




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

A-489-501  
Administrative Review  
POR: 5/1/13-4/30/14  
Public Document  
AD/CVD Operations, OVI: FB, DS

May 29, 2015

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping  
Duty Administrative Review: Welded Carbon Steel Standard Pipe  
and Tube Products from Turkey; 2013-2014 Administrative  
Review

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**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. 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); and ERBOSAN Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan).

The period of review (POR) is May 1, 2013, through April 30, 2014. We preliminarily find that Borusan and Toscelik sold welded pipe and tube in the United States below normal value (NV), and that Erbosan had no shipments.<sup>1</sup> If these preliminary results are adopted in our final results

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<sup>1</sup> In prior segments of this proceeding, we treated Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S. as the same legal entity. See, e.g., Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Final Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 71087, 71088 (December 1, 2014). We preliminarily determine that there is no evidence on the record for altering such treatment of these two parties, referred to collectively as Borusan. Similarly, in prior segments of this proceeding we treated Toscelik Profil ve Sac Endustrisi A.S. and Tosyali Dis Ticaret A.S. as the same legal entity. See, e.g., id. There is also no record evidence for altering this treatment. Therefore, for these preliminary results, we are treating these



of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results. Unless otherwise extended, we intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).

### 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 requested an administrative review on June 2, 2014.<sup>2</sup> On the same date, petitioner Wheatland Tube Company (petitioner) requested reviews of various firms, including Borusan and Toscelik, in accordance with 19 CFR 351.213(b)(1).<sup>3</sup> On June 27, 2014, the Department published a notice of initiation of administrative review of the antidumping duty order on welded pipe and tube from Turkey for the period May 1, 2013, through April 30, 2014.<sup>4</sup>

On July 18, 2014, the petitioner withdrew its request for an administrative review of one of the entities for which it had requested a review, the Borusan Group. As a result, the Department rescinded the administrative review with respect to the Borusan Group on August 21, 2014, in accordance with 19 CFR 351.213(d)(1).<sup>5</sup>

In the Initiation Notice, we stated our intention, in the event we limited the number of respondents for individual examination, to select respondents based on U.S. Customs and Border Protection (CBP) data.<sup>6</sup> We selected as mandatory respondents the two exporters/producers accounting for the largest volume of welded pipe and tube from Turkey during the POR (i.e., Borusan and Toscelik).<sup>7</sup>

We issued the standard antidumping questionnaire to Borusan and Toscelik on July 31, 2014. Between September 3, 2014, and May 14, 2015, Borusan and Toscelik submitted timely responses to the Department's original and supplemental sections A, B, C, and D questionnaires.

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two companies as the same legal entity.

<sup>2</sup> See Letter to the Department from Borusan entitled "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Request for Antidumping Duty Administrative Review," dated June 2, 2014.

<sup>3</sup> See Letter to the Department from petitioner entitled "Circular Welded Carbon Steel Pipes And Tubes from Turkey, Case No. A-489-501: Request for Antidumping Duty Administrative Review," dated June 2, 2014.

<sup>4</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 36462 (June 27, 2014) (Initiation Notice). The Initiation Notice inadvertently referenced the incorrect order title. This decision memorandum and the Federal Register for these preliminary results use the original and correct order title, as reflected in the original 1986 order. See Antidumping Duty Order: Welded Carbon Steel Standard Pipe and Tube Products from Turkey, 51 FR 17784 (May 15, 1986).

<sup>5</sup> See Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Partial Rescission of Antidumping Duty Administrative Review: 2013-2014, 79 FR 49493 (August 21, 2014).

<sup>6</sup> See Initiation Notice, 79 FR at 36463.

<sup>7</sup> See Memorandum to Richard Weible, Director, Office VI from Fred Baker, "Administrative Review of the Antidumping Duty Order on Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Respondent Selection," dated July 29, 2014.

On October 6, 2014, petitioner requested that the Department verify Borusan and Toscelik. On December 9, 2014, petitioner withdrew the request.

On January 7, 2015, the Department extended the deadline for the preliminary results of this review until May 31, 2015.<sup>8</sup>

### 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

On July 15, 2014, Erbosan submitted to the Department a letter certifying that it had no exports, sales, or entries of subject merchandise to the United States during the POR, and that it did not know or have reason to know that any of its customers would subsequently export or sell Erbosan's merchandise to the United States.<sup>9</sup> On August 22, 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 exported by Erbosan during the POR.<sup>10</sup> In response, CBP communicated to the Department that its data indicated that subject merchandise exported by Erbosan may have entered the United States during the POR. Therefore, we requested U.S. entry documents for these shipments,<sup>11</sup> and upon analysis found no evidence from which we could conclude that Erbosan had knowledge that the destination for these shipments attributed to them was the United States.<sup>12</sup> The Department also requested additional clarification from Erbosan regarding these shipments.<sup>13</sup> In response, Erbosan filed a letter with the Department again declaring that during the POR, it did not export subject merchandise to any customer in the United States, export subject merchandise to any customer outside the United States knowing the final destination was the United States, or sell subject merchandise to any domestic customer which purchased the subject merchandise for export to the United States. Erbosan also confirmed in its letter that it did not know or have reason to know that any of its

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<sup>8</sup> See Memorandum from Fred Baker to Christian Marsh, Subject: Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2013-2014," dated January 7, 2015.

<sup>9</sup> See Letter to the Department from Erbosan entitled "No Shipment Certification of Erbosan Erciyas Boru Sanayi ve Ticaret A.S. ("ERBOSAN") in the 2013-2014 Administrative Review of the Antidumping Duty Order Involving Certain Welded Carbon Steel Standard Pipe from Turkey," dated July 15, 2014.

<sup>10</sup> See Customs e-mail message number 4234304, dated August 22, 2014.

<sup>11</sup> See Memorandum from Richard Weible to Michael Walsh, dated December 22, 2014.

<sup>12</sup> See Memorandum to the File from Fred Baker, "U.S. Entry Documents – Welded Carbon Steel Standard Pipe and Tube Products from Turkey," dated January 30, 2015.

<sup>13</sup> See letter to Erbosan from the Department, dated March 10, 2015.

customers would subsequently export or sell Erbosan's subject merchandise to the United States during the POR.<sup>14</sup> As previously noted, we have found nothing in the U.S. entry documents or elsewhere on the record that contradicts Erbosan's claims that it did not know or have reason to know that any of its customers would export or sell Erbosan's merchandise to the United States during the POR.

Based on Erbosan's certifications and our analysis of the other information on the record referenced above, we preliminarily determine that Erbosan 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 Erbosan, but rather to complete the review with respect to Erbosan, 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.<sup>15</sup> 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 Erbosan, we find it appropriate to complete the review and issue liquidation instructions to CBP concerning entries for Erbosan. If we continue to find that Erbosan had no shipments of subject merchandise in the final results, we will instruct CBP to liquidate any existing entries of merchandise produced by Erbosan, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.<sup>16</sup>

### Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Borusan's and Toscelik's 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), the Department calculates 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. 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

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<sup>14</sup> See Letter to the Department from Erbosan entitled "No Shipment Certification of Erbosan Erciyas Boru Sanayi ve Ticaret A.S. ("ERBOSAN") in the 2013-2014 Administrative Review of the Antidumping Duty Order Involving Certain Welded Carbon Steel Standard Pipe from Turkey," dated March 17, 2015.

<sup>15</sup> See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003) (Assessment Policy Notice).

<sup>16</sup> 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).

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 less-than-fair-value investigations.<sup>17</sup>

In recent proceedings, the Department has applied a “differential pricing” 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 Borusan, regions are defined using the reported destination code (*i.e.*, zip code). For Toscelik, regions are defined by state. 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 EP 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

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<sup>17</sup> 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).

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.

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 more than 33 percent but less than 66 percent of the value of Borusan's total U.S. sales confirm the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions, or time periods, which supports consideration of the application of a mixed methodology (i.e., applying 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 applying the average-to-average method to those sales identified as not passing the Cohen's

d test).<sup>18</sup> Further, the Department preliminarily determines that applying solely the average-to-average method to all sales 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 the weighted-average dumping margin calculated using the alternative method, *i.e.*, the resulting weighted-average dumping margin using the mixed methodology moves across the de minimis threshold as compared to the average-to-average method.<sup>19</sup> Accordingly, the Department preliminarily determines to use the mixed methodology 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 exports confirm the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods.<sup>20</sup> Therefore, the Department has not considered an alternative comparison methodology, 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.

### 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 the customer may add additional products, or add additional quantities of an already-ordered product, to an order.<sup>21</sup> Toscelik has also submitted evidence that such changes to orders have occurred for U.S. sales during the POR.<sup>22</sup> However, there is also no record evidence of such changes to orders following invoicing. Therefore, in accordance with our regulatory preference, we are

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<sup>18</sup> For additional detail, *see* Memorandum to the File from Deborah Scott, "Preliminary Analysis Memorandum for Borusan Mannesmann Boru Sanayi ve Ticaret A.S. in the 2013 – 2014 Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey," dated May 29, 2015 (Borusan Preliminary Analysis Memorandum).

<sup>19</sup> *Id.*

<sup>20</sup> For additional detail, *see* Memorandum to the File from Fred Baker, "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.," dated May 29, 2015 (Toscelik Preliminary Analysis Memorandum).

<sup>21</sup> *See* Toscelik's September 4, 2014, section A submission at 20.

<sup>22</sup> *See* Toscelik's October 20, 2014, submission at 4 and Exhibit 9.

preliminarily 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 preceded the invoice date because under these circumstances the shipment date best reflects the date on which the material terms of sales were established.<sup>23</sup>

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.<sup>24</sup> Consequently, we are preliminarily using contract date as date of sale for Borusan's U.S. sales, consistent with the prior administrative review of Borusan.<sup>25</sup>

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 that for both respondents the invoice date is the date by which material terms of sale, such as prices and quantities, have been finalized, and there is no indication that changes to material terms of sale occurred subsequent to invoice date.<sup>26</sup> However, consistent with the Department's practice, we used the shipment date as the date of sale where the shipment date preceded the invoice date because under these circumstances the shipment date best reflects the date on which the material terms of sale were established.

### Export Price

For sales to the United States, the Department calculated EP in accordance with section 772(a) of the Act because the merchandise was first sold prior to importation by the exporter or producer outside the United States to an unaffiliated purchaser in the United States and because constructed export price methodology was not otherwise warranted. We calculated EP based on the "cost-and-freight" price or other basis negotiated with the unaffiliated customer.

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<sup>23</sup> 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 (January 31, 2007), and the accompanying Issues and Decision Memorandum at Comments 4 and 5.

<sup>24</sup> See Borusan's September 4, 2014 section A questionnaire response at 20-23 and its September 24, 2014 section C questionnaire response at C-15.

<sup>25</sup> See, e.g., Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Preliminary Results of Antidumping Duty Administrative Review; 2012-2013, 79 FR 35999 (June 25, 2014) and accompanying Preliminary Decision Memorandum at 9, unchanged in 2012-2013 Final Results.

<sup>26</sup> See Toscelik's September 4, 2014, section A submission at 16, 20, its September 22, 2014, section B submission at 18, and its October 20, 2014, submission at 3-4; see also Borusan's September 4, 2014 section A questionnaire response at 20-22 and its September 24, 2014 section B questionnaire response at B-18.



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 increased the starting price by the amount of duty drawback in accordance with section 772(c)(1)(B) of the Act. No other adjustments were claimed or applied.<sup>27</sup>

### Duty Absorption

On July 28, 2014, petitioner requested that the Department conduct a duty absorption inquiry with regard to Borusan, Toscelik, and Erbosan.<sup>28</sup> Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after publication of the order whether antidumping duties have been absorbed by the foreign producer or exporter if the subject merchandise is sold in the United States through an affiliated importer. Because this review was not initiated at the two-year or four-year interval from publication of the antidumping duty order, a duty absorption inquiry is not authorized under the statute or the Department's regulations.<sup>29</sup>

### 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)(1)(C) of the Act and 19 CFR 351.404(b). Pursuant to section 773(a)(1)(C) of the Act, because each 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. Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based Borusan's and Toscelik's NV on their home market sales.

#### B. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act,<sup>30</sup> to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade as the EP. Pursuant to 19 CFR 351.412(c)(1)(iii), 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

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<sup>27</sup> We note that we are basing EP in this review on U.S. sales of subject merchandise made by Toscelik. See the Department's memorandum to the file dated May 12, 2015.

<sup>28</sup> See Letter to the Department from petitioner entitled "Circular Welded Carbon Steel Pipes and Tubes from Turkey: Request for Duty Absorption Determination," dated July 28, 2014.

<sup>29</sup> See *FAG Italia S.p.A. v. United States*, 291 F.3d 806 (Fed. Cir. 2002).

<sup>30</sup> See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

the sales from which we derive the adjustments to constructed value for selling expenses and profit. For EP sales, pursuant to 19 CFR 351.412(c)(1)(i), 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.

To determine whether comparison market sales are at a different level of trade than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.<sup>31</sup> 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 only to distributors, and that all sales were direct sales to the distributors.<sup>32</sup> Therefore, 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.<sup>33</sup> Based on this information, we determine that only one level of trade exists in Toscelik's U.S. market.

Borusan reported that in the home market it sold to trading companies, distributors, industrial end-users, and construction companies.<sup>34</sup> However, all sales were direct sales to customers, and prices do not vary between customer categories.<sup>35</sup> In the U.S. market, Borusan sold to only trading companies and distributors.<sup>36</sup> 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.<sup>37</sup> 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

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<sup>31</sup> See 19 CFR 351.412(c)(2).

<sup>32</sup> See Toscelik's September 4, 2014, submission at 13-15 and its October 28, 2014, submission at 4.

<sup>33</sup> See Toscelik's September 4, 2014, submission at 13-14.

<sup>34</sup> See Borusan's September 4, 2014 section A questionnaire response at 16.

<sup>35</sup> *Id.* at 16 and 19.

<sup>36</sup> *Id.* at 16.

<sup>37</sup> See Borusan's September 4, 2014 section A questionnaire response at 18 and its October 21, 2014 section A supplemental questionnaire response at 9-12 and Exhibit A-27; Toscelik's September 4, 2014, submission at 15 and Exhibit 6.

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.<sup>38</sup> During the POR, Toscelik and Borusan made some sales to affiliated parties in the 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 and rebates, movement charges, direct selling expenses, and packing expenses. 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.<sup>39</sup> 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).<sup>40</sup> 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 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 selling, 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.

For Borusan, we relied on the COP data submitted in its April 3, 2015, section D supplemental questionnaire response.

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<sup>38</sup> See 19 CFR 351.403(c).

<sup>39</sup> See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186, 69187 (November 15, 2002).

<sup>40</sup> See 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).

We relied on Toscelik's COP data submitted in its November 27, 2014, response to the Department's supplemental cost questionnaire except as follows.<sup>41</sup>

1. We revised the reported POR production quantity and the associated manufacturing cost of welded pipe and tube products to reflect Toscelik's normal books and records.
2. We increased the cost for prime pipes by the difference between the cost allocated to the second-quality pipes and the second-quality pipes' sales revenue.
3. We recalculated the reported per-unit imputed import duties as a percentage of raw material costs.
4. We revised the reported net financial expense ratio to include in the numerator of the ratio the foreign exchange losses arising from assets and liabilities other than borrowings.

## 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 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 billing adjustments, discounts and rebates, movement charges, 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

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<sup>41</sup> For further discussion, see Memorandum to Neal Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results – Toscelik Profil ve Sac Endustries A.S. and Tosyali Dis Ticaret A.S." dated May 29, 2015 (Toscelik's Cost Memorandum).

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 made 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 billing adjustments, discounts and rebates in accordance with 19 CFR 351.401(c). 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, warranty expenses, and factoring expenses. 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.<sup>42</sup>

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.<sup>43</sup>

#### 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(a) 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>.

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<sup>42</sup> See Borusan Preliminary Analysis Memorandum and Toscelik Preliminary Analysis Memorandum for further details.

<sup>43</sup> See 19 CFR 351.411(b).

Recommendation

We recommend applying the above methodology for these preliminary results.

✓  
Agree

                      
Disagree

                    *Paul Piquado*                      
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

                    29 MAY 2015                      
(Date)