



A-489-829  
Investigation  
**Public Document**  
E&C/Office VII: ML/AC

February 28, 2017

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

FROM: Gary Taverman  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the  
Less-Than-Fair-Value Investigation of Steel Concrete  
Reinforcing Bar from the Republic of Turkey

---

## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that steel concrete reinforcing bar (rebar) 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 September 20, 2016, the Department received an antidumping duty (AD) petition covering imports of rebar from Turkey,<sup>1</sup> which was filed by the Rebar Trade Action Coalition and its individual members: Bayou Steel Group, Byer Steel Group, Inc., Commercial Metals Company, Gerdau Ameristeel U.S. Inc., Nucor Corporation, and Steel Dynamics, Inc. (collectively, petitioners). On September 23, 2016, the Department issued supplemental questionnaires to the petitioners.<sup>2</sup> Between September 28, 2016, and October 4, 2016, petitioners filed supplemental questionnaire responses regarding the Petition. On October 5, 2016, petitioners amended the

---

<sup>1</sup> See Petition for the Imposition of Antidumping and Countervailing Duties: Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey, dated September 20, 2016. (the Petition).

<sup>2</sup> See Letter from the Department, “Petition for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey and Countervailing Duties on Imports of Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Questions” (September 23, 2016); *see also* Letter from the Department, “Petition for the Imposition of Antidumping Duties on Imports of Steel Concrete Reinforcing Bar from Taiwan: Supplemental Questions” (September 23, 2016).



Petition language with regards to scope. The Department initiated this investigation on October 18, 2016.<sup>3</sup>

In the *Initiation Notice*, the Department stated that 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.<sup>4</sup> Accordingly, on October 18, 2016, 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. No interested parties commented on the CBP entry 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 rebar to be reported in response to the Department's AD questionnaire.<sup>5</sup> The Department did not receive any comments relating to the scope of the investigation; therefore, the Department is preliminarily not modifying the scope language, and it remains the same as it appeared in the *Initiation Notice*.

On November 4, 2016, petitioners submitted comments to the Department regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes.<sup>6</sup> On November 16, 2016, Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas) and Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas) filed rebuttal comments.<sup>7</sup> On November 21, 2016, the petitioners submitted rebuttal comments in response to Habas' and Icdas' rebuttal comments.<sup>8</sup> On November 23, 2016, and November 28, 2016, Habas and Icdas submitted rebuttal comments.<sup>9</sup>

On November 9, 2016, the Department limited the number of mandatory respondents selected for individual examination to the two largest publicly-identifiable producers/exporters of the subject merchandise by volume. Accordingly, we selected Habas and Icdas as mandatory respondents in this investigation.<sup>10</sup>

---

<sup>3</sup> See *Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 81 FR 71697 (October 18, 2016) (*Initiation Notice*).

<sup>4</sup> See *Initiation Notice*, 81 FR at 71701.

<sup>5</sup> *Id.* at 71698.

<sup>6</sup> See Letter from Petitioners, "Antidumping Duty Investigations of Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey: Product Characteristics and Product Matching Comments," dated November 4, 2016.

<sup>7</sup> See Letter from Habas, "Steel Concrete Reinforcing Bar from Japan, Taiwan, and Turkey; Habas rebuttal comments on product characteristics," dated November 16, 2016. See also Letter from Icdas, "Steel Concrete Reinforcing Bar (Rebar) from Japan, Taiwan, and the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.' Rebuttal Comments on Product Characteristics & Product Matching," dated November 16, 2016.

<sup>8</sup> See Letter from Petitioners, "Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey: Comments on Product Characteristics and Product Matching," dated November 21, 2016.

<sup>9</sup> See Letter from Habas, "Steel Concrete Reinforcing Bar from Japan, Taiwan, and the Republic of Turkey; Habas second rebuttal comments on product characteristics," dated November 23, 2016. See also Letter from Icdas, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Additional Rebuttal Comments on Product Characteristics & Product Matching," dated November 28, 2016.

<sup>10</sup> See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Antidumping Duty Investigation of Steel Concrete Reinforcing Bar from the Republic of Turkey:

On November 14, 2016, 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 rebar from Turkey.<sup>11</sup>

On November 21, 2016, the Department issued the AD questionnaire to Habas and to Icdas. On December 19, 2016, Habas and Icdas each submitted timely responses to section A of the Department's AD questionnaire (*i.e.*, the section relating to general information), and in January 2017, both companies responded to sections B, C, and D of the Department's AD questionnaire (*i.e.*, the sections relating to home market and U.S. sales, and cost of production information). In January and February 2017, the Department issued supplemental questionnaires to Habas and Icdas, and we received timely responses to these supplemental questionnaires. On February 15, 2017, Icdas submitted unsolicited corrections/new factual information to their previously submitted response to the Department's supplemental sections B, C, and D questionnaire. On February 28, 2017, the Department rejected the submission.<sup>12</sup> On February 27, 2017 and February 28, 2017, the Department issued additional supplemental questionnaires to Habas and Icdas related to duty drawback. Because we will not receive responses to these questionnaires until after the preliminary determination, we will consider this information for the final determination.

On February 15, 2017, petitioners filed a notice with the Department, stating that one of the petitioning domestic producers, Bayou Steel Group, no longer intended to continue as a member of the petitioning coalition.<sup>13</sup>

Petitioners filed comments in advance of this preliminary determination on February 17, 2017.<sup>14</sup> Habas filed rebuttal comments on February 25, 2017.<sup>15</sup> To the extent possible, we have considered these comments in making this determination.

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

### **III. PERIOD OF INVESTIGATION**

The period of investigation (POI) is July 1, 2015, through June 30, 2016. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was September 2016.<sup>16</sup>

---

Respondent Selection," dated November 8, 2016, at 4-5.

<sup>11</sup> See *Steel Concrete Reinforcing Bar from Japan, Taiwan, and Turkey: Determinations*, Investigation Nos. 701–TA–564 and 731–TA–1338–1340 (Preliminary), 81 FR 79050 (November 10, 2016).

<sup>12</sup> See Letter from the Department, Re: "Steel Concrete Reinforcing Bar from the Republic of Turkey: Icdas' Errata in Supplemental Sections B, C, and 2<sup>nd</sup> Supplemental D Response," dated February 28, 2017.

<sup>13</sup> See Letter from Petitioner, "Re: Steel Concrete Reinforcing Bar from Japan, Taiwan, and Turkey: Notice Regarding Composition of the Petitioning Coalition," dated February 15, 2017.

<sup>14</sup> See Letters from petitioners, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Pre-Preliminary Comments Regarding Habas," and "Steel Concrete Reinforcing Bar from the Republic of Turkey: Pre-Preliminary Comments Regarding Icdas," both dated February 17, 2017.

<sup>15</sup> See Letter from Habas, "Steel Concrete Reinforcing Bar from Turkey; Habas Rebuttal to Petitioners' Pre-Preliminary Comments," dated February 25, 2017.

<sup>16</sup> See 19 CFR 351.204(b)(1).

#### IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are rebar from Turkey. The scope currently contains the following language pertaining to the scope of the CVD rebar from Turkey investigation:

“At the time of the filing of the petition, there was an existing countervailing duty order on steel reinforcing bar from the Republic of Turkey. *Steel Concrete Reinforcing Bar From the Republic of Turkey*, 79 Fed. Reg. 65,926 (Dep’t Commerce Nov. 6, 2014) (2014 Turkey CVD Order).

The scope of this the countervailing duty investigation with regard to rebar from Turkey covers only rebar produced and/or exported by those companies that are excluded from the 2014 Turkey CVD Order. At the time of the issuance of the 2014 Turkey CVD Order, Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. was the only excluded Turkish rebar producer or exporter.”

The Department is preliminarily removing this language from the scope of the instant investigation because it does not pertain to this investigation. For a full description of the scope of this investigation, *see* this investigation’s accompanying preliminary determination notice at Appendix I.

#### V. DISCUSSION OF THE METHODOLOGY

##### Comparisons to Fair Value

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

##### A. *Determination of the Comparison Method*

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (or CEPs) (*i.e.*, 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 normal values with the EPs (or CEPs of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In recent investigations, the Department applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>17</sup> The Department finds that the differential pricing analysis used in recent investigations may be

---

<sup>17</sup> See, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

instructive for purposes of examining whether to apply an alternative comparison method in this investigation. 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 a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. 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 Habas and Icdas, purchasers are based on the reported customer codes. 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 period of investigation based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. 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* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period 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 prices to the particular purchaser, region or time period differ significantly from the 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 (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account 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 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. 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, the Department examines 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 comparison 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, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison 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 margins 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 margins between the average-to-average method and the appropriate alternative method move 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*

### Habas

For Habas, based on the results of the differential pricing analysis, the Department preliminarily finds that 93.88 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>18</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that the average-to-average method cannot account for such differences because the weighted-average dumping margin crosses the *de minimis* threshold when calculated using the average-to-average method. Thus, for this preliminary determination, the Department is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping

---

<sup>18</sup> See Memorandum to the File from Myrna Lobo, International Trade Compliance Analyst, entitled, "Preliminary Determination Margin Calculation for Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.," dated concurrently with this memorandum (Habas Preliminary Calculation Memorandum).

margin for Habas.

### Icdas

For Icdas, based on the results of the differential pricing analysis, the Department preliminarily finds that 97.14 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>19</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department has preliminarily determined that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margin calculated using the average-to-average method and the alternative method are more than 25 percent apart. Thus, for this preliminary determination, the Department is applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Icdas.

## **VI. 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.<sup>20</sup> Finally, the Department has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.<sup>21</sup>

### Habas

Habas reported the date of the commercial invoice for its U.S. sales, and the earlier of the date of shipment or the invoice date as the date of sale for the home market. Habas noted for its U.S. sales that parties may amend orders and letters of credit to change price, quantity, product mix or delivery date, and there could be multiple such amendments for a given order prior to issuance of the invoice.<sup>22</sup> For most home market sales, Habas issues the invoice after the merchandise is

---

<sup>19</sup> See Memorandum to the File from Alex Cipolla, International Trade Compliance Analyst, entitled, "Preliminary Determination Margin Calculation for Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.," dated concurrently with this memorandum (Icdas Preliminary Calculation Memorandum).

<sup>20</sup> See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1092 (CIT 2001) (*Allied Tube & Conduit Corp.*) ("As elaborated by Department practice, a date other than invoice date 'better reflects' the date when 'material terms of sales 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.").

<sup>21</sup> 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; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum, at Comment 2.

<sup>22</sup> See Habas Section A response, dated December 19, 2016 (Habas Section A Response) at 16, 18.



shipped.<sup>23</sup> For the preliminary determination, the Department is using Habas' reported invoice date for its U.S. sales, and the earlier of invoice date or the shipment date for its home market sales, in accordance with our regulation and practice.

### Icdas

Icdas reported the earlier of the invoice date or the shipment date as its date of sale for the home market.<sup>24</sup> Icdas stated that it reported invoice date as the date of sale for U.S. sales, as the material terms of sale are generally determined at invoice date.<sup>25</sup> Icdas also reported that, in both markets, there can be changes to price and quantity after the initial agreement with the customer.<sup>26</sup> The documentation provided by Icdas showed that changes to the material terms of sale for both markets could, and in fact, did change after the initial agreement.<sup>27</sup> However, as the changes occurred before the issuance of the commercial invoice, the Department is using Icdas' reported invoice date for its U.S. sales, and the earlier of invoice or shipment date for its home market sales, in accordance with our regulation and practice.

## **VII. 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 the accompanying 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 prime versus non-prime merchandise and the physical characteristics reported by the respondents in the following order of importance: type of steel, minimum specified yield strength, coating, martensitic, nominal diameter, and form.

## **VIII. EXPORT PRICE**

Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States.

---

<sup>23</sup> See Habas Section A Response at 18.

<sup>24</sup> See Letter from Icdas, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Section A Questionnaire Response of Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.," dated December 19, 2016, (Icdas Section A Response) at 20.

<sup>25</sup> See Letter from Icdas, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Response of Icdas to Section C of the Antidumping Duty Questionnaire, dated January 17, 2017, (Icdas Section C Response) at 15.

<sup>26</sup> See Icdas Section A Response at 25.

<sup>27</sup> See Letter from Icdas, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Section A Questionnaire Response of Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.," dated January 25, 2017 (Icdas Supp A Response) at 4.



For all sales made by Habas and Icdas, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise 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.

We calculated EP for Habas and Icdas based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for movement expenses, *e.g.*, foreign inland freight, certain international freight, and foreign brokerage and handling expenses, in accordance with section 772(c)(2)(A) of the Act. We did not make an adjustment for agency revenue as reported by Habas, as the record does not demonstrate this revenue relates to subject merchandise.

### 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 United States Court of International Trade (CIT) sustained)<sup>28</sup> the following two-prong test:<sup>29</sup> first, that the import duty paid and the rebate payment are directly linked to, and dependent upon, one another (or the exemption from import duties is linked to the exportation of subject merchandise); and second, that there were sufficient imports of the imported raw material to account for the drawback received upon the exports of the subject merchandise.<sup>30</sup>

We note that in the prior investigation of rebar, each respondent reported that, when it opened the Inward Processing Certificate (IPC) with the Government of Turkey (GOT), it documented: 1) projected quantities of imports; and 2) projected quantities of exports of rebar based on an approved production yield loss ratio also documented in the IPC.<sup>31</sup> The IPCs submitted by the respondents in this investigation do not document the GOT-approved production yield loss ratios for rebar and the other products exported by respondents. These production yield loss ratios are

---

<sup>28</sup> See, *e.g.*, *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed Cir. 2011).

<sup>29</sup> See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61723 (October 19, 2006), citing *Wheatland Tube Company v. United States*, 414 F. Supp. 2d 1271, 1287 (CIT 2006); *Allied Tube & Conduit Corp. v. United States*, 374 F. Supp. 2d 1257, 1261 (CIT 2005); *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1093 (CIT 2001); *Far East Machinery Co., Ltd v. United States*, 699 F. Supp. 309, 311 (CIT 1988); *Carlisle Tire & Rubber Co. v. United States*, 657 F. Supp. 1287, 1289-90 (CIT 1987).

<sup>30</sup> See, *e.g.*, *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7513 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 2; see also *Certain Welded Carbon Steel Pipe and Tube from Turkey: Final Results of Antidumping Duty Administrative Review*, 70 FR 73447 (December 12, 2005), and accompanying Issues and Decision Memorandum at Comment 7; and *Federal-Mogul Corp. v. United States*, 862 F. Supp. 384, 410 (CIT 1994).

<sup>31</sup> See *Steel Concrete Reinforcing Bar From Turkey: Final Negative Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances*, 79 FR 54965 (September 15, 2014), and accompanying Issues and Decision Memorandum at 14.

central as to how the GOT determines that a company's import, production, and export plans meet the Inward Processing Regime (IPR) requirements. The approved production yield/loss ratios are also central to how the GOT determines that a company's actual import, production and export have complied with IPR requirements when it closes an IPC.<sup>32</sup> Thus, while there is information on the record from each respondent showing that it informed the GOT that it would import a quantity of raw materials and export a quantity manufactured products, there is no information on the record to determine whether it has done so in compliance with GOT-approved production yield/loss ratios for the relevant raw materials and manufactured products. The information concerning the amount of the input that is incorporated in the exported product forms a key basis in the Department's analysis for determining whether the second prong of the test has been satisfied. Without the production yield loss ratio, we cannot confirm whether there were sufficient imports to account for the duty drawback received upon export of the subject merchandise.

Therefore, we preliminarily determine that respondents have not met the two-prong test, and we have not granted a duty drawback adjustment. As stated in the Background section above, we have requested Habas and Icdas to provide additional information and we intend to consider their responses for the final determination.

## **IX. NORMAL VALUE**

### **A. *Comparison 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 Habas and Icdas, in accordance with section 773(a)(1)(B) of the Act.

### **B. *Affiliated-Party Transactions and Arm's-Length Test***

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.<sup>33</sup> The Department excludes home market sales to affiliated customers that are not made at arm's-length

---

<sup>32</sup> *Id.* at 14.

<sup>33</sup> *See* 19 CFR 351.403(c).

prices from our margin analysis because the Department considers them to be outside the ordinary course of trade. Consistent with 19 CFR 351.403(c) and (d) and our practice, “the Department may calculate normal value based on sales to affiliates if satisfied that the transactions were made at arm’s length.”<sup>34</sup>

Habas reported that it did not make any sales of the foreign like product to affiliates during the POI.<sup>35</sup> Icdas reported it made sales of rebar in the home market to affiliated parties, as defined in section 771(33) of the Act.<sup>36</sup> Consequently, we tested Icdas’ sales to ensure that they were made at arm’s-length prices, in accordance with 19 CFR 351.403(c).<sup>37</sup> In addition to comparing sales at the same level of trade, the test adjusts affiliated and unaffiliated party prices for numerous differences relating to the sales. The adjustments account for, among other things, differences in packing expenses, movement expenses from the original place of shipment, discounts and rebates, and selling expenses that relate directly to the sale at issue. While the Department’s questionnaire specifically requests information pertaining to a number of adjustments, it also allows for responding companies to claim additional adjustments for other expenses relating to the sales at issue. Thus, provided that a respondent has accurately reported its claimed differences in circumstances of sale, along with other expenses and price adjustments relating to the reported sales, the arm’s-length test will account for such differences between sales to affiliates and non-affiliates. Pursuant to 19 CFR 351.403(c) and, in accordance with the Department’s practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade, we determined that the sales made to the affiliated party were at arm’s length. Sales to affiliated customers in the home market that were not made at arm’s-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.<sup>38</sup> With respect to sales to affiliated resellers that failed the arm’s-length test, we used the reported downstream sales of these affiliates in our calculations for the preliminary determination.

### C. *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).<sup>39</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>40</sup> In order to determine whether the comparison

---

<sup>34</sup> See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1367 (CIT 2003), aff’d, 306 F. Supp. 2d 1291 (CIT 2004) (citing *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55355 (September 7, 2011) (“*Mexican Pipe*”).

<sup>35</sup> See Habas Supplemental A-D questionnaire response dated February 13, 2017 at 5.

<sup>36</sup> See Icdas Section B Response at 6 and 7.

<sup>37</sup> Including Icdas’ sales to its affiliates.

<sup>38</sup> See section 771(15) of the Act and 19 CFR 351.102(b).

<sup>39</sup> See 19 CFR 351.412(c)(2).

<sup>40</sup> *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*).

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,<sup>41</sup> we consider the starting prices before any adjustments. When the Department is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales to sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In this investigation, we obtained information from Habas and Icdas regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution.<sup>42</sup> Our LOT findings are summarized below.

### Habas

In the home market, Habas reported that it sells merchandise under consideration through a single channel of distribution, to resellers, end users, steel manufacturers, and other customers purchasing rebar or wire rod.<sup>43</sup> Habas stated that all its home market customers are unaffiliated, the sales are usually shipped from inventory, and it performs limited services for these home market customers. According to Habas, it performed the following selling functions for sales to all home market customers: packing, freight and delivery.<sup>44</sup> In addition, Habas reported that it provides inspection and certification to show that the merchandise is produced in conformity with Turkish standards for certain sales.<sup>45</sup>

With respect to the U.S. market, Habas reported that it made sales through one channel of distribution, *i.e.*, direct sales to unaffiliated traders and distributors.<sup>46</sup> Habas reported that it performed the following selling functions for sales to all U.S. customers: packing, freight and delivery, and the provision of port handling, loading, brokerage, survey report, and deferred payment options. In some instances, Habas noted that it acted as the importer of record and therefore handled customs clearance and paid U.S. customs duties.<sup>47</sup>

We compared the U.S. LOT to the home market LOT, and found that the selling functions Habas

---

<sup>41</sup> 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).

<sup>42</sup> See Habas Section A Response, at 13-17 and Exhibit A-6 and Habas Supplemental Section A Response at 2 and Exhibit SA-4; *see also* Icdas Section A Response at 13-16 and Exhibit A-7 and Icdas Supp A Response at 2 and Exhibit SA-2.

<sup>43</sup> See Habas Section A Response at 11-12.

<sup>44</sup> *Id.* at 13-14

<sup>45</sup> *Id.* at 14.

<sup>46</sup> *Id.* at 12.

<sup>47</sup> *Id.* at 11-14 and Habas Supplemental Section A Response at Exhibit SA-4.

performed for its U.S. and home market customers are similar for both markets except for some additional functions for its U.S. sales.<sup>48</sup> However, these differences are not significant to be considered at a different level of trade. 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.

### Icdas

In the home market, Icdas reported that it made sales through two channels of distribution, *i.e.* direct sales to unaffiliated customers and sales to affiliated customers.<sup>49</sup> According to Icdas, it usually performed the following selling functions for sales to all home market customers: freight (from the manufacturing facility or warehouse to the customer's site), packing of the cargo at the manufacturing facility, and the offering of extended payment terms.<sup>50</sup>

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 there were no significant differences in selling activities performed by Icdas to sell to its home market customers, we preliminarily determine that there is one LOT in the home market for Icdas.

With respect to the U.S. market, Icdas reported that it made sales through one channel of distribution, *i.e.* direct sales to unaffiliated customers on various terms.<sup>51</sup> Icdas reported that it performed the following selling functions for sales to U.S. customers: freight and delivery arrangements, handling, independent survey, customs clearance, payment of import duties, packing, loading, and brokerage and handling cost.<sup>52</sup>

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Icdas performed for its U.S. and home market customers are identical in all respects except for minor differences. Specifically, Icdas reported no sales activities or services in all of the following categories for both home and U.S. market: sales forecasting, strategic/economic planning, personnel training/exchange; engineering services; advertising; sales promotion; distributor/dealer training; procurement/sourcing services; inventory maintenance; order input/processing; direct sales personnel; sales/marketing support; market research; technical assistance; provision of rebates; provision of cash discounts; warranty; provision of guarantees; provision of after-sales services.<sup>53</sup> 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.

---

<sup>48</sup> *Id.*

<sup>49</sup> See Icdas Section A Response at 13-15.

<sup>50</sup> *Id.* at 14-15.

<sup>51</sup> See Icdas Section C Response at 17.

<sup>52</sup> See Icdas Section A Response at 14.

<sup>53</sup> *Id.*

#### D. *Cost of Production Analysis*

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (“TPEA”), which made numerous amendments to the AD and CVD law, including amendments to section 773(b)(2) of the Act, regarding the Department’s requests for information on sales at less than cost of production.<sup>54</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>55</sup> Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request constructed value and cost of production information from respondent companies in all AD proceedings.<sup>56</sup> Accordingly, the Department requested this information from Habas and Icdas. We examined Habas and Icdas’ 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. We preliminarily determined that the Habas and Icdas made sales in the home market during the POI that were below their respective COPs.

##### 1. Calculation of Cost of Production (COP)

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses.<sup>57</sup>

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

##### Habas

We adjusted Habas’ submitted total cost of manufacturing to exclude offsets claimed for profits earned on port services.<sup>58</sup>

##### Icdas

We adjusted Icdas’ submitted total financial expenses to include interest expense on trade payables.<sup>59</sup>

---

<sup>54</sup> See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>55</sup> See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (“*Applicability Notice*”).

<sup>56</sup> *Id.*, 80 FR at 46794-95.

<sup>57</sup> See “Test of Comparison Market Sales Prices” section, below, for treatment of home market selling expenses.

<sup>58</sup> See Memorandum to Neal M. Harper, Director, Office of Accounting, “Antidumping Duty Ivenstigation of Steel Concrete Reinforcing Bar from Turkey: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.,” dated concurrently with this memorandum. (Habas Prelim Cost Calc Memo).

<sup>59</sup> See Memorandum to Neal M. Harper, Director, Office of Accounting, “Antidumping Duty Investigation of Steel

## 2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(a)(1)(B)(i) 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, 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 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 products, more than 20 percent of Habas and Icdas' home market sales 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.

## E. *Calculation of NV Based on Comparison Market Prices*

### Habas

We calculated NV based on delivered or ex-factory prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, in accordance with 19 CFR 351.401(c). We also made a deduction from the starting price for inland freight where appropriate 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

---

Concrete Reinforcing Bar from the Republic of Turkey: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.," dated concurrently with this memorandum. (Icdas Prelim Cost Calc Memo).



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. Specifically, we deducted direct selling expenses incurred for home market sales, (*i.e.*, credit expenses), and added U.S. direct selling expenses, (*i.e.*, credit expenses and bank charges) and U.S. commissions. In accordance with 19 CFR 351.401(e), we made a commission offset by deducting indirect selling expenses incurred in the home market up to the amount of the reported U.S. commission. We also recalculated Habas' home market credit expenses using an interest rate that conforms with commercial reality.<sup>60</sup>

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.<sup>61</sup>

#### Icdas

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, 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. Specifically, we deducted direct selling expenses incurred for home market sales, (*i.e.*, credit expenses), and added U.S. direct selling expenses, (*i.e.*, credit expenses and bank charges) and U.S. commissions. In accordance with 19 CFR 351.401(e), we made a commission offset by deducting indirect selling expenses incurred in the home market up to the amount of the reported U.S. commission.

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.<sup>62</sup>

## **X. ADJUSTMENT TO CASH DEPOSIT RATE FOR EXPORT SUBSIDIES**

For this preliminary determination, the Department will has made adjustments for countervailable export subsidies for the AD cash deposit rates of Habas, Icdas, and the all-others,

---

<sup>60</sup> See Habas Prelim Calc Memo.<sup>61</sup> See 19 CFR 351.411(b).

<sup>61</sup> See 19 CFR 351.411(b).

<sup>62</sup> See 19 CFR 351.411(b).

pursuant to section 772(c)(1)(C) of the Act. We have offset the AD cash deposit rates for the determined export subsidy rates, which is reflected in the accompanying Federal Register notice.

## **XI. CURRENCY CONVERSION**

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the date of the U.S. sales as certified by the Federal Reserve Bank.

## **XII. CONCLUSION**

We recommend applying the above methodology for this preliminary determination.

☒

☐

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

2/28/2017

**X** *Ronald K. Lorentzen*  
\_\_\_\_\_

Signed by: RONALD LORENTZEN

\_\_\_\_\_  
Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance