



A-489-501

Administrative Review  
POR: 05/01/15-04/30/16  
Public Document  
AD/CVD6: FB

May 31, 2017

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

FROM: Gary Taverman  
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; 2015-2016

---

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 (pipe and tube) from Turkey. This review covers the following companies: Borusan Istikbal Ticaret T.A.S. (Borusan Istikbal) and Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan Mannesmann) (collectively, Borusan);<sup>1</sup> Toscelik Profil ve Sac Endustrisi A.S. and Tosyali Dis

---

<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 a single entity. See, e.g., *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014*, 80 FR 76674 (December 10, 2015) (*Pipe and Tube Turkey Final*). We preliminarily determine that there is no evidence on the record that warrants altering our treatment of Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S., as a single entity. The record does not support treating the following companies as part of the Borusan Mannesmann Boru Sanayi ve Ticaret A.S./Borusan Istikbal Ticaret T.A.S. entity: (1) Borusan Birlesik; (2) Borusan Gemlik; (3) Borusan Ihracat; (4) Borusan Ithicat; and (5) Tubeco. Accordingly, as discussed *infra*, each of these five companies will be assigned the rate applicable to companies not selected for individual examination in this review.



Ticaret A.S.; Toscelik Metal Ticaret A.S. (Toscelik Metal) (collectively, Toscelik),<sup>2</sup> Borusan Birlesik Boru Fabrikalari San ve Tic (Borusan Birlesik); Borusan Gemlik Boru Tesisleri A.S. (Borusan Gemlik); Borusan Ihracat Ithalat ve Dagitim A.S. (Borusan Ihracat); Borusan Ithicat ve Dagitim A.S. (Borusan Ithicat); Tubeco Pipe and Steel Corporation (Tubeco); Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan); Yucel Boru ve Profil Endustrisi A.S., Yucelboru Ihracat Ithalat ve Pazarlama A.S., and Cayirova Boru Sanayi ve Ticaret A.S. (collectively, the Yucel Group).

The period of review (POR) is May 1, 2015, through April 30, 2016. We preliminarily find that Toscelik did not make sales below normal value (NV), that Borusan made sales below NV, and that Erbosan, Borusan Birlesik, Borusan Gemlik, Borusan Ihracat, Borusan Ithicat, and Tubeco had no shipments during the POR. Based on the final results 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 of this review 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 Act, and in accordance with 19 CFR 351.213(b)(1), on May 27, 2016, petitioner Wheatland Tube Company (the petitioner) requested reviews of various firms, including Borusan and Toscelik.<sup>3</sup> In accordance with 19 CFR 351.213(b)(2), Borusan requested an administrative review of its own exports on May 31, 2016.<sup>4</sup> On July 7, 2016, the Department published a notice of initiation of administrative review of the antidumping duty order on pipe and tube from Turkey for the period May 1, 2015, through April 30, 2016.<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 or producers

---

<sup>2</sup> In prior segments of this proceeding, we treated Toscelik Profil ve Sac Endustrisi A.S., Tosyali Dis Ticaret A.S., and Toscelik Metal as a single entity. See, e.g., *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014*, 80 FR 76674, 76674 n.2 (December 10, 2015). We preliminarily determine that there is no evidence on the record for altering our treatment of Toscelik Profil ve Sac Endustrisi A.S., Tosyali Dis Ticaret A.S., and Tosceilk Metal as a single entity. The petitioners requested a review of Toscelik Metal, and there has been no withdrawal of that request. Therefore, Toscelik Metal will be reviewed as part of the single entity Toscelik.

<sup>3</sup> See Letter from the petitioner, Re: Circular Welded Carbon Steel Pipes and Tubes from Turkey: Request for Administrative Review, dated May 27, 2016.

<sup>4</sup> See Letter from Borusan, Re: Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Request for Antidumping Duty Administrative Review, dated May 31, 2016.

<sup>5</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 44260 (July 7, 2016) (*Initiation Notice*). The *Initiation Notice* inadvertently referenced misspellings of two company names. The Department issued a correction of these misspellings on August 11, 2016. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 53121 (August 11, 2016).

<sup>6</sup> See *Initiation Notice*, 81 FR at 44261.

accounting for the largest volume of pipe and tube from Turkey during the POR (*i.e.*, Borusan and Toscelik).<sup>7</sup>

We issued the antidumping questionnaire to Borusan and Toscelik on October 17, 2016. Between November 9, 2016, and March 27, 2017, Borusan and Toscelik submitted timely responses to the Department's original and supplemental sections A, B, C, and D of the questionnaire.

On January 30, 2017, the Department extended the deadline for the preliminary results of this review, until May 17, 2017.<sup>8</sup> On May 11, 2017, the Department extended the deadline further until May 31, 2017.<sup>9</sup>

### Scope of the Order

The products covered by this order are 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 18, 2016, we received a no-shipment certification from Erbosan.<sup>10</sup> Erbosan further certified 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 during the POR. On August 8, 2016, we received no-shipment certifications from Borusan Istikbal, Borusan Birlesik, Borusan Gemlik, Borusan Ihracat, Borusan Ithicat, and Tubeco.<sup>11</sup> On May 1, 2017, consistent with our practice, the Department issued "No Shipment Inquiries" to U.S. Customs and Border Protection (CBP) to confirm that there were no entries of pipe and tube from Turkey exported by Erbosan, Borusan Istikbal, Borusan Birlesik, Borusan Gemlik, Borusan Ihracat, Borusan Ithicat, and Tubeco during the POR.<sup>12</sup> We received no information from CBP contrary to the claims of these companies.

---

<sup>7</sup> See Memorandum, "Administrative Review of the Antidumping Duty Order on Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Respondent Selection," dated October 13, 2016.

<sup>8</sup> See Memorandum, "Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated January 30, 2017.

<sup>9</sup> See Memorandum, "Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated May 11, 2017.

<sup>10</sup> See Letter from Erbosan, Re: No Shipment Certification of Erbosan Erciyas Boru Sanayi ve Ticaret A.S. ("ERBOSAN") in the 2015-2016 Administrative Review of the Antidumping Duty Order Involving Certain Welded Carbon Steel Standard Pipe from Turkey, dated July 18, 2016.

<sup>11</sup> See Letter from Borusan Istikbal, Borusan Birlesik, Borusan Gemlik, Borusan Ihracat, Borusan Ithicat, and Tubeco, Re: Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: No Shipment Letter, dated August 8, 2016.

<sup>12</sup> See CBP message number 7121305, dated May 1, 2017.

Based on the foregoing, we preliminarily determine that Erbosan, Borusan Birlesik, Borusan Gemlik, Borusan Ihracat, Borusan Ithicat, and Tubeco had no reviewable shipments during the POR. Also, consistent with our practice, the Department finds that it is not appropriate to rescind the review with respect to these companies, but rather to complete the review with respect to them, and to issue appropriate instructions to CBP based on the final results of this review.<sup>13</sup> 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>14</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, Borusan Birlesik, Borusan Gemlik, Borusan Ithicat, and Tubeco, we find it appropriate to complete the review and issue liquidation instructions to CBP concerning entries for them. If we continue to find that these companies had no shipments of subject merchandise in the final results, we will instruct CBP to liquidate any existing entries of merchandise produced by them, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.<sup>15</sup>

Furthermore, as noted above, Borusan Istikbal submitted a no-shipment certification on August 8, 2017. However, also as noted above, we have in the past found Borusan Istikbal to be part of the single entity Borusan, and we find no record evidence that warrants altering this treatment. Therefore, because we find Borusan to have had shipments during this POR, we have not made a preliminary determination of no shipments with respect to Borusan Istikbal.

#### Rates for Non-Examined Companies

The statute and the Department’s regulations do not address the establishment of a rate to be applied to companies not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally “an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.”

In this review, we have preliminarily calculated a weighted-average dumping margin for Borusan that is not zero, *de minimis*, or determined entirely on the basis of facts available.

---

<sup>13</sup> See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

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

<sup>15</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).

Accordingly, the Department preliminarily assigned to the companies not individually examined the weighted-average dumping margin calculated for Borusan.

### Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Borusan's and Toscelik's sales of the 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 weighted-average dumping margins by comparing weighted-average normal values to weighted-average export prices (or constructed export prices) (*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 export prices (or constructed export prices) 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. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.<sup>16</sup>

In all 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 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 a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales

---

<sup>16</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), and accompanying Issues and Decision Memorandum at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014).

<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); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. 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 analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip codes or state) 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 review 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 export price (or constructed export price) and normal value 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

For Toscelik, based on the results of the differential pricing analysis, the Department preliminarily finds that 23.37 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>18</sup> and does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the average-to-average method. Accordingly, the Department preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Toscelik.

For Borusan, based on the results of the differential pricing analysis, the Department preliminarily finds that 64.52 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. Furthermore, 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 and when calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test. Thus, for these preliminary results, the Department is applying the average-to-transaction method to those U.S. sales which

---

<sup>18</sup> See Memorandum, "Analysis for the Preliminary Results of the 2015-2016 Antidumping Duty Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Toscelik Profil ve Sac Endustrisi A.S.," dated May 31, 2017 (Toscelik Preliminary Analysis Memorandum).

<sup>19</sup> See Memorandum, "Analysis for the Preliminary Results of the 2015-2016 Antidumping Duty Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Borusan Mannesmann Boru Sanayi ve Ticaret A.S.," dated May 31, 2017 (Borusan Preliminary Analysis Memorandum).

passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test to calculate the weighted-average dumping margin for Borusan.

### 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.<sup>20</sup>

### Date of Sale

Regarding determination of the 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 which are kept in the ordinary course of business. 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 no record evidence of such changes to orders following invoicing. Therefore, in accordance with our regulatory preference, we are 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

---

<sup>20</sup> See Department Letter re: Antidumping Duty Questionnaire, dated October 16, 2016, at B10-B12 and C9-C11.

<sup>21</sup> See Toscelik's November 9, 2016 Section A Questionnaire Response (Toscelik November 9, 2016 AQR), at 21.

<sup>22</sup> See Toscelik's February 28, 2017 Supplemental Questionnaire Response (Toscelik February 28, 2017 SQR), at 1 and Exhibit 1.

<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 (December 10, 2012), and accompanying Preliminary 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 (April 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 accompanying Issues and Decision Memorandum at Comments 4 and 5.

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.

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, U.S. inland freight, and other international movement expenses.

Both respondents claimed a duty drawback adjustment to U.S. price.<sup>27</sup> Section 772(c)(1)(B) of the Act states that EP and CEP shall be increased by "the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the export of the subject merchandise to the United States." In determining whether an adjustment for duty drawback should be made, we look for a reasonable link between the duties imposed and those rebated or exempted. We do not require that the imported material be traced directly from importation through exportation. We do require, however, that the company meet our "two-pronged" test in order for the adjustment to be made to EP or CEP.<sup>28</sup> The first element is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one

---

<sup>24</sup> See Borusan's November 15, 2016 Section A Questionnaire Response (Borusan November 15, 2016 AQR), at A-21.

<sup>25</sup> See, e.g., *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Preliminary Results of Antidumping Duty Administrative Review, and Partial Rescission of Review; 2014-2015*, 81 FR 38131 (June 13, 2016), and accompanying Preliminary Decision Memorandum at 9, unchanged in *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014-2015*, 81 FR 92785 (December 20, 2016).

<sup>26</sup> See Toscelik November 9, 2016 AQR, at 21, and Toscelik February 28, 2017 SQR, at 1 and Exhibit 2; see also Borusan November 15, 2016 AQR, at A-19 - A-20 and Borusan's December 7, 2016 Section B Questionnaire Response (Borusan December 7, 2016 BQR), at B-18 - B-19.

<sup>27</sup> See Toscelik's December 5, 2016, Section C Questionnaire Response (Toscelik December 5, 2016 CQR), at 74 and Exhibits 8-9; see also Borusan's December 7, 2016, Section C Questionnaire Response (Borusan December 7, 2016 CQR), at C-37 - C-45 and Exhibits C-16 through Exhibit C-19.

<sup>28</sup> See *Saha Thai Steel Pipe Public Co., v. United States*, 635 F.3d 1335, 1440-41 (Fed Cir. 2011) (Saha Thai).

another; the second element is that the company must demonstrate that there were sufficient imports of the imported material to account for the duty drawback or exemption granted for the export of the manufactured product.<sup>29</sup>

We are preliminarily granting a duty drawback adjustment to both Toscelik and Borusan because record evidence indicates that both companies satisfy the first prong of interdependency between import duty and exemption and the second prong of sufficient imports to account for the duty drawback claim, as described above for Turkey's duty drawback program or Inward Processing Regime.<sup>30</sup> Also, consistent with the practice established in *Rebar Trade Redetermination on Remand*,<sup>31</sup> we limited the amount of the duty drawback adjustment by the per-unit duty costs included in the respondents' cost of production (COP).<sup>32</sup>

No other adjustments were claimed or applied.

### Normal Value

#### A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales of 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 each respondent's 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>33</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 the sales from which we derive the adjustments to constructed value for selling expenses and

---

<sup>29</sup> *Id.*; see also, e.g., *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 7513 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 2.

<sup>30</sup> See Toscelik December 5, 2016 CQR, at 74 and Exhibits 8-9; see also Borusan December 7, 2016 CQR, at C-37 – C-45 and Exhibits C-16 through Exhibit C-19.

<sup>31</sup> See *Final Results of Redetermination Pursuant to Court Remand: Rebar Trade Coalition v. United States* Consol. Court No., 14-00268 Slip Op. 15-130 (CIT November 23, 2015), dated April 7, 2016 (*Rebar Trade Redetermination on Remand*), at 15-18.

<sup>32</sup> See Borusan Preliminary Analysis Memorandum; see also Toscelik Preliminary Analysis Memorandum.

<sup>33</sup> See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

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 (*i.e.*, the unaffiliated U.S. customer).

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>34</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>35</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>36</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 or industrial end-users.<sup>37</sup> However, all sales were direct sales to customers, and Borusan performs the same level of selling activities for both customer categories.<sup>38</sup> In the U.S. market, Borusan sold to only trading companies and distributors and performs the same level of selling activities for both customer categories.<sup>39</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 U.S. and home markets.<sup>40</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 at a single level of trade for each respondent) 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.<sup>41</sup> 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 level of selling activities, 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.

---

<sup>34</sup> See 19 CFR 351.412(c)(2).

<sup>35</sup> See Toscelik November 9, 2016 AQR, at 15; *see also* Toscelik December 5, 2016 BQR, at 18.

<sup>36</sup> See Toscelik November 9, 2016 AQR, at 15.

<sup>37</sup> See Borusan November 15, 2016 AQR, at A-16 and Exhibit A-6.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> See Toscelik November 9, 2016 AQR, at 15 and Exhibit 6; *see also* Borusan November 15, 2016 AQR, at A-17-A-18 and Exhibit A-7.

<sup>41</sup> See Borusan November 15, 2016 AQR, at Exhibit A-7; *see also* Toscelik November 9, 2016 AQR, at Exhibit 6.

As there are no CEP sales, no CEP offset is appropriate.

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

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's-length prices.<sup>42</sup> During the POR, Toscelik and Borusan each 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>43</sup> In our calculations of NV, we included sales to affiliated parties that were made at arm's-length prices and excluded sales that were not made at arm's-length prices. We did not rely on any downstream sales in the calculation of NV because for both Borusan and Toscelik the total volume of home market sales to affiliates amounted to less than five percent of the total volume of home market sales.<sup>44</sup>

### D. Cost of Production Analysis

On June 29, 2015, the President of the United States signed into law the *TPEA*, which made numerous amendments to the AD and countervailing duty law, including amendments to section 773(b)(2) of the Act, regarding the Department's requests for information on sales at less than the COP.<sup>45</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 in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>46</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 COP information from respondent companies in all AD proceedings.<sup>47</sup>

Accordingly, the Department requested this information from Borusan and Toscelik. We examined Borusan's and Toscelik's cost data and determined that our quarterly cost methodology is not warranted, and, therefore, we have applied our standard methodology of

---

<sup>42</sup> See 19 CFR 351.403(c).

<sup>43</sup> See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

<sup>44</sup> See Borusan November 15, 2016 AQR, at A-2 and Toscelik November 9, 2016 AQR, at 2.

<sup>45</sup> See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015) (*TPEA*). The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>46</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).

<sup>47</sup> *Id.*, 80 FR at 46794-95.

using annual costs based on Borusan and Toscelik's reported data. We relied on the cost data submitted by Borusan and Toscelik except as follows:

- Borusan's reported material cost varies significantly among CONNUMs with the same grade and similar other characteristics. The record shows that these differences are due to reasons not related to product characteristics, such as timing of production. Therefore, we reallocated material costs among products with common grade characteristics to mitigate differences in hot-rolled coil costs unrelated to physical characteristics of the products.
- For Borusan, we added the SCOST field reported in the COP database (a variable that represents the difference between the sales revenue earned on sales of non-prime and the cost of sales assigned to non-prime) to the TOTCOM to properly assign the cost of non-prime to the cost of manufacturing of prime products.
- For Toscelik, we increased the COM for the unreconciled difference between reported COM and COM per the accounting records.
- For Toscelik, 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.
- For both Borusan and Toscelik, we added the imputed cost of exempted import duties to the total COM.

#### 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, financial 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.

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

#### E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on the prices that Borusan and Toscelik each 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. For Toscelik, we adjusted the starting price, where appropriate, for billing adjustments and discounts in accordance with 19 CFR 351.401(c). For Borusan, 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. For Toscelik, direct selling expenses consisted of warranty expenses. For Borusan, direct selling expenses consisted of 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>48</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 an adjustment 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>49</sup>

---

<sup>48</sup> See Borusan Preliminary Analysis Memorandum and Toscelik Preliminary Analysis Memorandum for further details.

<sup>49</sup> See 19 CFR 351.411(b).

In the calculation of NV for Borusan, in accordance with section 771(15) of the Act, we removed all home market sales of overruns because we determined that they were outside the ordinary course of trade.<sup>50</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 cost of production, selling expenses, and profit. We also deducted the packing costs for the foreign like product and included U.S. packing costs. We calculated the COP component of CV as described above in the "Cost of Production Analysis" 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 sale 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>.

Recommendation

We recommend applying the above methodology for these preliminary results.

☒

Agree

☐

Disagree

5/31/2017

X *Ronald K. Lorentzen*

Signed by: RONALD LORENTZEN

Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

<sup>50</sup> See Memorandum, "2015–2016 Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey; Borusan Mannesmann Boru Sanayi ve Ticaret A.S.'s Home Market Sales of Overruns," dated May 31, 2017.