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Administrative Review
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June 18, 2014

MEMORANDUM TO: Ronald Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Welded Carbon Steel Standard Pipe
and Tube Products from Turkey; 2012-2013 Administrative
Review

SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on welded carbon steel standard pipe and tube products (welded pipe and tube) from Turkey. This review covers the following companies: Borusan Istikbal Ticaret T.A.S., Borusan Lojistik Dagitim Depolama Tasimacilik ve Tic A.S., and Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (collectively "Borusan"); Toscelik Profil ve Sac Endustrisi A.S. and Tosyali Dis Ticaret A.S. (collectively "Toscelik"), Cayirova Boru Sanayi ve Ticaret A.S., ERBOSAN Erciyas Boru Sanayi ve Ticaret A.S., Guven Celik Boru San. ve Tic. Ltd., Guven Steel Pipe, Metaleks Celik Urunleri San. ve Tic. Ltd. Sti., Metaliks Celik Urunkeri San. ve Tic. Ltd., The Borusan Group, Borusan Holding A.S., Toscelik Metal Ticaret A.S., Toscelik Profil ve Sac Endustisi A.S., , Umran Celik Boru Sanayii A.S., Umran Steel Pipe Inc., Yucel Boru ve Profil Endustrisi A.S, Yucelboru Ihracat Ithalat ve Pazarlama A.S., and Yucel Group.

The period of review (POR) is May 1, 2012 through April 30, 2013. We preliminarily find that Borusan sold welded pipe and tube in the United States below normal value (NV), that Toscelik



did not sell welded pipe and tube in the United States below NV, and that the remaining firms had no shipments.¹

Background

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and in accordance with 19 CFR 351.213(b)(2), Borusan Mannesmann Boru Sanayi ve Ticaret A.S. requested a review of its shipments on May 31, 2013.² On the same date, domestic interested party U.S. Steel Corporation (U.S. Steel) and petitioner Wheatland Tube Company (Wheatland) requested reviews of various firms, including Borusan and Toscelik, in accordance with 19 CFR 351.213(b)(1).³ On June 28, 2013, the Department published a notice of initiation of administrative review of the antidumping duty order on welded pipe and tube from Turkey.⁴

On October 18, 2013, the Department exercised its discretion to toll deadlines for the duration of the closure of the federal government from October 1 through October 16, 2013.⁵ As a result, the revised deadline for the preliminary results was extended to February 18, 2014. Further, on February 11, 2014, in accordance with section 751(a)(3)(A) of the Act, the Department extended the due date for the preliminary results by an additional 120 days to June 18, 2014.⁶

¹ In prior segments of this proceeding, we have treated Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (“BMB”), Borusan Istikbal Ticaret T.A.S., and Borusan Lojistik Dagitim Depolama Tasimacilik ve Tic A.S. as the same legal entity. See, e.g., customs message number 4008308, dated January 8, 2014. We preliminarily determine that there is no evidence on the record for altering such treatment of these parties, referred to collectively as “Borusan.” In prior segments of this proceeding we have also treated Toscelik Profil ve Sac Endustrisi A.S., Toscelik Metal Ticaret A.S., and Tosyali Dis Ticaret A.S. as the same legal entity. See, e.g., customs message number 4021306, dated January 21, 2014. Based on information on the record of this review, we have preliminarily determined that Toscelik Metal Ticaret A.S. ceased existence prior to the POR. See the October 31, 2013 questionnaire response of Toscelik Profil ve Sac Endustrisi A.S. and Tosyali Dis Ticaret A.S. at 3. Therefore, for these preliminary results, we treat only Toscelik Profil ve Sac Endustrisi A.S. and Tosyali Dis Ticaret A.S. as the same legal entity, referred to collectively as “Toscelik.”

² See the May 31, 2013 letter from BMB entitled “Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Request for Antidumping Duty Administrative Review.”

³ See the May 31, 2013 letter from U.S. Steel entitled “Certain Welded Carbon Steel Pipes and Tubes from Turkey: Request for Administrative Review” and the May 31, 2013 letter from Wheatland entitled “Circular Welded Carbon Steel Pipes And Tubes From Turkey: Request For Administrative Review.”

⁴ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 78 FR 38924 (June 28, 2013) (Initiation Notice). The Initiation Notice inadvertently referenced the incorrect order title. See id. The Federal Register notice and memorandum accompanying these preliminary results use the original and correct order title, as reflected in the original 1985 order. See Antidumping Duty Order: Welded Carbon Steel Standard Pipe and Tube Products from Turkey, 51 FR 17784 (May 15, 1986).

⁵ See Memorandum to the File from Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated October 18, 2013, regarding “Deadlines Affected by the Shutdown of the Federal Government.”

⁶ See the October 18, 2013 memorandum to the File entitled “Deadlines Affected by the Shutdown of the Federal Government.”

Scope of the Order

The products covered by this order is welded carbon steel standard pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches of any wall thickness, and are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably A-120, A-53 or A-135.

Preliminary Determination of No Shipments

The following companies submitted letters to the Department indicating they had no shipments, sales, or entries of subject merchandise during the POR: Metaleks Celik Urunleri San. ve Tic. Ltd. Sti., on July 2, 2013; ERBOSAN Erciyas Boru Sanayi ve Ticaret A.S., on July 29, 2013; Umran Celik Boru Sanayii A.S. and Umran Steel Pipe Inc., on August 5, 2013; Guven Celik Boru San. ve Tic. Ltd. and Guven Steel Pipe, on August 7, 2013; and Cayirova Boru Sanayi ve Ticaret A.S., Yucel Boru ve Profil Endustrisi A.S, Yucelboru Ihracat Ithalat ve Pazarlama A.S., self-identified as the Yucel Group companies, on March 27, 2014.

On April 8, 2014, the Department issued a “No Shipment Inquiry” to U.S. Customs and Border Protection (CBP) to confirm that there were no entries of welded pipe and tube from Turkey produced and/or exported by the aforementioned companies during the POR. The Department’s request also queried about other entities upon which we initiated this review.⁷ CBP did not respond to our inquiry with any indication that merchandise had entered during the POR that was produced and/or exported by the companies referenced in the inquiry. In addition, we obtained other documentation from CBP that supports the conclusion that there were no such entries during the POR for the companies in question. Based on the certifications, CBP’s lack of a positive response to our inquiry, and analysis of the other information on the record referenced above, we preliminarily determine the aforementioned companies identified in the Department’s inquiry to CBP had no shipments during the POR.

However, consistent with our practice, the Department finds that it is not appropriate to rescind the review with respect to those companies, but rather to complete the review with respect to

⁷ Specifically, the inquiry to CBP also included the following review companies: the Borusan Group, which the Department in the prior segment of this proceeding determined is not a legal entity (*see, e.g.*, customs message number 4008308, dated January 8, 2014), and for which no information exists on the record of the current review contradicting that conclusion, but which had previously been assigned an individual cash deposit rate; Borusan Holding A.S., which the record of the review indicates that it has no involvement in production or sale of merchandise (*see, e.g.*, the August 6, 2013 questionnaire response of Borusan Mannesmann Boru Sanayi ve Ticaret A.S. at 8) and for which no information on the record of prior segments indicates such involvement, but which had been assigned an individual cash deposit rate of other parties; two named companies, Metaliks Celik Urunleri San ve Tic. Ltd. and Toscelik Profil ve Sac Endustisi A.S., which the Department preliminarily determines do not exist based on its inability to locate information suggesting otherwise, and the absence of any interested party providing information to the contrary, but which names have been erroneously interchanged with the names of other parties, including those with their own individual cash deposit rates; and Toscelik Metal Ticaret A.S., which, as noted above, the Department preliminarily determines ceased to exist prior to the POR, but which had been assigned an individual cash deposit rate of other parties.

them, and to issue appropriate instructions to CBP based on the final results of this review. In our May 6, 2003, “automatic assessment” clarification, we explained that, where respondents in an administrative review demonstrated that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the rate for the intermediate reseller or at the all-others rate applicable to the proceeding.⁸ Because “as entered” liquidation instructions do not alleviate the concerns that the Assessment Policy Notice was intended to address, instead of rescinding the review with respect to Metaleks Celik Urunleri San. ve Tic. Ltd. Sti., ERBOSAN Erciyas Boru Sanayi ve Ticaret A.S., Umran Celik Boru Sanayii A.S., Umran Steel Pipe Inc., Guven Celik Boru San. ve Tic. Ltd., Guven Steel Pipe, Cayirova Boru Sanayi ve Ticaret A.S., Yucel Boru ve Profil Endustrisi A.S, Yucelboru Ihracat Ithalat ve Pazarlama A.S., the Borusan Group, Borusan Holding A.S., Metaliks Celik Urunker San ve Tic. Ltd., Toscelik Profil ve Sac Endustisi A.S., and Toscelik Metal Ticaret A.S., we find it appropriate to complete the review and issue liquidation instructions to CBP concerning entries for those firms. If we continue to find that these firms had no shipments of subject merchandise in the final results, we will instruct CBP to liquidate any existing entries of merchandise produced by them, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.⁹

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d)(2012), to determine whether Borusan and Toscelik sales of subject merchandise from Turkey to the United States were made at less than NV, the Department compared the export price (EP) to the NV as described in the “Export Price” and “Normal Value” sections of this memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1) (2012), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average export prices (or constructed export prices) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs to the EP or CEP of individual U.S. sales (the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping investigations.¹⁰ In recent proceedings, the Department has applied a “differential pricing”

⁸ See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003) (Assessment Policy Notice).

⁹ See, e.g., Magnesium Metal From the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review, 75 FR 26922, 26923 (May 13, 2010), unchanged in Magnesium Metal From the Russian Federation: Final Results of Antidumping Duty Administrative Review, 75 FR 56989 (September 17, 2010).

analysis for determining whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act. The Department finds that the differential pricing analysis used in those recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will 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 average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of prices for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing 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. For each respondent, purchasers are based on the reported customer codes. For both respondents, regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR 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 export price and NV for the individual dumping margins.

In the first stage of the differential pricing 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 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 in the test group were found to have passed the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

¹⁰ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012).

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 passes the Cohen’s *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that passes 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 average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average 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 average-to-average 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 prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average 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 average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average 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 average-to-average method and the appropriate alternative method when both results 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 differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

For Borusan, based on the results of the differential pricing analysis, the Department preliminarily finds that the value of U.S. sales passing the Cohen’s *d* test is pervasive (*i.e.*, greater than 66 percent) such that we should consider as an alternative comparison method applying the average-to-transaction method to a portion of U.S. sales.¹¹ Further, the Department preliminarily determines that the average-to-average method cannot appropriately account for such differences because there is a meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and when using the alternative

¹¹ For additional detail, see “Analysis Memorandum for Borusan Mannesmann Boru Sanayi ve Ticaret A.S.” (Borusan Preliminary Analysis Memorandum).

method.¹² Accordingly, the Department preliminarily determines to use the average-to-transaction method for all U.S. sales to calculate the weighted-average margin of dumping for Borusan.

For Toscelik, based on the results of the differential pricing analysis, the Department finds that fewer than 33 percent of Toscelik's export sales pass the Cohen's *d* test, and does not confirm the existence of a pattern of export prices for comparable merchandise that differ significantly among purchasers, regions, or time periods.¹³ Therefore, the Department need not consider whether the average-to-average method can account for such differences, and no additional argument to the contrary has been placed on the record. Accordingly, the Department has determined to use the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Toscelik.

Product Comparisons

In accordance with section 771(16) of the Act, we compared prices for products sold in the U.S. market with prices for products sold in the home market which were either identical or most similar in terms of the physical characteristics. In the order of importance, these physical characteristics are grade, nominal pipe size, wall thickness, surface finish, and end finish.

Our initial questionnaire, consistent with prior reviews, asked the respondents to report a "GRADE" field that grouped products by categories of products, such as "ordinary" standard pipe, structural pipe, conduit, etc.¹⁴ In their initial questionnaire responses, neither respondent reported the GRADE field in accordance with the reporting requirements specified in the questionnaire. Toscelik reported its sales under a single code, which it defined as "hydrostatically tested," with no distinction in the GRADE field for actual categories of products or specifications and grades.¹⁵ Borusan segregated its reported sales into three self-designated "grades" ("A," "B," and "C"), which in and of themselves do not correspond to product categories, specifications, or actual grades.¹⁶

We subsequently asked the respondents to amend their reporting field for GRADE in this administrative review, and we provided specific guidance regarding what reporting codes to

¹² Id. The resulting weighted-average dumping margin using the average-to-transaction method moves across the de minimis threshold as compared to the average-to-average method.

¹³ For additional detail, see "Analysis for the Preliminary Results of the Antidumping Duty Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Toscelik Profil ve Sac Endustrisi A.S. (Toscelik Preliminary Analysis Memorandum).

¹⁴ See the July 2, 2013 questionnaire from Robert James to BMB, at B-8 and C-7, and the July 3, 2013 questionnaire from Robert James to Toscelik Profil ve Sac Endustrisi A.S., at B-8 and C-7.

¹⁵ See Toscelik's August 9, 2013 Section B/C questionnaire response at 9 and 46.

¹⁶ See Borusan's August 28, 2013 Section B questionnaire response at 11, and Borusan's August 28, 2013 Section C questionnaire response at 8.

report for particular specifications and/or specification/grade combinations.¹⁷ Although we had not asked for this information in prior segments and generally accepted the respondents' prior reporting methodology, we asked respondents to amend their reporting field for GRADE in this segment to clarify how "GRADE" should be interpreted and to be more consistent with our preferred "GRADE" reporting in other proceedings involving nearly identical products.¹⁸ Moreover, although the Department has not yet implemented this interpretation in all such proceedings, we prefer this approach because it more accurately distinguishes between products with different physical, chemical, and mechanical properties, and reduces the likelihood of respondents selecting their own, mutually inconsistent, reporting methodologies for this physical characteristic. We intend to apply this interpretation in all relevant proceedings in the future.

Wheatland objects to the Department's change in reporting requirements for the field GRADE. Wheatland contends that the new grade reporting methodology was not subject to comment and that the new grade weighting factors should be rejected because the hierarchy has never been explained. Wheatland argues the Department should revert back to the original GRADE reporting requirements. Moreover, Wheatland further contends that the Department should not treat ASTM A53 grade A and ASTM A53 grade B as distinct grades for purposes of the GRADE product characteristic, as has been done in prior administrative reviews of the circular welded pipe order from Korea. U.S. Steel did not comment upon the Department's instructions to Borusan and Toscelik.

Wheatland's arguments do not convince us to depart from our preferred approach. Although Wheatland is correct that we have not previously applied this approach in this proceeding, we have done so in other proceedings covering substantially identical merchandise, as noted above. Moreover, parties have had an opportunity to comment, and parties will be able to further comment upon this approach in their case briefs. We will address all further arguments in the final results of this review.

For these preliminary results, we will continue with the reported GRADE codes as included by the two respondents in their supplemental responses, with certain modifications for reporting codes for specification/grade combinations in addition to those for which the Department initially provided guidance.¹⁹

¹⁷ See the September 13, 2013 supplemental questionnaire from Robert James to Toscelik at 4 and 6, and the November 12, 2013 supplemental questionnaire from Robert James to BMB at 5 and 8.

¹⁸ Particular reporting codes for various specification/grade combinations have been used in many cases with scopes that are very similar, or almost identical, to that of this order, and the Department has begun to transition to that approach in another order. See Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2011-2012, 78 FR 78336 (December 26, 2013), and the accompanying decision memorandum under the "Treatment of Grade as a Physical Characteristic" subsection.

¹⁹ For additional detail, see "Toscelik Preliminary Analysis Memorandum" and "Borusan Preliminary Analysis Memorandum."

Date of Sale

Section 351.401(i) of the Department's regulations states that the Department normally will use 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 regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

With respect to Toscelik's U.S. sales, Toscelik reported that after orders are placed they may be cancelled or supplemented with orders for additional products, or the quantity ordered may be changed.²⁰ Toscelik has also submitted evidence that such changes to orders have occurred for U.S. sales during the POR.²¹ There is also no record evidence of such changes to orders following invoicing. Therefore, in accordance with our regulatory preference, we are using the invoice date as the date of sale for Toscelik's U.S. sales. Furthermore, consistent with the Department's practice, we used the shipment date as the date of sale where the shipment date occurred before the invoice date because the quantity is fixed at the time of shipment.²²

With respect to Borusan's U.S. sales, record evidence indicates that the contract date is the date that best reflects when the material terms of sale are set. Borusan reaches definitive agreement on the material terms of sale (particularly, quantity and price) at the time the final contract is reached. After the contract is finalized, there are no further changes in the material terms of sale.²³ Consequently, we are using contract date as date of sale for Borusan's U.S. sales, consistent with what was used in the prior administrative review of Borusan.²⁴

With respect to both Toscelik's and Borusan's home market sales, consistent with our regulatory presumption, we have used the invoice date as the date of sale because record evidence indicates for both respondents that the invoice date is the date by which material terms of sale, such as

²⁰ See Toscelik's August 12, 2013, section A submission at 18.

²¹ See Toscelik's October 31, 2013, submission at 2 and Exhibit 3 and its December 30, 2013, submission at 3.

²² See, e.g., *Seamless Refined Copper Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2010-2011*, 77 FR 73422 (Dec. 10, 2012), and the accompanying Preliminary Issues and Decision Memorandum, unchanged in *Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 35244 (June 12, 2013); *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007) and accompanying Issues and Decision Memorandum, at Comment 11; and *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 18074, 18079-80 (Apr. 10, 2006), unchanged in *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 72 FR 4486 (Jan. 31, 2007), and the accompanying Issues and Decision Memorandum at Comments 4 and 5.

²³ See Borusan's August 6, 2013, section A submission at A-26-27 and its December 6, 2013, submission at 7.

²⁴ See, e.g., *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 34340 (June 7, 2013), and accompanying Preliminary Decision Memorandum at 6-7, unchanged in *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 79665 (December 31, 2013), and accompanying Issues and Decision Memorandum at Comment 2.

prices and quantities, have been finalized, and there is no indication that changes to material terms of sale occurred subsequent to invoice date.²⁵ Consistent with the Department's practice, we used the shipment date as the date of sale where the shipment date occurred before the invoice date because the quantity is fixed at the time of shipment.

Export Price

For sales to the United States, the Department calculated export price in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States and because constructed export price methodology was not otherwise warranted. We calculated export price based on the "cost-and-freight" price or other basis negotiated with the customer. Where appropriate, we made deductions, consistent with section 772(c)(2)(A) of the Act, for the following movement expenses: domestic inland freight, domestic brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. duty, and other international movement expenses. We also made an upward adjustment to U.S. gross unit price, where appropriate, for export subsidies. No other adjustments were claimed or applied.

Normal Value

A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales of welded pipe and tube in the home market to serve as a viable basis for calculating NV, the Department compared the volume of the respondents' home market sales of the foreign like product to their volume of U.S. sales of the subject merchandise in accordance with section 773(a) of the Act. Pursuant to section 773(a)(1)(B) of the Act, because each of the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for comparison purposes for both Borusan and Toscelik.

B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act,²⁶ to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade as the export price. Pursuant to 19 CFR 351.412(c)(1), the NV level of trade is based on the starting price of the sales in the comparison market or, when NV is based on constructed value, the starting price of the sales from which we derive the adjustments to constructed value for selling expenses and profit. For export price sales, the U.S. level of trade is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer.

²⁵ See Toscelik's August 9, 2013 section B/C submission at 14, its August 12, 2013 section A submission at 18, and its October 31, 2013, submission at 1; see also Borusan's August 6, 2013, section A questionnaire response at A-25.

²⁶ See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

To determine whether comparison market sales are at a different level of trade than export price sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.²⁷ If the comparison market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the level of trade of the export transaction, we make a level of trade adjustment under section 773(a)(7)(A) of the Act.

Toscelik reported that in its home market it sold to distributors, and that the terms of all sales were “ex-works.” Based on our analysis of the information Toscelik provided, we determine that Toscelik has only one level of trade in its home market. With respect to its U.S. market, Toscelik reported that it produced all sales to order and shipped them directly to its U.S. customers, all of whom were trading companies. Based on this information, we determine that only one level of trade exists in Toscelik’s U.S. market.

Borusan reported that it in its home market it sold to trading companies, distributors, industrial end-users, and construction companies. However, there is only one channel of distribution, and prices do not vary between customer categories. In its U.S. market, Borusan sold to only traders and distributors. Based on this information, we determine that only one level of trade exists in both Borusan’s home and U.S. markets.

Borusan and Toscelik also provided the Department with information on their selling activities in their home and U.S. markets. We find that Borusan and Toscelik provided virtually the same level of customer support services on their U.S. sales (all of which were EP) as they did on their home market sales, and that the minor differences that do exist do not establish a distinct and separate level of trade. Consequently, the record evidence supports a finding that in both markets Borusan and Toscelik performed essentially the same level of services. While we found minor differences between the home and U.S. markets, we determine that for both Borusan and Toscelik the EP and the starting price of home market sales represent the same stage in the marketing process, and are, thus, at the same level of trade. For this reason, we preliminarily find that a level of trade adjustment is not warranted for either Borusan or Toscelik. As there are no CEP sales, no CEP offset is appropriate.

C. Affiliated Party Transactions and the Arm’s-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm’s-length prices.²⁸ During the POR, Toscelik and Borusan made some sales to affiliated parties in their home market. To test whether their home market sales to affiliated parties were made at arm’s-length prices, we compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all billing adjustments, discounts, movement charges, and direct selling expenses.

²⁷ See 19 CFR 351.412(c)(2).

²⁸ See 19 CFR 351.403(c).

Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length prices.²⁹ We included in our calculations of NV those sales to affiliated parties that were made at arm's-length prices and excluded those sales that were not made at arm's-length prices. With certain exceptions, because such sales were either consumed by the affiliate or were in insignificant volumes, in accordance with 19 CFR 351.403(d), we did not rely on downstream sales in place of the excluded sales to the affiliate.

D. Cost of Production Analysis

In the last administrative review of the order completed prior to the initiation of this review, the Department disregarded certain home-market sales made by Borusan and Toscelik at prices below the cost of production (COP).³⁰ Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Borusan and Toscelik made sales of the foreign like product in their comparison market at prices below the COP in the current review period. Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of home market sales by Borusan and Toscelik. We have applied our standard methodology of using annual costs based on Borusan's and Toscelik's reported data.

1. Calculation of Cost of Production

We calculated the COP on a product-specific basis, based on the sum of the respondents' costs of materials and fabrication for the foreign like product plus amounts for general and administrative expenses, interest expenses, and the costs of all expenses incidental to preparing the foreign like product for shipment in accordance with section 773(b)(3) of the Act.

We relied on Borusan's COP data submitted in its March 4, 2014, response to the Department's supplemental cost questionnaire.

We relied on Toscelik's COP data submitted in its June 3, 2014, response to the Department's supplemental cost questionnaire.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether

²⁹ See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186, 69187 (November 15, 2002)

³⁰ See Circular Welded Carbon Steel Pipes and Tubes From Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review, 77 FR 32508 (June 1, 2012), unchanged in Circular Welded Carbon Steel Pipes and Tubes From Turkey; Final Results of Antidumping Duty Administrative Review; 2010 to 2011, 77 FR 72818 (December 6, 2012) (for Toscelik) and Circular Welded Carbon Steel Pipes and Tubes From Turkey; Amended Final Results of Antidumping Duty Administrative Review; 2010 to 2011, 78 FR 286 (January 3, 2013) (for Borusan).

these sales by the respondents had been made at prices below the COP. In particular, in determining whether to disregard home market sales made at prices below their COP, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with sections 773(b)(2)(B), (C), and (D) of the Act. We determined the net comparison market prices for the below-cost test by adjusting the gross unit price for all applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses excluding all adjustments for imputed expenses.

3. Results of the Cost of Production Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's home market sales of a given product were at prices less than the COP, we disregarded the below-cost sales because (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Because we are applying our standard annual weighted-average cost methodology in these preliminary results, we have also applied our standard cost-recovery test with no adjustments.

Our cost test for Borusan and Toscelik indicated that for home market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we disregarded these below-cost sales in our analysis as outside of the ordinary course of trade and used the remaining sales to determine NV, as well as to calculate selling expenses and profit for constructed value.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on the prices Borusan and Toscelik reported for home market sales to unaffiliated customers that we determined were within the ordinary course of trade. As explained above, we also included home market sales to affiliated parties that were made at arm's-length prices. We adjusted the starting price, where appropriate, for discounts, rebates, billing adjustments, and interest revenue. We also made deductions from NV, consistent with section 773(a)(6)(B)(ii) of the Act, for movement expenses. In addition, we 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 made these adjustments, where appropriate, by deducting direct selling expenses incurred on home market sales and adding U.S. direct selling expenses to NV. Direct selling expenses consisted of credit expenses, advertising, warranty expenses, bank fees, and exporter's union fees. We made an additional adjustment, where appropriate, for duty drawback. We also made adjustments for differences in domestic and export packing expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act.³¹

³¹ See Borusan Preliminary Analysis Memorandum and Toscelik Preliminary Analysis Memorandum for further

When comparing U.S. sale prices with normal values based on comparison market sale prices of similar, but not identical, merchandise, we also made adjustments for physical differences in merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the subject merchandise.³²

F. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(e) of the Act, and where applicable, we calculated constructed value (CV) based on the sum of each respondent's material and fabrication costs, SG&A expenses, profit and U.S. packing costs. We calculated the COP component of CV as described above in the "Cost of Production" section of this memorandum. In accordance with section 773(e)(2)(A) of the Act, we based the adjustments for selling expenses and profit on the amounts incurred and realized by each respondent in connection with the production and sales of the foreign like product at the same level of trade as the U.S. sale, in the ordinary course of trade, for consumption in the comparison market.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance web site at <http://enforcement.trade.gov/exchange/index.html>.

Recommendation

We recommend applying the above methodology for these preliminary results.

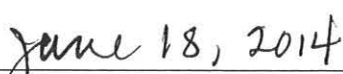


Agree

Disagree



Ronald Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance



(Date)

details.

³² See 19 CFR 351.411(b).