



A-489-501
Administrative Review
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October 18, 2017

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 P. Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final 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) has analyzed the comments submitted by the interested parties following publication of the *Preliminary Results*¹ in the administrative review of the antidumping duty (AD) order on welded carbon steel standard pipe and tube products (welded pipe and tube) from Turkey covering the period of review (POR) May 1, 2015, to April 30, 2016. 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); Toscelik Profil ve Sac Endustrisi A.S., Tosityali Dis Ticaret A.S., and Toscelik Metal Ticaret A.S. (collectively, Toscelik);² Borusan Birlesik Boru Fabrikalari San ve Tic (Borusan

¹ See *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Preliminary Results of Antidumping Duty Administrative Review, and Preliminary Determination of No Shipments; 2015-2016*, 82 FR 26053 (June 6, 2017) (*Preliminary Results*).

² In prior segments of this proceeding, we treated Toscelik Profil ve Sac Endustrisi A.S., Tosityali 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; 2012-2013*, 79 FR 71087, 71088 n.8 (December 1, 2014). However, in a prior review, we found that Toscelik Metal has ceased to exist. *Id.* There is no record evidence that warrants altering this treatment. Therefore, for these final results, we are treating Toscelik and Tosityali as a single entity, and continue to find that Toscelik Metal no longer exists.



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); and 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).³ Based upon our analysis of the comments received, we made changes from the *Preliminary Results* to the margin calculations for Borusan and Toscelik. Based on those changes, we continue to find that Borusan sold welded pipe and tube in the United States below normal value (NV), and that Toscelik did not sell welded pipe and tube in the United States below NV. We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is a complete list of issues for which we received comments from parties.

Toscelik

1. Toscelik’s U.S. Sale that is Outside the Period of Review

Borusan

2. Reallocation of Zinc Costs
3. “Match Production” Language in the SAS Program
4. Home Market Sales Intended for Export
5. Sample Sales in the Home Market Database
6. Ministerial Error
7. Distortions Caused by Currency Issues

BACKGROUND

The Department published the *Preliminary Results* in the *Federal Register* on June 6, 2017.⁴ In accordance with 19 CFR 351.309(c), we invited parties to comment on our *Preliminary Results*.⁵ On July 20, 2017, we received a case brief from the petitioner.⁶ On July 28, 2017, we received a rebuttal brief from Borusan.⁷ On October 4, 2017, we extended the deadline for the final results of this administrative review until October 18, 2017.⁸

³ As explained in the *Preliminary Results*, the Department treats Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S. as a single entity, and Toscelik Profil ve Sac Endustrisi A.S., Tosyali Dis Ticaret A.S., and Toscelik Metal Ticaret A.S., as a single entity. See *Preliminary Results*, and accompanying Preliminary Decision Memorandum at 1 n.1, 2 n.2.

⁴ See *Preliminary Results*, and accompanying Memorandum, “Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Welded Carbon Steel Standard Pipe and Tube Products from Turkey; 2015-2016,” dated May 31, 2017 (Preliminary Decision Memorandum).

⁵ See *Preliminary Results*, 82 FR at 26054.

⁶ See Petitioner’s Case Brief, “Welded Carbon Steel Pipe from Turkey: Case Brief,” dated July 20, 2017 (Petitioner Case Brief). The Petitioner is Wheatland Tube Company (the petitioner).

⁷ See Borusan’s Rebuttal Brief, “Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Rebuttal Brief,” dated July 28, 2017 (Borusan Rebuttal Brief).

⁸ See Memorandum, “Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” dated October 4, 2017.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

SCOPE OF THE ORDER⁹

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: 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090. 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.

DISCUSSION OF THE ISSUES

Comment 1: Toscelik's U.S. Sale that is Outside the Period of Review

Petitioner's Case Brief:

- Toscelik knows, and has reported, the entry dates for its U.S. sales. Therefore, the correct universe of sales to examine is that consisting of all U.S. sales with an entry date during the period of review (POR). However, one of Toscelik's reported sales has an entry date outside of the POR. The Department should remove this sale from Toscelik's margin calculation.¹⁰

No other party commented on this issue.

Department's Position: We agree with the petitioner. The Department's antidumping questionnaire instructs parties to “{r}eport each U.S. sale of merchandise entered for consumption during the POR.”¹¹ The questionnaire also makes an exception for export price (EP) sales for which the respondent does not know the entry date.¹² This methodology is consistent with prior determinations. For example, in *Silicon Metal Brazil Final*,¹³ where all sales were EP sales, we stated:

In these final results of review, we... adopted the following approach in determining which sales to review:

⁹ See *Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products from Turkey*, 51 FR 17784 (May 15, 1986). Note that the HTSUS did not exist at the time the order went into effect, so the references to the HTSUS numbers did not appear in the scope contained in the order.

¹⁰ See Petitioner Case Brief, at 1.

¹¹ See Department Letter re: Antidumping Duty Questionnaire, dated October 17, 2016 (Initial AD Questionnaire), at C-2.

¹² *Id.*

¹³ See *Silicon Metal from Brazil; Final Results of Antidumping Duty Administration Review*, 61 FR 46763, 46765 (September 5, 1995) (*Silicon Metal Brazil Final*).

1. Where a respondent sold subject merchandise, and the importer of that merchandise had at least one entry during the POR, we reviewed all sales to that importer during the POR.

2. Where a respondent sold subject merchandise to an importer who had no entries during the POR, we did not review the sales of subject merchandise to that importer in this administrative review. Instead, we will review those sales in our administrative review of the next period in which there is an entry by that importer.

Here, all of Toscelik's sales were EP sales.¹⁴ Further, the exception for unknown entry dates for EP sales does not apply because Toscelik reported the entry date of each sale.¹⁵ The universe of sales that we considered consists only of entries from the period of review from May 1, 2015 to April 30, 2016. Therefore, we have not included Toscelik's one post-POR sale in the margin calculation for the final results.

Comment 2: Reallocation of Zinc Costs

Petitioner's Case Brief:

- Borusan reported zinc costs for galvanized products as an average derived from its accounting system for all galvanized products, which contradicts its narrative that zinc costs were allocated based on surface area.¹⁶
- Borusan's methodology does not take into account the different zinc coating thickness requirements for ASTM vs. non-ASTM products or the varying surface areas of pipe. Because zinc is expensive and accounts for a significant portion of a galvanized pipe's cost, this approach creates a distortion in the cost of these products.¹⁷
- Because the record demonstrates that Borusan's reporting methodology is distortive, the Department should accordingly reallocate the company's zinc costs as proposed by the petitioner for the final results.¹⁸

Borusan's Rebuttal Brief:

- Borusan's zinc cost allocation is consistent with its accounting system, which does not account for the different zinc coating between ASTM versus Euro Norm standards for galvanized products.¹⁹

¹⁴ See Toscelik's December 5, 2016 Section C Questionnaire Response, at 57.

¹⁵ *Id.* at 73.

¹⁶ See Petitioner Case Brief, at 2.

¹⁷ *Id.* at 2, 3.

¹⁸ *Id.* at 2, 5.

¹⁹ See Borusan Rebuttal Brief, at 2.

- The Department never requested that Borusan recalculate its zinc costs outside its accounting system.²⁰
- Borusan has properly reported its zinc costs based on its accounting system, and the Department was correct in not instructing Borusan to calculate its costs outside its accounting system.²¹

Department’s Position:

We agree with the petitioner. Borusan reported zinc costs for galvanized products as an average for all galvanized products as recorded in its accounting system. In accordance with section 773(f)(1)(a) of the Act, the Department will rely on a respondent’s normal books and records where such records reasonably reflect the costs associated with the production and sale of the subject merchandise. In cases where the costs reported according to company’s normal books are unreasonable (for example, if cost differences among products do not represent differences in physical characteristics), the Department may revise such costs.²² In this case, Borusan’s methodology for reporting zinc cost does not take into consideration necessary physical characteristics, such as the surface area which varies with outside diameter and wall thickness or the thickness of zinc coating for ASTM and non-ASTM products. The calculations provided by the petitioners show significant differences in zinc costs among products with different characteristics, depending on the amount of zinc contained within the CONNUMS.²³ Thus, we find that Borusan’s allocation of zinc costs is unreasonable because it does not accurately reflect the CONNUM characteristics that affect zinc costs incurred in producing that CONNUM.

Accordingly, for the final results we revised Borusan’s reported zinc cost by reallocating the total zinc costs for the CONNUMs at issue based on the surface area and the thickness of the coating for ASTM and non-ASTM products. In this manner, if a particular model of welded pipe and tube contained greater zinc amounts than another model of welded pipe and tube, the Department would allocate greater zinc costs to the first CONNUM and less zinc costs to the second CONNUM.

Comment 3: “Match Production” Language in the SAS Program

Petitioner’s Case Brief:

- The Department should ensure that the home market program assigns to CONNUMs with zero production surrogate costs that reflect the revised zinc costs as proposed by the petitioners and discussed in Comment 2. The Department should also ensure that the program removes any errors that Borusan may have made in self-selecting the closest surrogate for products sold but not produced during the POR.²⁴

²⁰ *Id.*

²¹ *Id.* at 3.

²² See, e.g., *Final Results of Antidumping Duty Administrative Review and New Shipper Review: Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea 2014-2015*, 81 FR 62712 (September 12, 2016), and accompanying Issues and Decision Memorandum at Comment 1.

²³ See Letter from the Petitioners, “Welded Carbon Steel Standard Pipe from Turkey: Wheatland Tube’s Pre-Preliminary Comments,” dated May 17, 2017, at 3.

²⁴ See Petitioner Case Brief, at 5-6.

Borusan's Rebuttal Brief:

- The Department never questioned Borusan's approach for assigning surrogates as models with zero production because this approach is consistent with the Department's practice.²⁵
- The petitioner does not assert that Borusan made any errors in assigning surrogates. Borusan clarified its methodology for selecting these surrogates in its original response, *i.e.*, that the selection of surrogates was based on the cost of the most similar products having the same surface finish and end finish using the Department's model matching hierarchy.²⁶

Department's Position:

Borusan reported in the cost database products which were sold but not produced during the POR. Because such products do not have POR production costs, we need to determine the costs of those surrogate CONNUMs. We agree with the petitioner that in this case the cost of surrogate CONNUMs selected for the products sold, but not produced, during the POR should reflect the revised zinc costs as discussed in Comment 1. However, we disagree that we should use the home market program to assign surrogates to products sold, but not produced, during the POR because the home market program may select a match that has a different surface or end finish. This could result in inaccuracies, for example, assigning the cost of black (non-galvanized) surrogate product to the cost of galvanized product. Because the cost of galvanizing (zinc) is a significant part of the total product cost, such assignment would result in an incorrect difference in the merchandise (difmer) adjustment in calculating a dumping margin. Thus, while our normal matching method of selecting surrogate CONNUMs is to find the most similar CONNUM, in this case for this surrogate, our normal matching method leads to the distortion described above. For this reason, we consider it reasonable for Borusan to modify the Department's normal matching criteria in determining surrogate cost for products sold, but not produced, by using the most similar products having the same surface and end finish. This ensures that, for example, the surrogate cost for galvanized products will accurately reflect zinc cost. Borusan followed the Department's matching criteria in all other respects.

Therefore, for the final results, we used the cost of surrogate CONNUMs that reflect the adjusted zinc cost as discussed in Comment 2. Further, for products sold, but not produced, during the POR we used surrogate costs of products as reported by Borusan, which conform to the Department's matching criteria for products having the same surface and end finish physical characteristics.

Comment 4: Home Market Sales Intended for Export

Petitioner's Case Brief:

²⁵ See Borusan Rebuttal Brief, at 3.

²⁶ *Id.*

- Borusan reported certain domestic sales that were intended for export (*i.e.*, “non-VAT sales”). In previous segments of this proceeding, the Department has included SAS programming language in the comparison market program to delete reported domestic sales intended for export. However, the Department did not remove such sales for Borusan in the preliminary results of this review. The Department should do so for the final results.²⁷

No other party commented on this issue.

Department’s Position: We agree with the petitioner. In *Stainless Steel Sheet and Strip Taiwan Preliminary* we stated:

Section 773(a)(1)(B) of the Act defines NV as 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 (home market), in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade (LOT) as the export price (EP) or constructed export price (CEP). In implementing this provision, the CIT has found that sales should be reported as home market sales if the producer “knew or should have known that the merchandise {it sold} was for home consumption based upon the particular facts and circumstances surrounding the sales.” Where a respondent has no knowledge as to the destination of subject merchandise, except that it is for export, the Department will classify such sales as export sales and exclude them from the home market sales database.²⁸

Following this precedent, the sales at issue would be export sales, rather than home market sales, because Borusan had knowledge that they were intended for export.

Furthermore, we already addressed this issue in the 2011-2012 administrative review of this order. We stated, “{w}hen a shipment is intended for export from the comparison market, we exclude it from the Department’s comparison market calculations if that shipment does not undergo further manufacturing in the comparison market.”²⁹ As with the 2011-2012 administrative review, there is evidence on the record of the current administrative review that certain of Borusan’s domestic sales were intended for export,³⁰ and there is no evidence that any

²⁷ See Petitioner Case Brief, at 6-7.

²⁸ See *Stainless Steel Sheet and Strip in Coils from Taiwan: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 75 FR 49467, 49470 (August 13, 2010) (*Stainless Steel Sheet and Strip Taiwan Preliminary*) (citations omitted); unchanged in *Stainless Steel Sheet and Strip in Coils from Taiwan: Final Results of Antidumping Duty Administrative Review*, 75 FR 76700, December 9, 2010).

²⁹ See *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 79665 (December 31, 2013), and accompanying Issues and Decision Memorandum at Comment 5.

³⁰ See Borusan’s December 7, 2016 Section B Questionnaire Response (Borusan December 7, 2016 BQR), at Exhibit B-1.

further processing took place. Therefore, for the final results, in accordance with our practice, we have removed from the calculation of normal value Borusan's comparison market sales that were intended for export.

Comment 5: Sample Sales in the Home Market Database

Petitioner's Case Brief:

- Borusan reported sample sales in its home market database. The Court of Appeals for the Federal Circuit (CAFC) has ruled that zero-price transfers lack "consideration" and, as such, are not sales.³¹ The Department should remove these sales from Borusan's home market sales database.

No other party commented on this issue.

Department's Position: We agree with the petitioner. The CAFC has ruled that transactions that lack consideration do not constitute "sales" and, therefore, should not be included in antidumping calculations.³² Here, the record contains evidence that Borusan's home market sales lacked consideration.³³ Therefore, since Borusan's reported sample sales do not constitute sales for purposes of antidumping analysis, we have not included Borusan's home market sample sales in Borusan's margin calculation for these final results of review.

Comment 6: Ministerial Error

Petitioner's Case Brief:

- The Department made a ministerial error with respect to the "beginning window" (BEGINWIN) variable in the SAS margin program.³⁴
- The BEGINWIN variable in the margin program should be the same as the BEGINDAY variable in the comparison market program, which is "Day 1 of the first month of home market sales to be captured for comparison to U.S. sales."³⁵
- The Department correctly set the BEGINDAY variable in the comparison market program, but set an incorrect day for the BEGINWIN variable in the margin program. The Department should correct this error in the final results by revising the BEGINWIN variable in the margin program to match the BEGINDAY variable in the comparison market program.³⁶

No other party commented on this issue.

³¹ See Petitioner Case Brief, at 7, citing *NSK Ltd. V. United States*, 115 F.3d 965 (Fed. Cir. 1997) (*NSK*).

³² See *NSK*, 115 F.3d at 975.

³³ See Borusan's December 7, 2016 Initial Questionnaire Response, at B-44.

³⁴ See Petitioner Case Brief, at 8.

³⁵ *Id.*

³⁶ *Id.*

Department's Position: We agree with the petitioner. In the 2010-2011 administrative review of this order, the Department stated:

In examining U.S. market sales in an administrative review, the Department normally compares the export price (or constructed export price) to an average normal value for the identical or most similar foreign like product in a contemporaneous month. The Department's regulations at 19 CFR 351.414(f) define a contemporaneous month to include the month of the U.S. sales, the three months preceding the month of the U.S. sales, and the two month (sic) following the month of the U.S. sale. In the *Preliminary Results*, the Department inadvertently did not include Borusan's home market sales starting three months prior to the first reported date of sale in the U.S. Consequently, to correct this omission in the final results, the Department will modify its comparison market and margin program to include all of Borusan's home market sales, from November 2009 to June 2011.³⁷

Furthermore, it was not our intent to deviate from the instructions given in the standard SAS margin program that explains our practice for determining the window period, which states:

For EP sales, {the calculations} usually include all entries during the POR. Accordingly, there may be U.S. sales transactions with sale dates prior to the POR. For example, if the first EP entry in the POR was in June (first month of POR) but that entry had a sale date back in April, the window period would have to include the three months prior to April. February would then be the beginning of the window period.³⁸

Therefore, in these final results, we have revised the SAS calculations by inputting the correct BEGINWIN date in the margin calculation program.³⁹

³⁷ See *Circular Welded Carbon Steel Pipes and Tubes from Turkey; Final Results of Antidumping Duty Administrative Review; 2010 to 2011*, 77 FR 72818 (December 6, 2012), and accompanying Issues and Decision Memorandum at Comment 2 (citations omitted); see also *Certain Welded Carbon Steel Pipe and Tube from Turkey: Notice of Final Results of Antidumping Duty Administrative Review*, 74 FR 22883, 22884 (May 15, 2009).

³⁸ See Memorandum, "Analysis for the Preliminary Results of the Antidumping Duty Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Borusan Istikbal Ticaret T.A.S. and Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan)," dated June 2, 2016, Attachment 1 at 6.

³⁹ See Memorandum, "Analysis for the Final Results of the Antidumping Duty Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Borusan Istikbal Ticaret T.A.S. and Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan)," dated October 18, 2017, at 2.

Comment 7: Distortions Caused by Currency Issues

Petitioner's Case Brief:

- Borusan reported some sales in its home market database that were invoiced in U.S. dollars. It reported the dollar-invoiced price in a separate field, as well as dollar-calculated adjustments for home market imputed credit and home market indirect selling expenses.⁴⁰
- The Department, however, failed to take varied currencies into consideration for the *Preliminary Results*, resulting in distortions in the margin calculation. The Department should correct this error in the final results.⁴¹

Borusan's Rebuttal Brief:

- Borusan agrees with the petitioner. The home market fields that it reported in U.S. dollars need not be converted into Turkish lira, and then back again into dollars. Doing these conversions is unnecessary and potentially introduces distortions due to exchange rates.⁴²

Department's Position: We agree with both parties. In past cases where the Department determined that it made unnecessary currency conversions in a preliminary determination, it has found such conversions to constitute methodological errors, and has revised the programming accordingly for the final determination.⁴³ Here, we have converted the dollar-denominated home market sales into Turkish lira only for purposes of the sales-below-cost test. For purposes of calculating the margin, we have left the dollar-denominated home market sales in U.S. dollars.

⁴⁰ See Petitioner Case Brief, at 8.

⁴¹ *Id.*

⁴² See Borusan Rebuttal Brief, at 4.

⁴³ See, e.g., *Finished Carbon Steel Flanges from India: Final Determination of Sales at Less Than Fair Value*, 82 FR 29483, (June 29, 2017), and accompanying Issues and Decision Memorandum at Comment 4; *Notice of Amendment of Final Determinations of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from the Republic of Korea; and Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 66 FR 45279, 45280 (August 28, 2001).

RECOMMENDATION

We recommend following the above methodology for these final results.

Agree

Disagree

10/18/2017

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