i) of the Act, the Department may base NV on the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country, is in the usual commercial quantities and in the ordinary course of trade.

To determine whether there is a sufficient volume of sales of OCTG in the HM to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of HM sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared respondents' reported volume of HM sales of the foreign like product to its volume of U.S. sales of the subject merchandise during the POI.¹⁰⁹

Yücel did not report any sales of the foreign like product in its HM or sales of comparable merchandise in a third country during the POI.¹¹⁰ Consequently we have preliminarily determined that Yücel has no viable comparison markets. As such, we have preliminarily based NV for Yücel on CV.¹¹¹

The petitioners have alleged that Borusan's home-market is not viable for a number of reasons and therefore the Department should invalidate Borusan's HM sales and either apply adverse facts available (AFA) or calculate a margin based on CV.

As a general matter, the petitioners claim that Borusan knew or should have known that the pipe it reported to have been sold in the HM would eventually be exported because there is no domestic market for welded OCTG in Turkey. Citing drilling conditions in Turkey, the

¹⁰⁶ See, e.g., *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011).

¹⁰⁷ See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61723 (October 19, 2006).

¹⁰⁸ For details on the Department's calculations of duty drawback for Borusan and Yücel, see Borusan Preliminary Analysis Memorandum and Yücel Preliminary Analysis Memorandum.

¹⁰⁹ See section 773(a)(1)(B) of the Act and 19 CFR 351.404(b)(2).

¹¹⁰ See Yücel's Section A response, dated November 4, 2013, at 2.

¹¹¹ See 773(a)(4) of the Act.

petitioners contend that there is a demonstrated overwhelming preference in the Turkish oil and gas industry for seamless OCTG rather than the welded plain end pipe which Borusan produces. Thus, petitioners argue, it seems highly unlikely that Borusan would produce welded OCTG for consumption by the Turkish oil and gas industry since that market overwhelmingly demands seamless OCTG.

Further, the petitioners contend that the pipe reportedly sold by Borusan in the HM was not OCTG.¹¹² The petitioners note that pipes used in oil or gas wells must be finished (*i.e.*, coupled, threaded, and/or heat-treated) and that there is no evidence on the record that the plain end products sold by Borusan in the HM¹¹³ were ever finished. To support its claims, the Petitioners note that Borusan does not have finishing operations¹¹⁴ and claim that the respondent's sole reported HM customer does not appear to have the capability to finish the pipe. In addition, the petitioners have placed information on the record which indicates that it is unlikely that an API certified threader in Turkey finished pipe produced by Borusan and sold during the POI in the HM.¹¹⁵

Further, the petitioners contend even if the plain end pipe reportedly sold by Borusan in the HM was OCTG, the Department should determine that it was not OCTG of the same quality as the prime OCTG that Borusan sold in the U.S. market. The petitioners placed information on the record indicating that Borusan's sole customer's purchases only second-quality pipe products from Borusan.¹¹⁶ Furthermore, the petitioners point to the high percentage of returns reported by Borusan's in its HM and as evidence that Borusan's HM sales were not of prime OCTG. The petitioners claim that such a high return rate suggests that Borusan uses its HM to offload its non-prime pipe that cannot be finished with API 5CT threads.

The petitioners claim that the use of facts available is warranted because Borusan has withheld necessary information regarding its reported HM sales from the record. Moreover, the petitioners maintain that the use of an adverse inference is warranted since Borusan has impeded this investigation and failed to cooperate by repeatedly claiming that it sold prime welded OCTG for consumption in the HM. The petitioners go on to argue that should the Department decline to use AFA, it should find that the alleged HM sales are an inappropriate basis of comparison and use CV to calculate the margin.

In a supplemental questionnaire response, Borusan submitted additional information concerning this issue on February 7, 2014.¹¹⁷ Although there was insufficient time to consider this information for the preliminary determination, we intend to examine it for the final determination.

Section 773(a)(1) of the Act and 19 CFR 351.404(b)(2) state that an HM is viable if the aggregate quantity of HM sales of the foreign like product is equal to 5 percent or more of the

¹¹² See the petitioners' comments dated December 11, 2013, at Exhibit 1.

¹¹³ Borusan reported selling only plain end pipe in the HM during the POI. See Borusan's Section B response dated October 28, 2013, at B-9 and B-10.

¹¹⁴ See the petitioners' comments dated December 11, 2013, at 4, and January 28, 2014, at 3.

¹¹⁵ See the petitioners' comments dated December 11, 2013, at Exhibit 1.

¹¹⁶ *Id.*

¹¹⁷ See Borusan's February 7, 2014, Supplemental Questionnaire Response.

aggregate quantity of U.S. sales of subject merchandise. Pursuant to section 773(a)(1)(B)(i) of the Act, the Department may base NV on the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country, is in the usual commercial quantities and in the ordinary course of trade.

As described above, the petitioners have raised a number of issues related to Borusan's reported HM sales which we will continue to examine. We preliminarily determine that Borusan's reported HM sales quantity (net of returns) satisfy the statutory and regulatory threshold of home-market viability on a volume basis.¹¹⁸ Based on this comparison, we have preliminarily determined that Borusan had a viable HM during the POI.

However, we continue to look into issues raised by petitioners regarding aspects of Borusan's reported HM sales.¹¹⁹ We issued an extensive supplemental questionnaire to Borusan on January 27, 2014, and received its response shortly before the deadline for this preliminary determination.¹²⁰ As such, we have not had sufficient time to fully examine the response for this preliminary determination. We intend to analyze Borusan's response after the preliminary determination and further examine issues related to Borusan's HM sales for the final determination.

2. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales of foreign like products at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).¹²¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.¹²² To determine whether the comparison-market 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 chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale. To determine whether HM sales are at a different LOT than EP sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.¹²³ 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 EP or CEP, the Department may compare the U.S. sales to sales at a different LOT in the comparison market. When this occurs and the difference in LOT is demonstrated to affect price comparability based on a pattern of consistent price differences between sales at different LOTs

¹¹⁸ See Borusan Q&V Exhibit.

¹¹⁹ Including whether Borusan sold the pipe at issue for consumption in Turkey in the usual commercial quantities and in the ordinary course of trade.

¹²⁰ See Borusan's supplemental questionnaire response, dated February 7, 2014.

¹²¹ See 19 CFR 351.412(c)(2).

¹²² See *id.*; see also *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) (*Plate from South Africa*).

¹²³ See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

in the market in which NV is determined, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, the Department grants a CEP offset, as provided in section 773(a)(7)(B) of the Act.¹²⁴

Borusan reported that, during the POI, it sold OCTG in the HM through a single channel of distribution and that the selling activities associated with all sales through the single channel of distribution did not differ.¹²⁵ We found no evidence to contradict the Borusan's statements. Accordingly, we found that the Borusan's single HM channel of distribution constituted a single LOT.

Borusan reported that its EP sales were made through a single channel of distribution and that the selling activities associated with all sales through the single channel of distribution did not differ.¹²⁶ We found no evidence to contradict the Borusan's statements. Accordingly, we found that the Borusan's single EP channel of distribution constituted a single LOT. For Borusan, we found that the selling functions Borusan performed for EP sales were very similar to those performed for HM sales. As a result, we preliminarily determine for Borusan the LOT of EP sales was the same as the LOT of HM sales. Therefore, we matched Borusan's EP sales to sales at the same LOT in the comparison market and made no LOT adjustment.

Borusan reported that, although all its CEP sales were made by one of its two U.S. affiliates, CEP sales were made through three channels of distribution.¹²⁷ The first channel of distribution is of sales in which the customer picked up the subject merchandise upon entry and therefore the subject merchandise never entered the affiliate's inventory.¹²⁸ The second channel of distribution is of sales in which the subject merchandise was sold from the affiliates' inventory without being further processed.¹²⁹ The third channel of distribution is of sales in which the subject merchandise was sold from the affiliates' inventory after having been further processed.¹³⁰ Borusan reported that the selling activities associated with all CEP sales through the three channels of distribution did not differ.¹³¹ We found no evidence to contradict the Borusan's statements. Accordingly, we found that the Borusan's three CEP channels of distribution constituted a single CEP level of trade.

We found that there were significant differences between the selling activities associated with Borusan's CEP LOT and those associated with Borusan's HM LOT. For example, the CEP LOT involved little or no sales forecasting, advertising strategic and economic planning, inventory maintenance, employment of direct sales personnel, sales/marketing support, market research,

¹²⁴ See *Plate from South Africa*, 62 FR at 61732-33.

¹²⁵ See Borusan's Section A response from Borusan dated September 24, 2013, at A-18 – A-23 and exhibit A-8, and Section B, response from Borusan dated October 28, 2013., at B-15 and B-23.

¹²⁶ See Borusan's Section A response from Borusan dated September 24, 2013, at A-18 – A-23 and exhibit A-8, and Section C, response from Borusan dated October 28, 2013, at C-15 and C-26.

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

and technical assistance.¹³² Therefore, we have concluded that CEP sales constitute a different LOT from the LOT in the HM and that the HM LOT is at a more advanced stage of distribution than the CEP LOT.

We were unable to match Borusan's CEP sales to sales at the same LOT in the HM or to make an LOT adjustment because the differences in price between the CEP LOT and the HM LOT cannot be quantified because there is a single LOT in the HM. Also, there are no other data on the record which would allow us to make a LOT adjustment. Because the data available do not provide an appropriate basis on which to determine a LOT adjustment and the HM LOT is at a more advanced stage of distribution than the CEP, we made a CEP-offset adjustment to Borusan's NV in accordance with section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). The CEP offset was the sum of indirect selling expenses incurred on HM sales up to the amount of indirect selling expenses incurred on the U.S. sales.¹³³

Because Yücel had no viable home or third-country market during the POI, we based NV on CV. When NV is based on CV, the NV LOT is that of the sales from which we derive selling, general and administrative expenses (G&A) and profit. In accordance with 19 CFR 351.412(d), where possible the Department will make its LOT determination under paragraph (d)(1) of that section on the basis of sales of the foreign like product by the producer or exporter. Because it is not possible in this case to make an LOT determination on the basis of sales of the foreign like product in the home or third-country market, the Department may use sales of different or broader product lines, sales by other companies, or any other reasonable basis. Because we based the selling expenses and profit for Yücel on selling expenses incurred and profits earned by Yücel's overall pipe division, as discussed further below in section entitled "Calculation of Normal Value Based on Constructed Value", and there is no information on the record pertaining to Yücel's selling activities with respect to its overall pipe division sales, we could not determine the LOT of the sales from which we derived selling expenses and profit for CV. Therefore, we did not make a LOT adjustment to CV in this preliminary determination.¹³⁴

3. Calculation of Normal Value Based on Home-Market Prices

With respect to Borusan, we based NV on the starting prices to unaffiliated customers in the HM and made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments, when applicable, for HM indirect selling expenses incurred for U.S. sales to offset comparison-market commissions.

With respect to Borusan, when comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We

¹³² *Id.*

¹³³ See Borusan Preliminary Analysis Memorandum.

¹³⁴ See Memorandum to Neal Halper, Director of the Office of Accounting, "Constructed Value Calculation Adjustments for the Preliminary Determination – Cayirova Boru Sanayi ve Ticaret A.S. We intend to request additional information concerning Yücel's selling activities for its overall domestic pipe division sales.

based this adjustment on the difference in the variable cost of manufacturing for the foreign-like product and subject merchandise.¹³⁵

4. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(a)(4) of the Act, we based Yücel's NV on CV because Yücel had no viable home or third-country markets.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Yücel's cost of materials and fabrication employed in producing the subject merchandise, plus amounts for G&A, profit, and U.S. packing costs. We calculated the cost of materials and fabrication, G&A and interest based on information submitted by Yücel in its original and supplemental questionnaire responses, except in instances where we determined that the information was not valued correctly. Specifically, we adjusted Yücel's G&A rate to include expenses which Yücel had excluded from its calculation even though it had classified those expenses as ordinary expenses in its normal books and records. Additionally, we adjusted Yücel's reported per-unit costs to ensure that the reported costs of production are on the same basis as its reported sales quantities.¹³⁶

Because Yücel does not have a comparison market, the Department cannot determine selling expenses and profit under section 773(e)(2)(A) of the Act, which requires sales by the respondent in question in the ordinary course of trade in a comparison market. Therefore, we have relied on section 773(e)(2)(B) of the Act to determine Yücel's selling expenses and profit.

In situations where selling expenses and profit cannot be calculated under the preferred method, section 773(e)(2)(B) of the Act sets forth three alternatives. The statute does not establish a hierarchy for selecting among these alternative methodologies.¹³⁷ None-the-less, we examined each alternative in searching for an appropriate method. Alternative (i) of section 773(e)(2)(B) of the Act specifies that selling expenses and profit may be calculated based on "actual amounts incurred by the specific exporter or producer...on merchandise in the same general category" as subject merchandise. Because Yücel provided sales and cost information for products in the same general category as subject merchandise, we relied on alternative (i) for the preliminary determination to calculate Yücel's selling expense and profit rates.¹³⁸ Specifically, we calculated the profit based on Yücel's HM sales of non-OCTG pipe products in accordance with section 773(e)(2)(B)(i) of the Act.

Cost of Production

With respect to Borusan, the petitioners submitted a sales-below-cost allegation.¹³⁹ On December 5, 2013 the Department initiated a cost investigation for Borusan and requested

¹³⁵ See 19 CFR 351.411(b).

¹³⁶ See Memorandum to Neal Halper, Director, Office of Accounting, "Constructed Value Calculation Adjustments for the Preliminary Determination- Cayirova Boru Sanayi ve Ticaret A.S." dated concurrently with this memorandum (CV Calculation Memo).

¹³⁷ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 316, 103d Cong., 2d Sess. at 840 (1994).

¹³⁸ See CV Calculation Memo.

¹³⁹ See Letter from the petitioners dated November 18, 2013.

Borusan provide COP information.¹⁴⁰ On December 20, 2013, Borusan provided the information.¹⁴¹

With respect to Yücel, we received COP information because Yücel claimed it did not have HM sales of foreign like product or third country sales of comparable merchandise.¹⁴²

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product plus an amount for G&A, interest expenses, and for Borusan, duties and taxes, (see the “Test of Comparison-Market Sales prices” section below for treatment of comparison-market selling expenses and packing costs). With respect to Borusan, we relied on the COP data that Borusan submitted. With respect to Yücel, we relied on the COP data submitted by Yücel except in those instances where the information was not valued correctly. Specifically, we adjusted Yücel’s submitted GNA-expense rate to reflect our inclusion of several expenses that Yücel recognizes as ordinary expenses in its normal course of business. Additionally, we adjusted Yücel’s reported production quantities and per-unit costs to ensure that its per-unit costs were calculated on the same basis as its reported sales. Finally, we examined the cost data submitted by both Borusan and Yücel and preliminarily determined that our quarterly cost methodology is not warranted. Therefore, we have applied our standard methodology of using annual costs based on the reported data.¹⁴³

2. Test of Comparison-Market Sales Prices

On a product-specific basis, we compared the weighted-average COP to the comparison-market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether the sales were made at prices below the COP. We compared model-specific COPs to the reported HM prices less any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

Consistent with section 773(b)(1) of the Act, if the Department determines that sales made at less than the COP have been made within an extended period of time in substantial quantities and were not at prices which permit recovery of all costs within a reasonable period of time, the Department may disregard such sales in determining NV. Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent’s sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales were not made in “substantial quantities.” Where 20 percent or more of the respondent’s sales of a given product during the POI were at prices less than COP, we determine

¹⁴⁰ See Memorandum to Thomas Gilgunn entitled “Antidumping Duty Investigation of Certain Oil Country Tubular Goods from the Republic of Turkey: The Petitioners’ Allegation of Home Market Sales at Prices Below the Cost of Production for Borusan Mannesman Boru Sanayi ve Ticaret and Borusan Istikbal Ticaret”, dated December 5, 2013. See also Letter from the Department to Borusan, dated December 5, 2013. See Section D response from Borusan dated December 20, 2013.

¹⁴¹ Section D response from Borusan dated December 20, 2013.

¹⁴² See Yücel’s Section D response dated November 25, 2013.

¹⁴³ See *Xanthan Gum From Austria* and accompanying Issues and Decision Memorandum at 9..

that such sales have been made in "substantial quantities."¹⁴⁴ Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI. In such cases, because we compare prices to POI-average costs, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that all Borusan's reported HM sales were at prices above or equal to the COP. Therefore, we did not disregard any HM sales and all reported HM sales were used as the basis for determining NV.

Yücel did not report HM or third country sales so we did not conduct a sales below cost test.

CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

VERIFICATION

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

✓
Agree

Disagree

Paul Piquado
Paul Piquado

Assistant Secretary
for Enforcement and Compliance

14 FEBRUARY 2014
Date

¹⁴⁴ See section 773(b)(2)(C) of the Act.