



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

A-489-822
Investigation
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DATE: May 14, 2015

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Determination in the
Antidumping Duty Investigation of Welded Line Pipe from the
Republic of Turkey

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that welded line pipe from the Republic of Turkey (Turkey) is being, or is likely to be, sold in the United States at less-than-fair-value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of the accompanying Federal Register notice.

II. BACKGROUND

On October 16, 2014, the Department received an antidumping duty (AD) petition covering imports of welded line pipe from Turkey,¹ which was filed in proper form by American Cast Iron Pipe Company (American), Energex (a division of JMC Steel Group), Maverick Tube Corporation (Maverick), Northwest Pipe Company (Northwest), Stupp Corporation (a division of Stupp Bros., Inc.) (Stupp), Tex-Tube Company (Tex-Tube), TMK IPSCO, and Welspun Tubular LLC USA (Welspun) (collectively, the petitioners). The Department initiated this investigation on November 5, 2014.²

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties: Welded API Line Pipe from South Korea and Turkey, dated October 16, 2014 (the petition).

² See Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations, 79 FR 68213 (November 14, 2014) (Initiation Notice).



In the Initiation Notice, the Department stated that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for certain of the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.³ Accordingly, on November 7, 2014, the Department released the CBP entry data to all interested parties under an administrative protective order, and requested comments regarding the data and respondent selection.

Also in the Initiation Notice, the Department notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of welded line pipe to be reported in response to the Department's AD questionnaire.⁴ In November and December 2014, the petitioners, Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan Mannesman) and Borusan Istikbal Ticaret (Borusan Istikbal), as well as Hyundai HYSCO (HYSCO), a respondent in the companion AD investigation on welded line pipe from the Republic of Korea, submitted comments on the scope of this investigation. On December 2, 2014, the petitioners American, Energex, Northwest, Stupp, Tex-Tube, TMK IPSCO, and Welspun, submitted rebuttal scope comments in response to Borusan Mannesman, Borusan Istikbal, and HYSCO. On December 5, 2014, the petitioner Maverick also submitted rebuttal scope comments. Also, in November and December 2014, the petitioners and HYSCO submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes.

On December 5, 2014, 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 welded line pipe from Turkey.⁵

Also on December 5, 2014, the Department limited the number of respondents selected for individual examination to the two largest publicly-identifiable producers/exporters of the subject merchandise by volume. Accordingly, we selected Borusan Mannesmann and Tosyali Dis Ticaret A.S. (Tosyali) as mandatory respondents in this investigation and issued the AD questionnaire to them.⁶

On December 16, 2014, Borusan Mannesman informed the Department that it would not be participating in the investigation.⁷ On December 30, 2014, the Department selected the next largest publicly-identifiable producer/exporter of the subject merchandise, Borusan Istikbal, as a

³ See Initiation Notice, 79 FR at 68216.

⁴ Id., at 68214.

⁵ See Certain Welded Line Pipe From Korea and Turkey, 79 FR 72202 (December 5, 2014).

⁶ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Respondent Selection for the Antidumping Duty Investigation of Welded Line Pipe from the Republic of Turkey," dated December 5, 2014, at 4-5.

⁷ See Letter from Borusan Mannesmann, "Welded API Line Pipe from Turkey, Case No. A-489-822: Notice of Decision Not to Respond to Questionnaire," dated December 16, 2014.

mandatory respondent and issued the AD questionnaire to it.⁸ As part of this selection process, we stated that, should Borusan Istikbal not participate in the investigation, we would select the next largest producer/exporter, Çayirova Boru Sanayi ve Ticaret A.Ş. (Çayirova Boru), as a mandatory respondent.⁹

On January 5, 2015, Borusan Istikbal also informed us that it would not participate,¹⁰ and consequently, on that same day, we named Çayirova Boru as a mandatory respondent and issued the AD questionnaire to it.

On January 12 and February 9, 2015, Tosyali and its affiliated producer Tosçelik Profil ve Sac Endustrisi A.S. (Tosçelik Profil) (collectively, Tosçelik) and Çayirova Boru and its affiliated exporter, Yücel Boru İthalat-İhracat ve Pazarlama A.Ş. (YIIP) (collectively, Çayirova), respectively, submitted timely responses to section A of the Department's AD questionnaire (i.e., the section relating to general information), and on January 28 and February 11, 2015, these companies, respectively, also responded to sections B and C (i.e., the sections relating to home market and U.S. sales, respectively).

On February 2 and 18, 2015, respectively, the petitioners requested that the Department initiate cost investigations with respect to Tosçelik's and Çayirova's sales of welded line pipe in Turkey. After reviewing the sales-below-cost allegations, we found that the petitioners provided a reasonable basis to believe or suspect that Tosçelik and Çayirova were selling welded line pipe at prices below their cost of production (COP). Accordingly, we initiated sales-below-cost investigations with respect to Tosçelik's and Çayirova's home market sales, and requested that they respond to section D of the Department's questionnaire (i.e., the section relating to COP and constructed value (CV)).¹¹

On February 24, 2015, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be fully extended. On March 9, 2015, the Department published a postponement of the preliminary determination until no later than May 14, 2015.¹²

⁸ See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Less-Than-Fair-Value Investigation of Welded Line Pipe from the Republic of Turkey: Selection of Additional Mandatory Respondent," dated December 30, 2014, at 4.

⁹ Id.

¹⁰ See Letter from Borusan Istikbal, "Welded API Line Pipe from Turkey, Case No. A-489-822: Confirmation of Decision Not to Respond to Questionnaire," dated January 5, 2015.

¹¹ See Memorandum to Irene Darzenta Tzafolias, Acting Director, Office II, entitled "The Petitioners' Allegation of Home Market Sales at Prices Below the Cost of Production for Tosçelik Profil ve Sac Endustrisi A.S. and Tosyali Dis Ticaret A.S.," dated February 19, 2015 (Tosçelik COP Memo); and Memorandum to Irene Darzenta Tzafolias, Acting Director, Office II, entitled "Petitioners' Allegation of Home Market Sales at Prices Below the Cost of Production for Çayirova Boru Sanayi ve Ticaret A.Ş.," dated March 10, 2015 (Çayirova COP Memo).

¹² See Welded Line Pipe From the Republic of Korea and the Republic of Turkey: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 80 FR 12445 (March 9, 2015).

Between February and April 2015, we issued multiple sections A- C supplemental questionnaires to Çayirova and Tosçelik. We received responses to these supplemental questionnaires during this same time period.

In March 2015, both Çayirova and Tosçelik submitted timely responses to section D of the Department's AD questionnaire. Between March and May 2015, we issued multiple supplemental section D questionnaires to Çayirova and Tosçelik. We received responses to these supplemental questionnaires in the same months.

We are conducting this investigation in accordance with section 733(b) of the Act.

III. PERIOD OF INVESTIGATION

The period of investigation (POI) is October 1, 2013, through September 30, 2014. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was October 2014.¹³

IV. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on March 20, 2015, Çayirova and Tosçelik requested that the Department postpone the final determination, and that provisional measures be extended.¹⁴ In addition, certain of the petitioners also requested that, in the event of a negative preliminary determination, the Department postpone its final determination to 135 days after the date of publication of the preliminary determination.¹⁵

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because 1) our preliminary determination is affirmative, 2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and 3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the Federal Register, and we are extending provisional measures from four months to a period not to exceed six months. Suspension of liquidation will be extended accordingly.

V. SCOPE COMMENTS

As noted in the Initiation Notice, we set aside a period of time for parties to raise issues regarding product coverage, and we stated that all such comments must be filed within 20

¹³ See 19 CFR 351.204(b)(1).

¹⁴ See letter from Çayirova and Tosçelik entitled, "Line pipe from Turkey; request to extend final determination," dated March 20, 2015.

¹⁵ See letter from American Cast Iron Pipe Company, Energex Tube, a division of JMC Steel Group, Northwest Pipe Company, Stupp Corporation, a division of Stupp Bros., Inc., Tex-Tube Company, TMK IPSCO, and Welspun Tubular LLC USA, entitled, "Welded Line Pipe from Turkey: Contingent Request for Postponement of Final Determination," dated April 23, 2015.

calendar days of publication of the Initiation Notice.¹⁶ On November 25, 2014, we received comments from Borusan Mannesman, Borusan Istikbal, and HYSCO, asking the Department to clarify whether the scope includes longitudinally submerged arc welded (LSAW) and helically submerged arc welded (HSAW) steel pipe.¹⁷ Borusan Mannesman, Borusan Istikbal, and HYSCO argue that LSAW and HSAW pipe differ from electric resistance welded (ERW) line pipe in raw materials, production process, and end uses. Borusan Mannesman and Borusan Istikbal further argue that LSAW and HSAW pipe are a distinct class or kind of merchandise from ERW pipe, and they claim that: 1) the AD petition makes clear that this investigation is not directed at LSAW and HSAW pipe; and 2) the petitioners have testified before the ITC that there is no U.S. production of LSAW/HSAW pipe of 24 inches or less in outside diameter.

On December 2, 2014, the petitioners, excluding Maverick, submitted rebuttal comments, stating that the scope as currently written covers all welded line pipe of not more than 24 inches nominal outside diameter, without regard to the process by which the line pipe was welded.¹⁸ The petitioners assert that they did not intend to limit the scope to line pipe produced by the ERW process, and they note that the scope language adopted by the Department includes HTSUS headings for line pipe produced by submerged arc welding. The petitioners assert further that, to the extent that any clarification is needed, the Department should clarify that the scope includes welded line pipe not exceeding 24 inches nominal outer diameter produced by the submerged arc welding process, whether the pipe is longitudinally or helically welded. On December 5, 2014, petitioner Maverick also submitted rebuttal comments in which it further disagrees that LSAW and HSAW line pipe less than or equal to 24 inches in nominal outside diameter are a separate class or kind of merchandise from ERW line pipe, as they are made from similar raw materials (often by the same companies) via similar production processes, and are used for the same end-use of transporting oil and gas.¹⁹

We have considered the requests noted above, as well as the petitioners' responsive comments. While the Department does have the authority to define or clarify the scope of an investigation, the Department must exercise this authority in a manner which reflects the intent of the petition, and the Department generally should not use its authority to define the scope of an investigation in a manner that would thwart the statutory mandate to provide the relief requested in the petition.²⁰ Thus, absent an overarching reason to modify the scope in the petition, the

¹⁶ See Initiation Notice; see also Antidumping Duties; Countervailing Duties; Final rule, 62 FR 27296, 27323 (May 19, 1997) (Preamble).

¹⁷ See Letter from Borusan Mannesman and Borusan Istikbal, "Welded Line Pipe from Korea and Turkey, Case Nos. A-580-876, C-580-877, A-489-822, and C-489-823: Comments on Scope of Investigations," dated November 25, 2014; and Letter from HYSCO, "Welded Line Pipe From the Republic of Korea and the Republic of Turkey: Scope Clarification Request," dated November 25, 2014.

¹⁸ See Letter from American, Energex, Northwest, Stupp, Tex-Tube, TMK IPSCO, and Welspun, "Welded Line Pipe from the Republic of Korea and Turkey: Rebuttal Comments on Scope," dated December 2, 2014.

¹⁹ See Letter from Maverick, "Welded Line Pipe from Korea and Turkey: Rebuttal Scope Comments," dated December 5, 2014.

²⁰ See Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products From Canada, 67 FR 15539 (April 2, 2002), and accompanying Issues and Decision Memorandum under Scope Issues (after Comment 49).

Department accepts the scope as it is currently written.²¹ Consequently, we have made no change to the scope with respect to LSAW and HSAW pipe because: 1) these products are clearly within the scope; and 2) the petitioners intended that these products be covered. We further note that this determination is consistent with the definition of the domestic like product for the welded line pipe industry, which includes ERW, HSAW, and LSAW line pipe,²² as well as the Department's preliminary determination with respect to the same issue in the companion countervailing duty investigations of welded line pipe.²³

VI. 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.²⁴ 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.²⁵ The Department's regulations at 19 CFR 351.102(b)(3) state that in determining whether control over another person exists within the meaning of section 771(33) of the Act, the Department will 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.²⁶

²¹ Id.; see also Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 73 FR 51788, 51789 (September 5, 2008), unchanged in Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 4913 (January 28, 2009); Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium from the Russian Federation, 66 FR 49347 (September 27, 2001), and accompanying Issues and Decision memorandum at Comment 12; and Mitsubishi Heavy Industries, Ltd. v. United States, 986 F. Supp. 1428, 1433-34 (CIT 1997).

²² See Certain Welded Line Pipe from Korea and Turkey: Inv. No. 701-TA-524-525 and 731-TA-1260-1261 (Preliminary) (December 2014) (ITC Preliminary Report) at 7 (finding a single domestic like product for welded line pipe) and I-13 (discussing the manufacturing process for welded line pipe, which includes ERW, HSAW, and LSAW).

²³ See Welded Line Pipe From the Republic of Korea: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination, 80 FR 14907 (March 20, 2015); and Welded Line Pipe From the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination, 80 FR 14943 (March 20, 2015).

²⁴ See section 771(33)(F) of the Act.

²⁵ 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).

²⁶ See also Preamble, 62 FR at 27298.

Affiliation Findings: Tosyali and Tosçelik Profil

As noted above, in the instant investigation Tosçelik provided a joint response to the Department's questionnaire on behalf of Tosyali and Tosçelik Profil.²⁷ Tosçelik explained that Tosyali and Tosçelik Profil are both members of the Tosyali Group and are affiliated through common ownership by Tosyali Holding, the ultimate parent of the Tosyali Group.²⁸ Tosçelik explained that Tosçelik Profil is the sole producer of subject merchandise in the Tosyali Group and that Tosyali exports subject merchandise to the United States.²⁹ Tosçelik also explained that, while Tosyali and Tosçelik Profil are separate entities, Tosyali is in substance the foreign trade company of the Tosyali Group, functioning as the trading entity.³⁰ Tosçelik also reported that, during the POI, Tosçelik Profil sold its own welded line pipe in the home market and Tosyali handled Tosçelik Profil's U.S. sales of welded line pipe.³¹

Tosçelik reported that, although Tosyali and Tosçelik Profil have no direct ownership in one another, they are both part of the Tosyali Group because they are both wholly owned by Tosyali Holding.³²

In light of the above, we find that through its ownership of Tosyali and Tosçelik Profil, Tosyali Holdings is operationally in a position to exercise restraint or direction over them, and this control has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise in accordance with 19 CFR 351.102(b)(3).³³ Thus, we find Tosyali and Tosçelik Profil are affiliated because they are under common control, pursuant to section 771(33)(F) of the Act.

Affiliation Findings: Çayirova and YIIP

As noted above, in the instant investigation Çayirova provided a joint response to the Department's questionnaire on behalf of Çayirova Boru and YIIP.³⁴ Çayirova explained that Çayirova Boru and YIIP are both members of the Yücel Group, which has a majority ownership of both Çayirova Boru and another group member, Yücel Boru ve Profil Endustrisi A. Ş (Yücel Boru),³⁵ and Çayirova Boru and Yücel Boru, in turn, collectively own a majority of YIIP.³⁶

²⁷ See Section A response from Tosçelik, dated January 12, 2015 (Tosçelik Section A response).

²⁸ *Id.*, at 4-5 and 8-9.

²⁹ *Id.*, at 4-5 and 8.

³⁰ *Id.*, at 5 and 10.

³¹ *Id.*, at 10.

³² *Id.*, at 4-5, 8-9, and Exhibit 5. See also Supplemental Section A response from Tosçelik, dated February 9, 2015, (Tosçelik Supplemental Section A response) at 7.

³³ See also *Preamble*, 62 FR at 27297-27298 (stating that proof is not required that a relationship in fact has control to impact decisions concerning production, pricing or cost, focusing instead on the ability to exercise control).

³⁴ See Section A response from Çayirova, dated February 9, 2015 (Çayirova Section A Response).

³⁵ See Çayirova Section A Response, at 4-6 and at Exhibit 5.

³⁶ *Id.*

Çayirova explained that Çayirova Boru is the sole producer of subject merchandise in the Yücel Group and that YIIP exports subject merchandise to the United States. Çayirova also explained that, while Çayirova Boru and YIIP are separate entities, YIIP is in substance the foreign trade company of the Yücel Group, functioning as the trading entity. Çayirova reported that during the POI, Çayirova Boru sold its own welded line pipe in the home market and YIIP handled Çayirova Boru's U.S. sales of welded line pipe.³⁷ In addition, Çayirova stated that Çayirova Boru, Yücel Boru, and YIIP share certain common board members.³⁸

In light of the above, we find through its ownership of Çayirova Boru and YIIP, the Yücel Group is in a position to exercise restraint or direction over them, and this control has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise in accordance with 19 CFR 351.102(b)(3).³⁹ Thus, we find Çayirova Boru 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. Section 351.401(f)(1) of the Department's regulations 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. Section 351.401(f)(2) of the Department's regulations 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.

While 19 CFR 351.401(f) applies 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.⁴⁰

With respect to Tosçelik, as explained above, we have preliminarily determined that Tosyali and

³⁷ See Çayirova Section A Response, at 5 and 9.

³⁸ See Çayirova Section A Response, at Exhibit 5.

³⁹ See also Preamble, 62 FR at 27297-27298 (stating that proof is not required that a relationship in fact has control to impact decisions concerning production, pricing or cost, focusing instead on the ability to exercise control).

⁴⁰ 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).

Tosçelik Profil 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 factor, level of ownership, we find that the level is significant. Tosyali Holding directly owns all of both Tosyali and Tosçelik Profil.⁴¹ With respect to the second factor, overlapping board members, we find that there is substantial overlap of board members between Tosyali and Tosçelik Profil.⁴² With respect to the third factor, intertwined operations, record evidence demonstrates that Tosyali's and Tosçelik Profil's operations are closely intertwined. Tosçelik Profil produces the subject merchandise and makes U.S. sales through Tosyali.⁴³ Tosçelik reported that Tosçelik Profil produced all of the merchandise under investigation sold to the United States by Tosyali during the POI.⁴⁴

In consideration of the above facts, and in accordance with 19 CFR 351.401(f) and the Department's practice,⁴⁵ we are, thus, treating Tosyali and Tosçelik Profil as a single entity for purposes of this preliminary determination.

With respect to Çayirova, as explained above, we have preliminarily determined that Çayirova Boru 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 exists using the regulatory criteria. With respect to the first factor, level of ownership, we find that the level is significant.⁴⁶ The Yücel Group has a majority ownership of Çayirova Boru and Yücel Boru, and Çayirova Boru and Yücel Boru collectively own a majority of YIIP.⁴⁷ With respect to the second factor, overlapping board members, we find that there is substantial overlap of board members between Çayirova Boru and YIIP.⁴⁸ With respect to the third factor, intertwined operations, Çayirova's response demonstrates that Çayirova Boru's and YIIP's operations are closely intertwined. Çayirova Boru produces the subject merchandise and

⁴¹ See Tosçelik Section A response, at 4 and Exhibit 5; and Tosçelik Supplemental Section A response, at 7.

⁴² See Tosçelik Section A response, at Exhibit 5; and Tosçelik Supplemental Section A response, at 7.

⁴³ *Id.*, at 10.

⁴⁴ *Id.*, at 5 and 10.

⁴⁵ See Certain Oil Country Tubular Goods From the Republic of Turkey: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination, 79 FR 10484 (February 25, 2014) (OCTG from Turkey Prelim), unchanged in Certain Oil Country Tubular Goods From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, in Part, 79 FR 41971 (July 18, 2014) (OCTG from Turkey Final).

⁴⁶ See Çayirova Section A Response, at Exhibit 5.

⁴⁷ *Id.*

⁴⁸ *Id.*

makes U.S. sales through YIIP.⁴⁹ Çayirova reported that Çayirova Boru produced all of the merchandise under investigation sold to the United States by YIIP during the POI.⁵⁰

In consideration of the above facts and in accordance with 19 CFR 351.401(f) and the Department's practice,⁵¹ we are, thus, treating Çayirova Boru and YIIP as a single entity for purposes of this preliminary determination.

VII. DISCUSSION OF THE METHODOLOGY

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

A) *Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates individual dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. The Department's regulations also provide that dumping margins may be calculated by comparing NVs, based on individual transactions, to the EPs (or CEPs) of individual transactions (transaction-to-transaction method) or, when certain conditions are satisfied, by comparing weighted-average NVs to the EPs (or CEPs) of individual transactions (average-to-transaction method).⁵²

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the average-to-average method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1).⁵³ The Department may determine that in particular circumstances, consistent with section 777A(d)(1)(B) of the Act, it is appropriate to use the average-to-transaction method. The Department will continue to develop its approach in this area based on comments received in this investigation 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.

⁴⁹ See Çayirova Section A response, at 4-5.

⁵⁰ *Id.*, at 5 and 9.

⁵¹ See OCTG from Turkey Prelim, unchanged in OCTG from Turkey Final.

⁵² See 19 CFR 351.414(b)(1) and (2).

⁵³ See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ 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 in this preliminary determination evaluates all purchasers, regions, and time periods to determine whether a pattern of significant price differences exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes reported by Çayirova and Tosçelik. 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 POI being examined based upon the reported date of sale. For purposes of analyzing sales transactions by customer, 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 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* test is applied 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 calculated 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 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 account for 66 percent or more of the value of total sales, then the identified pattern of CEPs and EPs 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 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 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 (*i.e.*, the “mixed alternative” method). 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 CEPs and EPs 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 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 differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

B) Results of the Differential Pricing Analysis

Çayirova

Based on the results of the differential pricing analysis, the Department finds that less than 33 percent of Çayirova's export sales pass the Cohen's *d* test. Thus, the results of the test do not support consideration of an alternative to the average-to-average method.⁵⁴ Accordingly, the Department preliminarily determines to use the average-to-average method for all U.S. sales in making comparisons of EP and NV for Çayirova.

Tosçelik

Based on the results of the differential pricing analysis, the Department finds that between 33 and 66 percent of Tosçelik's export sales confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods.⁵⁵ Therefore, the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test (mixed alternative method). Further, the Department determines that the average-to-average method cannot

⁵⁴ See the Memorandum to the File from David Crespo, Senior Analyst, entitled, "Preliminary Determination Calculation for Çayirova Boru Sanayi ve Ticaret A.Ş. and its affiliated exporter, Yücel Boru İthalat-Ihracat ve Pazarlama A.Ş. (Çayirova)," dated May 14, 2015 (Çayirova Preliminary Calc Memo).

⁵⁵ See the Memorandum to the File from Alice Maldonado, Senior Analyst, entitled, "Preliminary Determination Calculation for Tosçelik Profil ve Sac Endüstrisi A.Ş./Tosyali Dis Ticaret A.Ş. (Tosçelik)," dated May 14, 2015 (Tosçelik Preliminary Calc Memo).

appropriately account for such differences because the resulting weighted-average dumping margin moves across the *de minimis* threshold when calculated using an alternative method based on the average-to-transaction method applied to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales identified as not passing the Cohen's *d* test. Accordingly, the Department preliminarily determines to use the average-to-transaction method for those U.S. sales which passed the Cohen's *d* test and the average-to-average method for those U.S. sales which do not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Tosçelik.

VIII. Date of Sale

Section 351.401(i) of the Department's regulations states that, in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.⁵⁶

With respect to the home market, both Tosçelik and Çayirova reported the invoice date as the date of sale for the majority of their sales,⁵⁷ and they reported the order date for the remaining transactions (which they call "tenders," or bids for project proposals).⁵⁸ For purposes of the preliminary determination, we have used as the date of sale for non-tender sales the earlier of the invoice date or the shipment date, in accordance with our practice.⁵⁹ For tender sales, we examined the information on the record⁶⁰ and preliminarily find that the material terms of sale did not change after the order date.⁶¹ Therefore, we have accepted the order date as the date of sale for tender sales for purposes of the preliminary determination.

⁵⁶ See 19 CFR 351.401(i); see also Allied Tube & Conduit Corp. v. United States, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (Allied Tube & Conduit Corp.) (quoting 19 CFR 351.401(i)).

⁵⁷ See Sections B and C response from Tosçelik, dated January 28, 2015 (Tosçelik Sections B and C Response), at 16 and 55, respectively; and Sections B and C response from Çayirova (Çayirova Sections B and C Response), dated February 11, 2015, at 17 and 55, respectively.

⁵⁸ See Tosçelik Section A response at 16, Sections B and C response, at 16; and Tosçelik's Sections A – C supplemental response, dated March 25, 2015 (Tosçelik Section A – C Supplemental Response), at 10; and Çayirova Sections B and C response, at 17 and Supplemental B and C response from Çayirova (Çayirova Sections B and C Supplemental Response), dated May 1, 2015, at 6.

⁵⁹ See, e.g., 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.

⁶⁰ See Tosçelik Sections B and C response, at 16; Tosçelik Section A – C Supplemental Response at 10; and Çayirova Sections B and C Supplemental Response, at 6.

⁶¹ See Allied Tube & Conduit Corp., 132 F. Supp. 2d at 1091 ("As elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sale' are established if the party shows that the 'material terms of sale' undergo no meaningful change (and are not subject to meaningful change) between the proposed date and the invoice date.").

With respect to the U.S. market, Çayirova reported the order date to the first unaffiliated customer as the date of sale for all of its U.S. sales, while Tosçelik reported the invoice date. We have examined the information on the record and find that Çayirova provided insufficient evidence to demonstrate that the order date better reflects the date on which the material terms of sale are established, given that changes in the terms of these sales could, and did, occur after the order was placed.⁶² Therefore, for the preliminary determination, we are using the earlier of invoice or shipment date⁶³ as the U.S. date of sale for both companies, consistent with the Department's practice outlined above.

IX. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in Turkey during the POI that fit the description in the "Scope of Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade.

In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: epoxy finish, grade, outside diameter, wall thickness, end finish, and surface finish.

X. Export Price

In accordance with section 772(a) of the Act, we used EP for Çayirova and Tosçelik because the merchandise under consideration was first sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted.

Çayirova

We calculated the EP based on a packed price to the first unaffiliated purchaser in the United States. We made deductions from the starting price, where appropriate, for movement expenses (e.g., international freight, marine insurance, foreign inland freight, foreign brokerage and handling, and warehousing), in accordance with section 772(c)(2)(A) of the Act.⁶⁴

⁶² See Çayirova Section A Response at Exhibit 9.

⁶³ In this case, both Çayirova and Tosçelik reported the bill of lading date as the date of shipment for their U.S. sales because they shipped subject merchandise sold under a single invoice to the port over a period of several days. See Tosçelik Sections B and C Response at 56; and Çayirova Sections B and C Supplemental Response at 24. Because a single shipment date from the factory did not exist, we have accepted the bill of lading date as the date of shipment for purposes of the preliminary determination.

⁶⁴ See Çayirova Preliminary Calc Memo.

Tosçelik

We calculated the EP based on a packed price to the first unaffiliated purchaser in the United States. We made deductions from the starting price, where appropriate, for movement expenses (e.g., foreign inland freight and foreign brokerage and handling), in accordance with section 772(c)(2)(A) of the Act.⁶⁵

XI. 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 respondent is entitled to duty drawback, the Department traditionally uses (and the Courts have sustained⁶⁶) the following two-prong test:⁶⁷ (1) 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); and (2) that there were sufficient imports of the imported raw material to account for the drawback received upon the exports of the manufactured product.

In this case, both Çayirova and Tosçelik have provided information to satisfy each of the two prongs.⁶⁸ While the Department has preliminarily granted adjustments for duty drawback with respect to Çayirova and Tosçelik, we have revised the calculation of this adjustment for Tosçelik to base it only on information contained on inward processing certificates closed during the POI, consistent with our treatment of these certificates in the calculation of this adjustment for Çayirova.⁶⁹ Moreover, for the final determination, we intend to consider further the eligibility of both respondents for this adjustment, including examining relevant information in the context of verification.

⁶⁵ See Tosçelik Preliminary Calc Memo.

⁶⁶ See Saha Thai Steel Pipe (Public) Co. v. United States, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011).

⁶⁷ See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61723 (October 19, 2006).

⁶⁸ See Tosçelik Sections B and C Response, at 69 – 74, and at Exhibits 13 and 14; Tosçelik Section A - C Supplemental Response, at 34-36, and at Exhibits 28-30; Supplemental Section D response from Tosçelik, dated April 14, 2015, at 4-6, and at Exhibit Q.6.d.; Çayirova Sections B and C response, at 70-72 and at Exhibits 10-11; Section D response from Çayirova, dated March 31, 2015, at Exhibit 12; and Supplemental Section D Response from Çayirova, dated April 23, 2015, at 8 and Exhibit Q-10.

⁶⁹ We note that this methodology is also consistent with the duty drawback calculation methodology used in Steel Concrete Reinforcing Bar From Turkey: Final Negative Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances, 79 FR 21986 (September 15, 2014), and accompanying Issues and Decision Memorandum at Comment 1. For details on the Department’s adjustments to the duty drawback calculations for Tosçelik, see Tosçelik Preliminary Calc Memo.

XII. Normal Value

A. *Home Market Viability*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third country market as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we determined that the aggregate volume of home market sales of the foreign like product for each respondent was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Therefore, we used home market sales as the basis for NV for Çayırova and Tosçelik, in accordance with section 773(a)(1)(B) of the Act.

B. *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 at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁷⁰ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁷¹ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),⁷² we consider the starting prices before any adjustments. 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.⁷³

When the Department is unable to match U.S. 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. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in

⁷⁰ See 19 CFR 351.412(c)(2).

⁷¹ *Id.*; see also Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

⁷² Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

⁷³ See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

the comparison market, where available data make it possible, we make a 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 (*i.e.*, no LOT adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁷⁴

In this administrative review, we obtained information from Çayirova and Tosçelik regarding the marketing stages involved in making their reported home market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution.⁷⁵ Our LOT findings are summarized below.

Çayirova

In the home market, Çayirova reported that it made sales through two channels of distribution (*i.e.*, tender sales to distributors and end-users (Channel 1) and non-tender sales to end-users (Channel 2)).⁷⁶ According to Çayirova, it performed the following selling functions for sales to all home market customers: packing; order input/processing; employment of direct sales personnel; provision of warehousing; and handling of freight and delivery arrangements.⁷⁷ Çayirova did not report any additional selling functions related to its tender sales.

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Çayirova performed sales and marketing, inventory maintenance and warehousing, and freight and delivery services for its home market sales in Channels 1 and 2. Because we find that there were virtually no differences in selling activities performed by Çayirova to sell to its home market customers in Channels 1 and 2, we determine that there is one LOT in the home market for Çayirova.

With respect to the U.S. market, Çayirova reported that it made sales through one channel of distribution (*i.e.*, direct shipments to a trading company).⁷⁸ Çayirova reported that it performed the following selling functions in Turkey for sales to all U.S. customers: packing; order input/processing; employment of direct sales personnel; provision of warehousing; and handling of freight and delivery arrangements. Accordingly, based on the selling function categories noted above, we find that Çayirova performed sales and marketing, inventory maintenance and warehousing, and freight and delivery services for all of its reported U.S. sales. Because

⁷⁴ See, e.g., OJ from Brazil, at Comment 7.

⁷⁵ See Tosçelik Section A response, at 16 – 17; Tosçelik Supplemental Section A response, at 9 and Exhibit 2; Çayirova Section A Response at 10-1; and Supplemental Section A response from Çayirova, dated April 28, 2015 (Çayirova Supplemental Section A Response), at Exhibit 1.

⁷⁶ See Çayirova Section A Response, at 10.

⁷⁷ See Çayirova Supplemental Section A response, at Exhibit 1.

⁷⁸ See Çayirova Sections B and C Response, at 54.

Çayirova performed the same selling functions at the same relative level of intensity for all of its U.S. sales, we determine that all U.S. sales are at the same LOT.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Çayirova performed for its U.S. and home market customers are virtually identical. Therefore, we preliminarily determine that sales to the United States and home market during the POI were made at the same LOT and, as a result, no LOT adjustment is warranted.

Tosçelik

In the home market, Tosçelik reported that it made sales through one channel of distribution (*i.e.*, direct shipments to end-users or distributors).⁷⁹ Tosçelik reported that it performed the following selling functions for sales to all home market customers: packing; order input/processing; employment of direct sales personnel; provision of sales/marketing support; provision of warranties; and handling of freight and delivery arrangements. For its sales to end users made by tenders, Tosçelik reported an additional selling function of “participation in tenders,” which consists of making bids for project proposals.⁸⁰

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Tosçelik performed sales and marketing, warranty and technical support, and freight and delivery services for its reported sales in the home market. While Tosçelik claimed an additional selling function related to its tender sales, there is no evidence on the record showing that this selling function was substantial. According to 19 CFR 351.412(c)(2), the Department will determine that sales are made at different levels of trade if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing.⁸¹ Because Tosçelik largely performed the same selling functions at the same relative level of intensity for all of its home market sales, we determine that home market sales are at the same LOT.

With respect to the U.S. market, Tosçelik reported that it made sales through one channel of distribution (*i.e.*, direct shipments to a trading company).⁸² Tosçelik reported that it performed the following selling functions in Turkey for sales to all U.S. customers: packing; order input/processing; employment of direct sales personnel; provision of sales/marketing support; and handling of freight and delivery arrangements. Accordingly, based on the selling function categories noted above, we find that Tosçelik performed sales and marketing and freight and delivery services for all of its reported U.S. sales. Because Tosçelik performed the same selling functions at the same relative level of intensity for all of its U.S. sales, we determine that all U.S. sales are at the same LOT.

⁷⁹ See Tosçelik Sections B and C Response, at 15.

⁸⁰ See Tosçelik Supplemental Section A response, at 9 and Exhibit 2.

⁸¹ See 19 CFR 351.412(c)(2).

⁸² See Tosçelik Sections B and C Response, at 54.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Tosçelik performed for its U.S. and home market customers are largely the same. While Tosçelik claimed that it provided warranties only in the home market during the POI, the record shows that this selling function was not substantial. According to 19 CFR 351.412(c)(2), the Department will determine that sales are made at different levels of trade if they are made at different marketing stages (or their equivalent). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stage of marketing.⁸³ Because we determine that substantial differences in Tosçelik's selling activities do not exist across markets, we preliminarily determine that sales to the United States and home market during the POI were made at the same LOT and, as a result, no LOT adjustment is warranted.

C. *Cost of Production Analysis*

In February 2015, the petitioners alleged that Çayirova and Tosçelik made sales in the home market during the POI that were below their respective COPs.⁸⁴ Based on our analysis of the allegations made by the petitioners, we determined that there were reasonable grounds to believe or suspect that Çayirova's and Tosçelik's sales of welded line pipe in the home market were made at prices below the COP.⁸⁵ Accordingly, pursuant to section 773(b) of the Act, we initiated sales-below-cost investigations to determine whether Çayirova's and/or Tosçelik's home market sales were made at prices below COP.⁸⁶ We examined both respondents' cost data and determined that our quarterly cost methodology is not warranted and, therefore, we applied our standard methodology of using annual costs based on the reported data.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses.⁸⁷

⁸³ See 19 CFR 351.412(c)(2).

⁸⁴ See the petitioners' cost allegations regarding Çayirova and Tosçelik, dated February 18, 2015, and February 2, 2015, respectively.

⁸⁵ See Çayirova COP Memo and Tosçelik COP Memo.

⁸⁶ See the Memorandum from Robert B. Greger, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Çayirova Boru Sanayi ve Ticaret A.Ş." (Çayirova Preliminary Cost Calc Memo), dated May 14, 2015; and the Memorandum from Heidi K. Schriefer, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, entitled, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Tosçelik Profil ve Sac Endüstrisi A.Ş. and Tosyali Dis Ticaret A.Ş." (Tosçelik Preliminary Cost Calc Memo), dated May 14, 2015.

⁸⁷ See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

Çayirova

We relied on the COP data submitted by Çayirova, except as follows:⁸⁸

- We adjusted Çayirova's reported total G&A expenses to include idle capacity costs, capitalized depreciation expenses, expenses related to prior periods, losses from the sale of fixed assets and donations, and to exclude income from the reversal of AD provisions.

Tosçelik

We relied on the COP data submitted by Tosçelik, except as follows:⁸⁹

- We revised the amount of Tosçelik's uncollected import duties to equal a percentage of direct material costs, rather than a flat amount per kilogram of production.
- Tosçelik reported that it produced certain defective pipe products during the POI that it could not sell for the same applications as their prime counterparts. We reassigned the production costs of the defective pipes, net of an offset for the sales value of the defective pipes, to the prime pipe products produced during the POI.
- We adjusted the transfer price of inputs obtained from affiliated parties to reflect market values, in accordance with section 773(f)(2) of the Act.
- We revised the consolidated financial expense rate to include net foreign exchange losses.

2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, discounts and rebates, where applicable, movement charges, actual direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less

⁸⁸ See Çayirova Preliminary Cost Calc Memo.

⁸⁹ See Tosçelik Preliminary Cost Calc Memo.

than 20 percent of the respondent's comparison market 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 in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 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 COPs for the POI, 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.

We found that, for certain specific products, more than 20 percent of Çayirova's and Tosçelik's home market sales during the POI were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. *Calculation of NV Based on Comparison-Market Prices*

Çayirova

We calculated NV based on delivered or ex-works prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, discounts, and rebates, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for movement expenses, including inland freight and warehousing under section 773(a)(6)(B)(ii) of the Act. Regarding warehousing, Çayirova used an affiliated company to provide storage services for its merchandise sold in the home market.⁹⁰ Because Çayirova's affiliate did not provide the same service to unaffiliated parties, nor did Çayirova use unaffiliated companies to provide storage services, we were unable to test the arm's-length nature of the fees paid by Çayirova. Therefore, we based these expenses on the affiliate's costs.⁹¹

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for credit expenses and bank charges.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the 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 product and subject merchandise.⁹²

⁹⁰ See Çayirova Supplemental Section A Response, at 21-22.

⁹¹ For further discussion, see Çayirova Preliminary Calc Memo.

⁹² See 19 CFR 351.411(b).

Toscelik

We calculated NV based on delivered or ex-works prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments and discounts, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight, under section 773(a)(6)(B)(ii) of the Act.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for credit expenses and warranty expenses.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the 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 product and subject merchandise.⁹³

XIII. Facts Available

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply "facts otherwise available" if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.⁹⁴

⁹³ Id.

⁹⁴ See also 19 CFR 351.308(c).

Borusan Mannesmann and Borusan Istikbal

A. Use of Facts Available

As noted in the “Background” section, above, Borusan Mannesmann and Borusan Istikbal informed the Department that they did not intend to participate in this investigation,⁹⁵ and neither company responded to the Department’s questionnaire. As a result, Borusan Mannesmann and Borusan Istikbal did not provide the requested information necessary for the Department to calculate AD margins for them in this investigation. Furthermore, by not responding to the Department’s questionnaire, Borusan Mannesmann and Borusan Istikbal withheld information requested by the Department, failed to provide such information by the deadlines for submission of the information or in the form and manner requested by the Department, and significantly impeded this proceeding. Accordingly the use of facts available is warranted in determining AD margins for Borusan Mannesmann and Borusan Istikbal, pursuant to sections 776(a)(1) and (2)(A), (B), and (C) of the Act.

B. Application of Facts Available with an Adverse Inference

Section 776(b) of the Act provides that, if the Department finds an interested party has failed to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available.⁹⁶ In addition, the SAA explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁹⁷ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.⁹⁸

We preliminarily find that Borusan Mannesmann and Borusan Istikbal failed to cooperate by not acting to the best of their abilities to comply with requests for information in this investigation, within the meaning of section 776(b) of the Act, because they failed to respond to the Department’s requests for information. Therefore, we preliminarily find that an adverse inference is warranted in selecting from the facts otherwise available with respect to these companies.⁹⁹

⁹⁵ See Letter from Borusan Mannesmann, “Welded API Line Pipe from Turkey, Case No. A-489-822: Notice of Decision Not to Respond to Questionnaire,” dated December 16, 2014; and Letter from Borusan Istikbal, “Welded API Line Pipe from Turkey, Case No. A-489-822: Confirmation of Decision Not to Respond to Questionnaire,” dated January 5, 2015.

⁹⁶ See, e.g., Notice of Final Results of Antidumping Duty Administrative Review, and Final Determination to Revoke the Order In Part: Individually Quick Frozen Red Raspberries from Chile, 72 FR 70295, 70297 (December 11, 2007).

⁹⁷ See SAA at 870; Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review, 72 FR 69663, 69664 (December 10, 2007); see also Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances, 78 FR 79670 (December 31, 2013), and accompanying Preliminary Decision Memorandum at page 4, unchanged in Steel Threaded Rod From Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, 79 FR 14476 (March 14, 2014).

⁹⁸ See Preamble, 62 FR at 27340.

⁹⁹ See Nippon Steel Corp. v. United States, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

C. *Selection and Corroboration of Adverse Facts Available (AFA) Rate*

Where the Department uses AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record.¹⁰⁰ In selecting a rate based on adverse facts available, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. The Department's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition, or (2) the highest calculated dumping margin of any respondent in the investigation.¹⁰¹ As AFA, we preliminarily assign Borusan Mannesmann and Borusan Istikbal a rate of 9.85 percent, which is the sole rate alleged in the petition, as noted in the initiation of the investigation.¹⁰²

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.¹⁰³ Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.¹⁰⁴ To corroborate means that the Department will satisfy itself that the secondary information to be used has probative value.¹⁰⁵ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.¹⁰⁶ Thus, because the 9.85 percent AFA rate applied to Borusan Mannesmann and Borusan Istikbal is derived from the petition and, consequently, is based upon secondary information, the Department must corroborate it to the extent practicable.

The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value.¹⁰⁷ The SAA and the Department’s

¹⁰⁰ See SAA at 868-870; 19 CFR 351.308(c)(1) & (2).

¹⁰¹ See, e.g., Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value, 79 FR 31093 (May 30, 2014), and accompanying Issues and Decision Memorandum at Comment 3.

¹⁰² See Initiation Notice, 79 FR at 68215.

¹⁰³ See also 19 CFR 351.308(d).

¹⁰⁴ Id.

¹⁰⁵ Id.

¹⁰⁶ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997).

¹⁰⁷ See SAA at 870; see also 19 CFR 351.308(d).

regulations explain that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.¹⁰⁸ Thus, we determined that the petition margin of 9.85 percent is reliable, to the extent appropriate information was available, by reviewing the adequacy and accuracy of the information in the petition during our pre-initiation analysis and for purposes of this preliminary determination.¹⁰⁹

We examined evidence supporting the calculations in the petition to determine the probative value of the margins alleged in the petition for use as AFA for purposes of this preliminary determination.¹¹⁰ During our pre-initiation analysis, we examined the key elements of the EP and NV calculations used in the petition to derive an estimated margin.¹¹¹ During our pre-initiation analysis, we also examined information (to the extent that such information was reasonably available) from various independent sources provided either in the petition or, on our request, in the supplements to the petition that corroborates some of the elements of the EP and NV calculations used in the petition to derive the estimated margin.¹¹²

Based on our examination of the information, as discussed in detail in the Initiation Checklist, we consider the petitioners' EP and NV calculations to be reliable. We obtained no other information that would make us question the validity of the sources of information or the validity of the information supporting the U.S. price or NV calculations provided in the petition. Because we confirmed the accuracy and validity of the information underlying the derivation of the margins in the petition by examining source documents and affidavits, as well as publicly available information, we preliminarily determine that the margins in the petition are reliable for the purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. The courts acknowledge that the consideration of the commercial behavior inherent in the industry is important in determining the relevance of the selected AFA rate to the uncooperative respondent by virtue of it belonging to the same industry.¹¹³ No information has been placed on the record to indicate that the rate in the petition is not reflective of the commercial practices of the welded line pipe industry. Moreover, in this particular case, the information contained in the petition is relevant to the non-cooperating respondents. Because of the business proprietary nature of this information, however, we are unable to discuss the details here. For further discussion, see the Memorandum to the File from Alice Maldonado, Senior Analyst, entitled, "Corroboration of Adverse Facts Available Rate for the Preliminary Determination in the Less Than Fair Value Antidumping Duty Investigation of Welded Line Pipe from Turkey," dated May 14, 2015. Finally, we analyzed Çayirova's and Tosçelik's margin

¹⁰⁸ See SAA at 870; see also 19 CFR 351.308(d).

¹⁰⁹ See the Turkey AD Initiation Checklist (Initiation Checklist), dated November 5, 2014.

¹¹⁰ Id.

¹¹¹ Id.

¹¹² Id.

¹¹³ See, e.g., Gallant Ocean, 602 F.3d 1319, 1323 (Fed. Cir. 2010).


programs and found product-specific margins at or above the petition rate¹¹⁴ and, as a consequence, we find that the rate alleged in the petition, as noted the Initiation Notice, is within the range of Cayirova's and Toscelik's product-specific margins.

In sum, the Department corroborated the AFA rate of 9.85 percent to the extent practicable within the meaning of section 776(c) of the Act because the rate: 1) was determined to be reliable in the pre-initiation stage of this investigation (and we have no information indicating otherwise); and 2) is relevant to the uncooperative respondents.¹¹⁵ As the 9.85 percent rate is both reliable and relevant, we determine that it has probative value and, thus, it has been corroborated to the extent practicable, pursuant to section 776(c) of the Act. Thus, we preliminarily assigned this AFA rate to subject merchandise from Borusan Mannesmann and Borusan Istikbal.

XIV. Currency Conversion

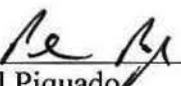
We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415. Although the Department's preferred source for daily exchange rates is the Federal Reserve Bank, the Federal Reserve Bank does not track or publish exchange rates for Turkish Lira. Therefore, we made currency conversions based on the exchange rates in effect on the date of the U.S. sales from Thomson Reuters Datascope Select.

We recommend applying the above methodology for this preliminary determination.



Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

17 MAY 2015

Date

¹¹⁴ See Final Corroboration Memo.

¹¹⁵ See section 776(c) of the Act; 19 CFR 351.308(c) and (d); see also Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China, 73 FR 35652, 35653 (June 24, 2008), and accompanying Issues and Decision Memorandum at Comment 1.