



A-489-501  
Administrative Review  
POR: 05/01/2016-04/30/2017  
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June 4, 2018

**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  
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the duties of 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; 2016-2017

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Summary

The Department of Commerce (Commerce) 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., Tosyali Dis

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<sup>1</sup> In prior segments of this proceeding, we treated Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S. as 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., and 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 Erciyes 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).

The period of review (POR) is May 1, 2016, through April 30, 2017. 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, Tubeco, Cayirova, Yucel, and Yucelboru had no shipments during the period of review (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 31, 2017, 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 and Toscelik requested an administrative review of their exports on May 31, 2017.<sup>4</sup> On July 6, 2017, Commerce published a notice of initiation of administrative review of the antidumping duty order on pipe and tube from Turkey for the period May 1, 2016, through April 30, 2017.<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

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<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 company. 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 Toscelik Metal as a single company.

<sup>3</sup> See Petitioner's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey: Request for Administrative Review," dated May 31, 2017.

<sup>4</sup> See Borusan's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Request for Antidumping Duty Administrative Review," dated May 31, 2017; Toscelik's Letter, "Circular Welded Carbon Steel Pipe and Tube from Turkey; Toscelik review request," dated May 31, 2017.

<sup>5</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 82 FR 31292, 31297 (July 6, 2017) (*Initiation Notice*).

<sup>6</sup> See *Initiation Notice*, 82 FR at 31292.

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 standard antidumping questionnaire to Borusan and Toscelik on September 27, 2017. Between October 25, 2017, and May 18, 2018, Borusan and Toscelik submitted timely responses to Commerce's original and supplemental questionnaires.

On January 23, 2018, Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20, 2018, through January 22, 2018.<sup>8</sup> If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final results of this review became February 5, 2018. On January 31, 2018, we extended the deadline for the preliminary results to May 14, 2018.<sup>9</sup> On May 7, 2018, we further extended the deadline for the preliminary results, until June 4, 2018.<sup>10</sup>

On May 15, 2018, we received a particular market situation (PMS) allegation from the petitioner.<sup>11</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.

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<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 September 26, 2017.

<sup>8</sup> See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

<sup>9</sup> See Memorandum, "Certain Circular Welded Carbon Steel Pipes and Tubes from Turkey: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated January 31, 2017.

<sup>10</sup> See Memorandum, "Certain Circular Welded Carbon Steel Pipes and Tubes from Turkey: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review," dated May 7, 2018.

<sup>11</sup> See Petitioner's Letter, "Circular Welded Pipe from Turkey: Particular Market Situation Allegation," dated May 15, 2018 (Particular Market Situation Allegation).

### Particular Market Situation

On May 15, 2018, the petitioner<sup>12</sup> submitted a particular market situation (PMS) allegation with respect to the cost of production of pipe and tube in Turkey.<sup>13</sup> We determine that there is insufficient evidence to warrant further investigation into whether a PMS exists in this review.<sup>14</sup>

### Preliminary Determination of No Shipments

On July 22, 2017, we received no-shipment certifications from Cayirova, Yucel, and Yucelboru.<sup>15</sup> On July 24, 2017, we received a no-shipment certification from Erbosan.<sup>16</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 7, 2017, we received no-shipment certifications from Borusan Istikbal, Borusan Birlesik, Borusan Gemlik, Borusan Ihracat, Borusan Ithicat, and Tubeco.<sup>17</sup> On April 25, 2018, consistent with our practice, we 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, Tubeco, Cayirova, Yucel, or Yucelboru during the POR.<sup>18</sup> With one exception, CBP did not report that it had information to contradict the claims of these companies that they had no shipments during the POR. The one exception was information that indicated that one of the companies (whose name is business proprietary) had shipments of subject merchandise during the POR. We intend to place entry documentation on the record concerning the shipments at issue following publication of these preliminary results, and to consider comments from interested parties regarding the company's no-shipment claim.

Based on the foregoing, we preliminarily determine that Erbosan, Borusan Birlesik, Borusan Gemlik, Borusan Ihracat, Borusan Ithicat, Tubeco, Cayirova, Yucel, and Yucelboru had no reviewable shipments during the POR. Also, consistent with our practice, Commerce 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

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<sup>12</sup> The petitioner is Wheatland Tube Company.

<sup>13</sup> See Letter from the petitioner, "Circular Welded Pipe from Turkey: Particular Market Situation Allegation," dated May 15, 2018 (PMS Allegation).

<sup>14</sup> For a complete discussion, see memorandum, "2016-2017 Antidumping Duty Administrative Review of Welded Carbon Steel Pipe and Tube Products from Turkey: Preliminary Decision on Particular Market Situation Allegation," dated concurrently with this memorandum.

<sup>15</sup> See Letter from Cayirova, Yucel, and Yucelboru, "Circular Welded Carbon Steel Pipes and Tubes from Turkey; Notification of No Shipments," dated July 22, 2017.

<sup>16</sup> See Erbosan's Letter, "No Shipment Certification of Erbosan Erciyas Boru Sanayi ve Ticaret A.S. ("ERBOSAN") in the 2016-2017 Administrative Review of the Antidumping Duty Order Involving Certain Welded Carbon Steel Standard Pipe from Turkey," dated July 24, 2017.

<sup>17</sup> See Letter from Borusan Istikbal, Borusan Birlesik, Borusan Gemlik, Borusan Ihracat, Borusan Ithicat, and Tubeco, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: No Shipment Letter," dated August 7, 2017.

<sup>18</sup> See CBP message number 8115302, dated April 25, 2018.

results of this review.<sup>19</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>20</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 Ihracat, Borusan Ithicat, Tubeco, Cayirova, Yucel, and Yucelboru, 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>21</sup>

Furthermore, as noted above, Borusan Istikbal submitted a no-shipment certification on August 7, 2017. However, also as noted above, we have in the past found Borusan Istikbal to be part of the single entity Borusan Mannesmann Boru Sanayi ve Ticaret A.S./Borusan Istikbal Ticaret T.A.S., and we find no record evidence that warrants altering this treatment. Therefore, because we find the Borusan Mannesmann Boru Sanayi ve Ticaret A.S./Borusan Istikbal Ticaret T.A.S. entity to have had shipments during this POR, we have not made a preliminary determination of no shipments with respect to Borusan Istikbal.

### 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 the respondent’s sales of the subject merchandise from Turkey to the United States were made at less than normal value, we compared the export price to the normal value 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), Commerce 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, Commerce 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 Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless

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<sup>19</sup> See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003) (Assessment Policy Notice).

<sup>20</sup> *Id.*

<sup>21</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).

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>22</sup>

In recent investigations, Commerce 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>23</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 Commerce’s additional experience with addressing the potential masking of dumping that can occur when Commerce 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 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 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 Commerce 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

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<sup>22</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 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).

<sup>23</sup> See, *e.g.*, *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

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, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce 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, we preliminarily find that 1.08 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>24</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, we preliminarily determine 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, we preliminarily find that 62.17 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>25</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping 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, we are 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 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>26</sup>

### Date of Sale

Regarding determination of the date of sale, section 351.401(i) of Commerce's regulations states that Commerce 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

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<sup>24</sup> See the Memorandum to the File from Fred Baker, "Analysis for the Preliminary Results of the Antidumping Duty Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Toscelik Profil ve Sac Endustrisi (Toscelik)," dated June 4, 2018.

" dated June 4, 2018 (Toscelik Preliminary Analysis Memorandum) at 8.

<sup>25</sup> See the Memorandum to the File from Fred Baker, "Analysis for the Preliminary Results of the Antidumping Duty Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey" dated June 4, 2018 (Borusan Preliminary Analysis Memorandum) at 8.

<sup>26</sup> See Letter re: Antidumping Duty Questionnaire, dated October 16, 2016, at B10-B12 and C9-C11.



Commerce 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.<sup>27</sup>

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>28</sup> Toscelik has also submitted evidence that such changes to orders have occurred for U.S. sales during the POR.<sup>29</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 Commerce'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>30</sup>

With respect to Borusan's U.S. sales, record evidence indicates that the invoice date is the date that best reflects when the material terms of sale are set because quantity and price may vary up until issuance of the invoice. After the invoice issued, there are no further changes in the material terms of sale.<sup>31</sup> Consequently, we are preliminarily using invoice date as date of sale for Borusan's U.S. sales.

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>32</sup> However, consistent with Commerce's practice, we used the shipment date as the date of sale where the shipment date preceded the

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<sup>27</sup> See *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55353 (September 7, 2011), unchanged in *Light-Walled Rectangular Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review*, 77 FR 1915 (January 12, 2012).

<sup>28</sup> See Toscelik's October 25, 2017 Section A Questionnaire Response (Toscelik October 25, 2017 AQR), at 21.

<sup>29</sup> See Toscelik's March 14, 2018 Supplemental Questionnaire Response (Toscelik March 14, 2018 SQR), at 6 and Exhibit 3.

<sup>30</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.

<sup>31</sup> See Borusan's October 26, 2017 Section A Questionnaire Response (Borusan October 26, 2017 AQR), at A-20 and A-23.

<sup>32</sup> See Toscelik October 25, 2017 AQR, at 21, and Toscelik March 14, 2018 SQR, at 5 and Exhibit 2; see also Borusan October 26, 2017 AQR, at A-19 and Borusan's November 20, 2017 Section B Questionnaire Response (Borusan November 20, 2017 BQR), at B-20.

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, Commerce 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>33</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>34</sup> 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.<sup>35</sup>

In this review, we preliminarily are granting a duty drawback adjustment to both Toscelik and Borusan because record evidence indicates that both companies satisfy both 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>36</sup> Also, consistent with the practice established in *Rebar Trade*,<sup>37</sup>

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<sup>33</sup> See Toscelik’s November 13, 2017, Section C Questionnaire Response (Toscelik November 13, 2017 CQR), at 72 and Exhibits 8-10; see also Borusan’s November 20, 2017, Section C Questionnaire Response (Borusan November 20, 2017 CQR), at C-38 – C-44 and Exhibits C-16 through Exhibit C-19.

<sup>34</sup> See *Saha Thai Steel Pipe Public Co., v. United States*, 635 F.3d 1335, 1440-41 (Fed. Cir. 2011) (*Saha Thai*).

<sup>35</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>36</sup> See Toscelik November 13, 2017 CQR at 72 and Exhibits 8-10; see also Borusan November 20, 2017 CQR at C-38 – C-44 and Exhibits C-16 through Exhibit C-19.

<sup>37</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), at 15-18.

we limited the amount of the duty drawback adjustment by the per-unit duty costs included in the respondents' cost of production (COP).<sup>38</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, Commerce 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>39</sup> to the extent practicable, Commerce 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 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>40</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.

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<sup>38</sup> See Borusan Preliminary Analysis Memorandum; *see also* Toscelik Preliminary Analysis Memorandum.

<sup>39</sup> See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

<sup>40</sup> See 19 CFR 351.412(c)(2).

Toscelik reported that in its home market it sold only to distributors, and that all sales were direct sales to the distributors.<sup>41</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>42</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 distributors or industrial end-users.<sup>43</sup> However, all sales were direct sales to customers, and Borusan performs the same level of selling activities for both customer categories.<sup>44</sup> In the U.S. market, Borusan sold to only trading companies/distributors and performs the same level of selling activities for both customer categories.<sup>45</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 Commerce with information on their selling activities in their U.S. and home markets.<sup>46</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. 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.

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

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

Commerce 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>47</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. In accordance with 19 CFR 351.403(c) and our practice, when the prices

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<sup>41</sup> See Toscelik October 25, 2017 AQR, at 14-15; *see also* Toscelik November 13, 2017 BQR, at 19.

<sup>42</sup> See Toscelik October 25, 2017 AQR, at 15.

<sup>43</sup> See Borusan October 26, 2017 AQR, at A-15 and Exhibit A-6.

<sup>44</sup> *Id.* at A-18.

<sup>45</sup> *Id.* at A-14 and A-18.

<sup>46</sup> See Toscelik March 14, 2017 AQR, at 4-5 and Exhibit 1; *see also* Borusan October 26, 2017 AQR, at A-17 and Exhibit A-7.

<sup>47</sup> See 19 CFR 351.403(c).

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>48</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>49</sup>

#### D. Cost of Production Analysis

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), which made numerous amendments to the AD and countervailing duty law, including amendments to section 773(b)(2) of the Act.<sup>50</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 Commerce to request constructed value and COP information from respondent companies in all AD proceedings.<sup>51</sup> Accordingly, Commerce requested this information from Borusan and Toscelik.

##### *A. Cost Averaging Methodology*

Commerce's normal practice is to calculate an annual weighted-average cost for the POR. However, we recognize that possible distortions may result if we use our normal annual-average cost method during a time of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence by examining two primary criteria: (1) the change in the cost of manufacturing (COM) recognized by the respondent during the POR must be deemed significant; (2) the record evidence must indicate that sales during the shorter cost-averaging periods could be reasonably linked with the COP or CV during the same shorter cost-averaging periods.<sup>52</sup>

#### 1. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high- and low-quarter COM) for determining that the changes in COM are significant enough to warrant a departure

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<sup>48</sup> See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186, 69187 (November 15, 2002).

<sup>49</sup> See Borusan October 26, 2017 AQR, at A-2 and Toscelik October 25, 2017 AQR, at 1.

<sup>50</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>51</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, 46794-95 (August 6, 2015).

<sup>52</sup> See *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (SSSSC Mexico Final) and accompanying Issues and Decision Memorandum (IDM) at Comment 6 and *Stainless-Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) (SSPC Belgium Final) and accompanying IDM at Comment 4.

from our standard annual-average cost approach.<sup>53</sup> In the instant case, record evidence shows that Borusan and Toscelik experienced significant cost changes (*i.e.*, changes that exceeded 25 percent) between the high and low quarterly COM during the POR.<sup>54</sup> This change in COM is attributable primarily to the price volatility for the primary input used in the production of pipe and tube.<sup>55</sup>

## 2. Linkage Between Sales and Cost Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR.<sup>56</sup> Absent a surcharge or other pricing mechanism, Commerce may alternatively look for evidence of a pattern showing that changes in selling prices reasonably correlate to changes in unit costs.<sup>57</sup> To determine whether a reasonable correlation existed between the sales prices and underlying costs during the POR, we compared weighted-average quarterly prices to the corresponding quarterly COM for the control numbers with the highest volume of sales in the comparison market. Our comparison revealed that sales and costs for Borusan and Toscelik showed reasonable correlation.<sup>58</sup> After reviewing this information and determining that changes in selling prices correlate reasonably to changes in unit costs, we preliminarily determine that there is linkage between Borusan's and Toscelik's changing sales prices and costs during the POR.<sup>59</sup> Thus, we preliminarily determine that a shorter cost period approach, based on a quarterly-average COP, is appropriate for Borusan and Toscelik because we found significant cost changes in COM as well as reasonable linkage between costs and sales prices.

### *B. Calculation of COP*

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses and interest expenses.<sup>60</sup> As explained above, we examined the cost data and preliminarily determined that our quarterly cost methodology is warranted.<sup>61</sup> Therefore, the COP is based on a quarterly average COP rather than an annual average COP. *See* the "Cost Averaging Methodology" section, above, for further discussion. We relied on the quarterly COP data submitted by Borusan and Toscelik except as follows:

- 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

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<sup>53</sup> *See SSPC Belgium Final IDM* at Comment 4.

<sup>54</sup> *See* Borusan's November 20, 2017 Section D Questionnaire Response (Borusan November 20, 2017 DQR) at D-3; Toscelik's November 13, 2017 Section D Questionnaire Response (Toscelik November 13, 2017 DQR) at 107-110.

<sup>55</sup> *Id.*

<sup>56</sup> *See SSSSC Mexico Final IDM* at Comment 6 and *SSPC Belgium Final IDM* at Comment 4.

<sup>57</sup> *See SSPC Belgium Final IDM* at Comment 4.

<sup>58</sup> *See* Borusan Preliminary Analysis Memorandum and Toscelik Preliminary Analysis Memorandum.

<sup>59</sup> *Id.*; *see also SSSSC Mexico Final IDM* at Comment 6 and *SSPC Belgium Final IDM* at Comment 4.

<sup>60</sup> *See* "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

<sup>61</sup> *See* Borusan Preliminary Analysis Memorandum and Toscelik Preliminary Analysis Memorandum.

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 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.

### *C. Test of Comparison Market Sales Prices*

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the adjusted weighted-average COPs to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses and used sales prices that were exclusive of any applicable billing adjustments, discounts and rebates, where applicable, movement charges, actual direct and indirect selling expenses, and packing expenses.

### *D. Results of the COP Test*

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) they were made within an extended period of time in accordance with section 773(b)(2)(B) of the Act; and, 2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain products, more than 20 percent of Borusan and Toscelik's home market sales during the POR were at prices less than the COP, they were made within and extended period of time, and such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

### *E. Calculation of 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>62</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>63</sup>

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>64</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>.

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<sup>62</sup> See Borusan Preliminary Analysis Memorandum and Toscelik Preliminary Analysis Memorandum for further details.

<sup>63</sup> See 19 CFR 351.411(b).

<sup>64</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 June 4, 2018.



Recommendation

We recommend applying the above methodology for these preliminary results.



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

6/4/2018

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