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International Trade Administration
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MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Certain Oil Country Tubular Goods from Turkey: Decision Memorandum for Preliminary Results of the Antidumping Duty Administrative Review; 2015-2016

SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain oil country tubular goods (OCTG) from Turkey covering the period of review (POR) September 1, 2015, through August 31, 2016. The review covers one producer/exporter of the subject merchandise, Tosçelik Profil ve Sac Endüstrisi A.Ş. (Toscelik). We preliminarily determine that Toscelik did not make sales of the subject merchandise at prices below normal value (NV).

BACKGROUND

On September 10, 2014, we published in the *Federal Register* an AD order on OCTG from Turkey.[1] On September 1, 2015, we published in the *Federal Register* a notice of opportunity to

[1] *See Certain Oil Country Tubular Goods from India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691, 53693 (September 10, 2014).

request an administrative review of the order.[2] On November 9, 2016, based on timely requests, we initiated an administrative review of Toscelik and Tosyali Dis Ticaret A.S. (Tosyali) in accordance with 19 CFR 351.221(c)(1)(i).[3] On May 19, 2017, the Department extended the deadline for issuing its preliminary results of this administrative review to August 31, 2017.[4]

We sent questionnaires to Toscelik and Tosyali on November 17, 2016.[5] On December 18, 2016, Toscelik submitted timely responses to section A of the Department's AD questionnaire (*i.e.*, the section relating to general information),[6] and on January 6, 2017, Toscelik responded to sections B, C, and D of the Department's AD questionnaire (*i.e.*, the sections relating to comparison-market and U.S. sales and cost of production).[7] We issued supplemental questionnaires on April 10, 2017,[8] and on June 23, 2017; Toscelik responded on May 4, 2017,[9] and on June 30, 2017.[10]

Based on record evidence we find that Toscelik, Tosyali, Tosyali Demir Celik A.S. (TDC), Tosyali Holding A.S., Toscelik Granul San A.S., Tosyali Celik Ticaret A.S., Toscelik Spiral Boru Uretim Sanayi A.S. Tosyali Elek. Enerjsi Toptan SAT, A.S., and Tosyali Elek Enerjsi Uretim A.S., are affiliated, as defined by section 771(33) of the Act.[11] In addition, based on record evidence we find that Toscelik, Tosyali, TDC, Toscelik Granul San A.S., Tosyali Celik Ticaret A.S., and Toscelik Spiral Boru Uretim Sanayi A.S., should be treated as a single entity for the purposes of the Department's analysis in this administrative review. For further discussion of our analysis, *see* section below titled, "Treatment of Affiliated Parties as a Single Entity."

SCOPE OF THE ORDER

The merchandise covered by the order is certain OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 52741 (September 1, 2015).
[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 78778, 78784 (November 9, 2016).
[4] *See* Memorandum, "Oil Country Tubular Goods from Turkey: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated May 19, 2017.
[5] *See* Letters from the Department to Toscelik and Tosyali dated November 17, 2016 (QR).
[6] *See* Letter from Toscelik, "Certain Oil Country Tubular Goods from Turkey; Section A Response," dated December 18, 2016 (TAR).
[7] *See* Letter from Toscelik, "Certain Oil Country Tubular Goods from Turkey; Sections B-D Response," dated January 6, 2017 (TBCR).
[8] *See* Letter from the Department to Toscelik dated April 10, 2017 (SQ).
[9] *See* Letter from Toscelik, "Certain Oil Country Tubular Goods from Turkey; Supplemental Sections A-D Response," dated May 4, 2017 (TSQR).
[10] *See* Letter from Toscelik, "Certain Oil Country Tubular Goods from Turkey; Second Supplemental Questionnaire Response," dated June 30, 2017 (TSSQR)
[11] *See* also Memorandum, "Certain Oil Country Tubular Goods from Turkey – Affiliation of Tosçelik Profil ve Sac Endüstrisi A.Ş, and Tosçelik Profil ve Sac Endüstrisi A.S.," dated concurrently with this memorandum.

OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the order also covers OCTG coupling stock.

Excluded from the scope of the order are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The merchandise subject to the order may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive.

Treatment of Affiliated Parties as a Single Entity

Based on record evidence, we find that the following companies are affiliated entities for the purposes of the Department's analysis in this administrative review:

- Toscelik
- Tosyali
- Tosyali Demir Celik A.S. (TDC)
- Tosyali Holding A.S.
- Toscelik Granul San A.S.
- Tosyali Celik Ticareti A.S.
- Toscelik Spiral Boru Uretim San A.
- Tosyali Elek. Enerjsi Toptan SAT, A.S.,
- Tosyali Elek Enerjsi Uretim A.S.

The Department has determined that the above-named entities are affiliated pursuant to sections 771(33)(A) and (F). Specifically, we find that the owners of Toscelik are affiliated persons

pursuant to section 771(33)(A) of the Act because they are brothers, that this family grouping constitutes a person within the meaning of section 771 of the Act, and that these entities are affiliated persons pursuant to section 771(33)(F) as two or more persons directly or indirectly controlled by the family grouping identified above.

The Department has also determined that the requirements of 19 CFR 351.401(f) for treating affiliated parties as a single entity are met because these companies, with the exception of Tosyali Holding A.S, Tosyali Elek. Enerjsi Toptan SAT, A.S., and Tosyali Elek Enerjsi Uretim A.S., have sales and production facilities for similar or identical products that would not require substantial retooling of their facilities in order to restructure manufacturing priorities and because there exists a significant potential for the manipulation of price or production.

For the Department's complete analysis regarding the treatment of these companies as a single entity (herein after referred to as Toscelik Single Entity), *see* the Collapsing Memorandum.[12]

DISCUSSION OF THE METHODOLOGY

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 Toscelik Single Entity'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 constructed value (CV) 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 EPs or constructed export prices (CEPs) (*i.e.*, the average-to-average (A-A) method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales (*i.e.*, the average-to-transaction (A-T) 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.[13]

[12] *See* Memorandum titled, "Certain Oil Country Tubular Goods Turkey - Collapsing of Toscelik, and its Affiliates," dated concurrently with this notice (Collapsing Memorandum).

[13] *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 the 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).

In recent investigations, the Department applied a "differential pricing" analysis for determining whether application of the A-T method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.[14] 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 A-A 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 EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales 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 A-A 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 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 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 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

[14] *See, e.g., Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair*, 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).

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 A-T method to all sales as an alternative to the A-A 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 A-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-A method, and application of the A-A 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 A-A 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 A-A 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 A-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-A 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 A-A 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 A-A 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 the Toscelik Single Entity, based on the results of the differential pricing analysis, the Department preliminarily finds that zero percent of the value of U.S. sales pass the Cohen's *d* test, and, therefore, does not confirm the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods.[15] Thus, the results of the Cohen's *d* and ratio tests do not support consideration of an alternative to the A-A method. Accordingly, the Department

[15] *See* Memorandum, "Analysis for the Preliminary Results of the 2015-2016 Antidumping Duty Administrative Review of Oil Country Tubular Goods from Turkey: Toscelik Single Entity," dated concurrently with this memorandum (Toscelik Preliminary Analysis Memorandum).

preliminarily determines to apply the A-A method for all U.S. sales to calculate the weighted-average dumping margin for the Toscelik Single Entity.

Product Comparisons

Because the Toscelik Single Entity has no suitable comparison market,[16] we made product comparisons using CV, as discussed in the "Calculation of Normal Value Based on Constructed Value" section of this memorandum, below.

Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, we will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that we 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.[17]

With respect to its U.S. EP sales, the Toscelik Single Entity reported that after orders are placed, there could be changes in the quantity ordered by its customer, and thus, according to the Toscelik Single Entity, the customer's purchase order does not bind the parties.[18] The Toscelik Single Entity submitted evidence that such a change to the order had occurred for the U.S. sales during the POR.[19] In addition, the Toscelik Single Entity reported that the Department should use the earlier of shipment date or invoice date as the date of sale.[20] Record evidence indicates that shipment date precedes invoice date with respect to the Toscelik Single Entity's EP sales.[21] Therefore, in accordance with our regulatory preference, we are preliminarily using the shipment date as the date of sale for the Toscelik Single Entity's U.S. sales because consistent with the Department's practice, when shipment date precedes invoice date, the shipment date best reflects the date on which the material terms of sale were established.[22]

With respect to the Toscelik Single Entity's comparison market sales, we preliminarily find that the order confirmation date is the appropriate date of sale for this administrative review.

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[16] The record indicates that the Toscelik Single Entity's home market was viable but because we have determined that its home market sales were made outside of the contemporaneity window period, we find that its home market sales are not suitable for purposes of determining NV. For further details, *see* the "Date of Sale" section of this memorandum.

[17] *See* 19 CFR 351.401(i); *see* also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-92 (CIT 2001); and *Yieh Phui Enterprise Co. v. United States*, 791 F. Supp. 2d 1319 (CIT 2011) (affirming that the Department may use invoice date unless a party demonstrates that the material terms of its sale were established on another date).

[18] *See* Toscelik's supplemental questionnaire response, dated May 4, 2017, at 3.

[19] *Id.,* at Exhibit 9.

[20] *See* Toscelik's Section A QR at 17. Toscelik's supplemental questionnaire response, dated May 4, 2017, at 3.

[21] *See* Toscelik's U.S. sales database.

[22] *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).

Although our preference is to use the date of invoice as the date of sale, as explained above, we may use a date other than that date if satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. Here, the Toscelik Single Entity provided information indicating that the shipment date precedes the invoice date, and therefore, the shipment date is the date of sale.[23] The petitioners challenged this information, arguing that record evidence demonstrates that the order confirmation date is the more appropriate date of sale than the Toscelik Single Entity's preferred shipment date for home market sales.[24] The evidence presented to us indicates that the material terms were not subject to change between the confirmation order date and the date of shipment. Although the Toscelik Single Entity claims that the material terms of sale changed between the order confirmation and shipment date because it missed a shipping window by about six days, there is no record evidence demonstrating that either party would consider such a minor delay in delivery to constitute breach of a material of term of sale.

Because the confirmation order dates for the Toscelik Single Entity's comparison market sales each fall beyond the 90 days we allow for the contemporaneity window period,[25] we find that the Toscelik Single Entity's home market sales are not an appropriate basis to determine NV, and therefore, we preliminarily find that basing NV on CV is appropriate in this case.[26]

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 the CEP methodology was not otherwise warranted. We calculated EP based on the "cost-and-freight" price or another 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, and U.S. duty.

The Toscelik Single Entity claimed a duty drawback adjustment to U.S. price.[27] Section 772(c)(1)(B) of the Act states that EP and CEP shall be increased by "the amount of 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

[23] *See* Toscelik's Section A QR at 17. *See* also, Toscelik's supplemental questionnaire response, dated May 4, 2017, at 4.
[24] *See* the petitioners' submission dated May 17, 2017.
[25] *See* Toscelik's supplemental questionnaire response, dated May 4, 2017, at 3.
[26] *See Certain Oil Country Tubular Goods from Saudi Arabia: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 79 FR 10489 (February 25 2014), and accompanying Issues and Decision Memorandum at 10.
[27] *See* Toscelik's questionnaire response, dated January 6, 2017, at 66 and 67. *See* also Toscelik's supplemental questionnaire response, dated May 4, 2017, at 10-14.

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.[28] The first element is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one 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.[29]

We are preliminarily granting a duty drawback adjustment to the Toscelik Single Entity because record evidence indicates that it satisfies 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.[30] Also, consistent with the practice established in *Rebar Trade Redetermination on Remand*,[31] we limited the amount of the duty drawback adjustment by the per-unit duty costs included in Toscelik's cost of production (COP).[32] No other adjustments were claimed or applied.

Normal Value

A. *Home Market Viability and Comparison Market*

Section 773(a)(1) of the Act and 19 CFR 351.404(b)(2) state that a home market is viable if the aggregate quantity of home market sales of the foreign like product is equal to five percent or more of the aggregate quantity of U.S. sales of subject merchandise. Also, pursuant to section 773(a)(1)(B)(i) of the Act, the Department may base NV on the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country, where that sale is made in usual commercial quantities and in the ordinary course of trade. Although the Toscelik Single Entity has viable a home market pursuant to section 773(a)(1) of the Act and 19 CFR 351.404(b)(2), we preliminarily find that, as we indicate above, for comparison purposes, the Toscelik Single Entity's home market sales are not an appropriate basis to determine NV.[33] As such, we preliminarily based NV for the Toscelik Single Entity on CV.[34]

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[28] *See Saha Thai Steel Pipe Public Co., v. United States*, 635 F. 3d 1335, 1440-41 (Fed Cir. 2011 (*Saha Thai*).
[29] *Id.*; *see*, *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.
[30] *See* Toscelik's questionnaire response, dated January 6, 2017, at 66 and 67. *See* also, Toscelik's supplemental questionnaire response, dated May 4, 2017, at 10-14.
[31] *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.
[32] *See* Toscelik's Preliminary Analysis Memorandum.
[33] *See Certain Oil Country Tubular Goods from Saudi Arabia: Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 79 FR 10489 (February 25 2014), and accompanying Issues and Decision Memorandum at 10.
[34] *See* section 773(a)(4) of the Act.

B. *Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, we will calculate NV based on sales of foreign like products at the same level of trade (LOT) as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).[35] Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.[36] To determine whether the comparison-market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale. To determine whether home market sales are at a different LOT than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

When NV is based on CV, the NV LOT is that of the sales from which we derive selling, general and administrative expenses (G&A) and profit. In accordance with 19 CFR 351.412(d), where possible, the Department will make its LOT determination under paragraph (d)(1) of that section based on sales of the foreign like product by the producer or exporter. Because it is not possible in this case to make an LOT determination based on sales of the foreign like product in the home or third-country market, the Department may use sales of different or broader product lines, sales by other companies, or any other reasonable basis. Because we have based the selling expenses and profit for the Toscelik Single Entity on its own home market sales information, as discussed further below in the section titled "Calculation of Normal Value Based on Constructed Value," we could not determine the LOT of the sales from which we derived selling expenses and profit for CV. Therefore, we did not make a LOT adjustment to CV in these preliminary results.[37] As there are no CEP sales, no CEP offset is appropriate.

C. *Calculation of Normal Value Based on Constructed Value*

In accordance with section 773(a)(4) of the Act, we based the Toscelik Single Entity's NV on CV because its home market sales are not an appropriate basis for NV as explained above.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the Tocelik Single Entity's cost of materials and fabrication employed in producing the subject merchandise, plus amounts for G&A, profit, and U.S. packing costs. We calculated the cost of materials and fabrication, G&A and interest based on information submitted by the Tocelik Single Entity in its original and supplemental questionnaire responses.

Because the Toscelik Single Entity does not have a comparison market, the Department cannot determine selling expenses and profit under section 773(e)(2)(A) of the Act, which requires sales by the respondent in question in the ordinary course of trade in a comparison market. Therefore, we have relied on section 773(e)(2)(B) of the Act to determine the Toscelik Single Entity's

[35] *See* 19 CFR 351.412(c)(2).
[36] *Id.*; *see* also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*).
[37] *See* Toscelik's Preliminary Analysis Memorandum.

selling expenses and profit. In situations where selling expenses and profit cannot be calculated under the preferred method, section 773(e)(2)(B) of the Act sets forth three alternatives. The statute does not establish a hierarchy for selecting among these alternative methodologies.[38] Nonetheless, we examined each alternative in searching for an appropriate method.

Section 773(e)(2)(B) of the Act specifies that selling expenses and profit may be calculated based on (i) the actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale in the foreign country of merchandise that is in the same general category of products as the subject merchandise, (ii) the weighted average of the actual amounts incurred and realized by exporters or producers (other than the respondent) in connection with the production and sale of the foreign like product, in the ordinary course of trade country, for consumption in the foreign country, or (iii) any other reasonable method, except that the amount for profit may not exceed the amount realized by exporters or producers (other than the respondent) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise (*i.e.*, the "profit cap").

Because there are no contemporaneous home market sales, the Department is not determining selling expenses and profit under section 773(e)(2)(A) of the Act, which requires sales by the respondent in question in the ordinary course of trade in a comparison market. Therefore, we have relied on section 773(e)(2)(B) of the Act to determine the Toscelik Single Entity's selling expenses and profit.

While there is no hierarchy among the alternatives identified under section 773(e)(2)(B), the first statutory alternative provided under section 773(e)(2)(B) of the Act is not possible because we do not have information on the record to permit a calculation of these amounts specific to products in the "same general category" as the subject merchandise sold by the Toscelik Single Entity, and the second alternative for determining selling expenses and profit for CV are not available to us in this case because there are no other exporters or producers subject to this review.

Therefore, we find it appropriate to rely on alternative (iii) for the preliminary results to calculate the Toscelik Single Entity's selling expense and profit rates. As such, we preliminarily find that relying on the Toscelik Single Entity's own home market sales information to obtain CV selling expenses and profit information under section 773(e)(2)(B)(iii) of the Act satisfies this criterion because the Toscelik Single Entity's selling expenses and profits are based on the actual amounts incurred and realized by the Toscelik Single Entity in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the home market, and, therefore, the best comparison alternative on the record with respect to the selling experience of OCTG during the POR.[39] In addition, with respect to the profit cap requirement under alternative method (iii), because there is no profit cap information available (*i.e.*, information indicating that amount normally realized by exporters or producers other than the Toscelik Single Entity in connection with the sale for consumption in Turkey of merchandise in

[38] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 316, 103d Cong., 2d Sess. at 840 (1994).
[39] *See* Toscelik's Preliminary Analysis Memorandum.

the same general category of products), as facts available, we are using the calculated profit amount from the source used to calculate the combined CV selling expenses/profit rate as profit cap.

D. Cost of Production

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 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 cost of production (COP).[40] This law does not specify dates of application for those amendments.[41] 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 to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission.[42] 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 CV and COP information from respondent companies in all AD proceedings.[43]

Accordingly, we requested this information from the Toscelik Single Entity. We examined the Toscelik Single Entity's 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 relied on the COP data submitted by the Toscelik Single Entity in its questionnaire responses for the COP calculation.

CURRENCY CONVERSION

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

[40] *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.
[41] The 2015 amendments may be found at https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.
[42] *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).
[43] *Id*., 80 FR at 46794-95.

RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒	☐
Agree	Disagree

8/31/2017

X 

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance