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Investigation
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DATE: August 20, 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 the Preliminary Determination in the
Less-Than-Fair-Value Investigation of Large Diameter Welded
Pipe from the Republic of Turkey

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that large diameter welded pipe (welded pipe) from the Republic of Turkey (Turkey) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On January 17, 2018, Commerce received an antidumping duty (AD) petition covering imports of welded pipe from Turkey, filed in proper form on behalf of American Cast Iron Pipe Company, Berg Steel Pipe Corp., Berg Spiral Pipe Corp., Dura-Bond Industries, Skyline Steel, and Stupp Corporation (collectively, the petitioners).¹ Commerce initiated this investigation on February 9, 2018.²

¹ See Petitioners’ Letter re: Large Diameter Welded Pipe from Canada, Greece, India, the People’s Republic of China, the Republic of Korea, and the Republic of Turkey: Petitions for the Imposition of Antidumping and Countervailing Duties, dated January 17, 2018.

² See *Large Diameter Welded Pipe from Canada, Greece, India, the People’s Republic of China, the Republic of Korea, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 7154 (February 20, 2018) (*Initiation Notice*).



In the *Initiation Notice*, Commerce stated that, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for certain of the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.³ Accordingly, on February 6, 2018, Commerce released the CBP entry data for Turkey to all interested parties under an administrative protective order and requested comments regarding the data and respondent selection.⁴ On March 6, 2018, Commerce limited the number of respondents selected for individual examination to the two largest producers/exporters of the subject merchandise by volume, Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan) and HDM Spirally Welded Steel Pipe Co. Inc. (HDM Spiral)⁵ and issued the AD questionnaire to these two companies the next day.⁶

Also in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as the appropriate physical characteristics of welded pipe to be reported in response to Commerce's AD questionnaire.⁷ In March 2018, SeAH Steel Corporation (SeAH), a Korean producer of welded pipe, and the petitioners submitted scope comments and rebuttal comments, respectively.⁸ In the same month, Borusan, Corinth Pipeworks Pipe Industry S.A. (Corinth), a Greek producer of welded pipe, EVRAZ Inc. NA (EVRAZ), a Canadian producer of welded pipe, the petitioners, and SeAH submitted comments regarding the physical characteristics of the merchandise under consideration to be used for reporting purposes;⁹ these same parties also submitted rebuttal comments.¹⁰

³ *Id.* at 7159.

⁴ See Memorandum, "Large Diameter Welded Pipe from Turkey Antidumping Duty Petition: Release of Customs Data from U.S. Customs and Border Protection," dated February 6, 2018.

⁵ See Memorandum, "Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from the Republic of Turkey: Respondent Selection," dated March 6, 2018.

⁶ See Commerce's Letter to Borusan re: Antidumping Duty Questionnaire, dated March 7, 2018 (Borusan's Initial AD Questionnaire); and Commerce's Letter to HDM Spiral re: Antidumping Duty Questionnaire, dated March 7, 2018 (HDM's Initial AD Questionnaire).

⁷ See *Initiation Notice*, 83 FR at 7155-56.

⁸ See SeAH's Letter re: Antidumping Duty Investigation of Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey and Countervailing Duty Investigations of Large Diameter Welded Pipe from China, India, Korea, and Turkey – Scope Comments, dated March 1, 2018; and Petitioners' Letter re: Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey: Scope Rebuttal Comments, dated March 12, 2018.

⁹ See Borusan's Letter re: Certain Large Diameter Welded Pipe from Canada, Greece, India, China, Korea, and Turkey, Case Nos. A-122-863, A-484-803, A-533-881, A-570-077, A-580-897, and A-489-833: Comments on Product Characteristics and Model Matching Hierarchy, dated March 1, 2018; Corinth's Letter re: Antidumping Investigations of Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey – CPW's Comments regarding Product Characteristics for Purposes of Model Matching, dated March 1, 2018; EVRAZ's Letter re: Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey: EVRAZ's Comments on the Model Match Methodology, dated March 1, 2018; Petitioners' Letter re: Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Petitioners' Comments on Model Match Criteria, dated March 1, 2018; and SeAH's Letter re: Antidumping Duty Investigations of Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey – Comments on Product-Matching Criteria, dated March 1, 2018.

¹⁰ See Borusan's Letter re: Certain Large Diameter Welded Pipe from Canada, Greece, India, China, Korea, and Turkey, Case Nos. A-122-863, A-484-803, A-533-881, A-570-077, A-580-897, and A-489-833: Rebuttal Comments on Product Characteristics and Model Matching Hierarchy, dated March 12, 2018; Corinth's Letter re: Antidumping Investigations of Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of

On March 6, 2018, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of welded pipe from Turkey.¹¹

In April and May 2018, HDM Celik Boru Sanayi ve Ticaret A.S. (HDM Celik)¹² and Borusan submitted timely responses to sections A-D of Commerce's AD questionnaire, *i.e.*, the sections relating to general information, home market sales, U.S. sales, and cost of production (COP)/constructed value (CV), respectively.¹³ From April through July 2018, we issued supplemental questionnaires to Borusan and HDM Celik, and received timely responses to these supplemental questionnaires during the same time period.¹⁴

On May 23, 2018, the petitioners requested that the date for the issuance of the preliminary determination in this investigation be extended until 190 days after the date of initiation, from an initial deadline of June 29, 2018, to August 20, 2018.¹⁵ Based on the request, and pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e), on June 15, 2018, Commerce published

China, the Republic of Korea, and the Republic of Turkey – CPW's Rebuttal Comments on Product Characteristics for Purposes of Model Matching, dated March 12, 2018; EVRAZ's Letter re: Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey: EVRAZ's Rebuttal Comments on the Model Matching Methodology, dated March 12, 2018; Petitioners' Letter re: Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Petitioners' Rebuttal Comments on Model Match Criteria, dated March 12, 2018; and SeAH's Letter re: Antidumping Duty Investigations of Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey – Comments on Product-Matching Criteria, dated March 12, 2018.

¹¹ See *Large Diameter Welded Pipe from Canada, China, Greece, India, Korea, and Turkey Determinations*, 83 FR 10748 (March 12, 2018).

¹² In its section A response, HDM Celik stated that the company acquired HDM Spiral on October 31, 2017, and that before the acquisition, the two were affiliated companies. Therefore, HDM Celik provided information regarding both companies in its response. See HDM Celik's April 26, 2018 Section A Questionnaire Response (HDM Celik's April 26, 2018 AQR).

¹³ See Borusan's April 2, 2018 Section A Questionnaire Response (Borusan's April 2, 2018 AQR); Borusan's April 23, 2018 Sections B-D Questionnaire Response (Borusan's April 23, 2018 BCDQR); HDM Celik's April 30, 2018 Section D Questionnaire Response; HDM Celik's May 2, 2018 Sections B Questionnaire Response (HDM Celik's May 2, 2018 BQR); and HDM's May 2, 2018 Sections C Questionnaire Response (HDM Celik's May 2, 2018 CQR).

¹⁴ See Borusan's May 4, 2018 Submission of Financial Statements; Borusan's May 7, 2018 Supplemental Section A & C Questionnaire Response (Borusan's May 7, 2018 SACQR); Borusan's June 15, 2018 Supplemental Sections A-C Questionnaire Response (Borusan's June 15, 2018 SABCQR); Borusan's June 29, 2018 Supplemental Section D Questionnaire Response (Borusan's June 29, 2018 SDDR); Borusan's July 6 2018 Submission of Ernst and Young Audit Reports; Borusan's July 6, 2018 Response to Field Number 38.0 of the Supplemental Sections A-C Questionnaire; Borusan's August 3, 2018 Second Supplemental Sections A-C Questionnaire Response (Borusan's August 3, 2018 SSABCQR); Borusan's August 9, 2018 Second Supplemental Section D Questionnaire Response; HDM Celik's May 7, 2018 Supplemental Section A Questionnaire Response (HDM Celik's May 7, 2018 SAQR); HDM Celik's June 13, 2018 Supplemental Sections B and C Questionnaire Response; HDM's June 11, 2018 Supplemental Section D Questionnaire Response (HDM Celik's June 11, 2018 SDR); HDM Celik's August 2, 2018 Second Supplemental Section B and C Questionnaire Response (HDM Celik's August 2, 2018 SSBQR); and HDM Celik's June 30, 2018 Second Supplemental Section D Questionnaire Response.

¹⁵ See Petitioners' Letter re: Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations, dated May 23, 2018.

in the *Federal Register* a postponement of the preliminary determination by 50 days until no later than August 20, 2018.¹⁶

On July 6, 2018, we collapsed HDM Spiral and HDM Celik, and we are, therefore, treating them as a single entity for the purposes of our analysis in this investigation.¹⁷ On July 10, 2018, the petitioners submitted an allegation and supporting factual information that a particular market situation (PMS) existed in Turkey during the period of investigation (POI).¹⁸ Subsequently, we invited interested parties to submit information to rebut, clarify, or correct the information concerning this allegation.¹⁹

In July 2018, Borusan and HDM Celik requested that Commerce postpone the final determination, and that provisional measures be extended.²⁰ In August 2018, Borusan submitted rebuttal factual information regarding the PMS allegation.²¹ Finally, in August 2018, the petitioners also requested that Commerce postpone the final determination.²²

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

III. PERIOD OF INVESTIGATION

The POI is January 1, 2017, through December 31, 2017. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, which was January 2018.²³

IV. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,²⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage *i.e.*, scope.²⁵ Certain interested parties commented on the scope of this investigation as it appeared in the *Initiation*

¹⁶ See *Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 83 FR 27953 (June 15, 2018).

¹⁷ See Memorandum, "Less-Than-Fair Value Investigation of Large Diameter Welded Pipe (Welded Pipe) from the Republic of Turkey (Turkey): Preliminary Affiliation and Collapsing of HDM Spiral Kaynakli Celik Boru A.S. and HDM Celik Boru Sanayi ve Ticaret A.S.," dated July 6, 2018.

¹⁸ See Petitioners' Letter re: Large Diameter Welded Pipe from Turkey: Particular Market Situation Allegation and Factual Information, dated July 10, 2018 (Petitioners' PMS Allegation).

¹⁹ See Memorandum, "The Petitioners' Allegation of a Particular Market Situation in the Less-Than-Fair-Value Investigation of Large Diameter Welded Pipe from Turkey," dated July 27, 2018 (PMS Allegation Memorandum).

²⁰ See Borusan's Letter re: Large Diameter Welded Pipe from Turkey. Case No. A-489-833: Request to Postpone Final Determination, dated July 25, 2018; and HDM Celik's Letter re: Large Diameter Welded Pipe from Turkey: HDM Celik Extension Request for the Postponement of the Final Determination, dated July 29, 2018.

²¹ See Borusan's Letter re: Large Diameter Welded Pipe from Turkey, Case No. A-489-833: Rebuttal Factual Information to Petitioners' Particular Market Situation Allegation, dated August 3, 2018 (Borusan's PMS Rebuttal).

²² See Petitioners' Letter re: Large Diameter Welded Pipe from Turkey: Petitioners' Request for Postponement of the Final Determination, dated August 2, 2018.

²³ See 19 CFR 351.204(b)(1).

²⁴ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

²⁵ See *Initiation Notice*, 83 FR at 7155-56.

Notice. Based on its analysis of these comments, Commerce made certain preliminary revisions to the scope, which are reflected in the Appendix of the *Federal Register* notice that this preliminary decision memorandum accompanies. For a summary of the scope comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.²⁶

V. DISCUSSION OF THE METHODOLOGY

Comparisons to Fair Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Borusan's and HDM Celik's sales of subject merchandise from Turkey to the United States were made at LTFV, Commerce compared the export price (EP) to the normal value (NV), as described in the "Export Price," and "Normal Value" sections of this memorandum.

A) Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or constructed export prices (CEPs), *i.e.*, the average-to-average method, unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, Commerce examines whether to compare weighted-average NVs with the EPs (or CEPs) of individual sales, *i.e.*, the average-to-transaction method, as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In numerous investigations, Commerce has 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.²⁷ Commerce 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 investigation. Commerce 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 this preliminary determination examines whether there exists a pattern of export prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers,

²⁶ *See* Memorandum, "Large Diameter Welded Pipe from Canada, Greece, India, the People's Republic of China, the Republic of Korea, and the Republic of Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations," dated June 19, 2018 (Preliminary Scope Decision Memorandum).

²⁷ *See, e.g., Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

regions, and time periods 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.*, state, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI 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 EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean, *i.e.*, weighted-average price, of a test group and the mean, *i.e.*, weighted-average price, of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large, *i.e.*, 0.8, threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage, *i.e.*, the Cohen’s *d* test and the ratio test, demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should

be considered, then in the second stage of the differential pricing analysis, 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 this preliminary determination, including arguments for modifying the group definitions used in this proceeding.²⁸

B) Results of the Differential Pricing Analysis

Borusan

For Borusan, based on the results of the differential pricing analysis, Commerce preliminarily finds that 16.45 percent of the value of U.S. sales pass the Cohen's *d* test,²⁹ 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, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Borusan.

HDM Celik

For HDM Celik, based on the results of the differential pricing analysis, Commerce preliminarily finds that zero percent of the value of U.S. sales pass the Cohen's *d* test,³⁰ 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, Commerce preliminarily determines

²⁸ The Court of Appeals for the Federal Circuit (CAFC) recently affirmed much of Commerce's differential pricing methodology. See *Apex Frozen Foods Private Ltd. v. United States*, 862 F.3d 1322 (Fed. Cir. 2017). On that basis, we request that interested parties limit the arguments in their case briefs to issues that were not decided by the CAFC.

²⁹ See Memorandum, "Preliminary Determination Calculations for Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan)," dated concurrently with this memorandum (Borusan Preliminary Calculation Memo) at 5.

³⁰ See Memorandum, "Preliminary Determination Calculations for HDM Celik Boru Sanayi ve Ticaret AS," dated concurrently with this memorandum (HDM Celik Preliminary Calculation Memo) at 2-3.

to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for HDM Celik.

VI. DATE OF SALE

Section 351.401(i) of Commerce's regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, Commerce normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.³¹ Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.³²

Regarding home market sales, Borusan reported the earlier of invoice date or factory shipment date as the date of sale for all home market sales.³³ For U.S. sales, Borusan reported the "final contract date" as the date of sale.³⁴ According to Borusan, because the company made its sales to U.S. customers pursuant to contracts, also referred to as purchase orders, the date of the final revised contract/purchase order is the appropriate date of sale.³⁵ However, because: 1) these purchase orders did not firmly establish the sales quantity or other material terms of sale; and 2) there was no established date after which the purchase order could not be changed,³⁶ we did not rely on them to establish the date of sale. Rather, we preliminarily followed Commerce's long-standing practice of basing the date of sale for all of Borusan's home market and U.S. sales on the earlier of the invoice date or the shipment date.³⁷

HDM Celik reported the earlier of invoice date or factory shipment date as the date of sale for all home market sales.³⁸ For U.S. sales, HDM Celik reported the commercial invoice date as the

³¹ See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

³² See, e.g., *Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065 (September 12, 2007) (*Shrimp from Thailand*), and accompanying Issues and Decision Memorandum (IDM) at Comment 11; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002) (*Steel Beams from Germany*), and accompanying IDM at Comment 2.

³³ See Borusan's April 23, 2018 BCDQR, at B-27.

³⁴ *Id.* at C-23.

³⁵ See, e.g., Borusan's April 2, 2018 AQR at A-19; Borusan's May 7, 2018 SACQR at 8-13; and Borusan's June 15, 2018 SABCQR, at 25-30.

³⁶ See Borusan's June 15, 2018 SABCQR, at 25 ("If changes need to be made as the project progresses, this is done by issuing a new purchase order. The new purchase order reflects all the terms of the prior purchase order as well as any changes including to the product, delivery schedules, quantities, etc.") and 29 ("There is no routine practice for issuing a purchase order. Purchase order{s} are executed to reflect changes in the buyer's needs or to specify new products or quantities.") See also Petitioners' Letter re: Large Diameter Welded Pipe from Greece: Deficiency Comments on Borusan's Sections A-C Supplemental Questionnaire Response, dated July 2, 2018, at 19-23.

³⁷ See, e.g., *Shrimp from Thailand*, and accompanying IDM at Comment 11; see also *Steel Beams from Germany*, and accompanying IDM at Comment 2.

³⁸ See HDM Celik's May 2, 2017 BQR, at B-21.

date of sale for all U.S. sales.³⁹ We preliminarily followed Commerce’s long-standing practice of basing the date of sale for all of HDM Celik’s home market and U.S. sales on the earlier of the invoice date or the shipment date.⁴⁰

VII. PRODUCT COMPARISONS

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents, Borusan and HDM Celik, in Turkey during the POI that fit the description in the “Scope of the Investigation” section of the accompanying *Federal Register* notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate.

In making product comparisons, we matched foreign like products based on the physical characteristics reported by Borusan and HDM Celik in the following order of importance: steel chemistry, chromium content, nickel content, molybdenum content, product type, outer coating, yield strength, outside diameter, wall thickness, weld type, and inner coating.

VIII. EXPORT PRICE

For all sales made by Borusan and HDM Celik, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was first sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation, and CEP methodology was not otherwise warranted.

Borusan

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign warehousing expenses, foreign inland freight expenses, foreign brokerage and handling expenses, international freight expenses, U.S. brokerage and handling expenses, U.S. inland freight expenses, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act. We capped Borusan’s reported freight, warehousing, and loading revenues by the amount of the associated expenses incurred on U.S. sales, in accordance with our practice.⁴¹

Borusan reported using an affiliated company to arrange or provide certain freight-related services.⁴² Where Borusan was unable to demonstrate that these expenses reflected arm’s-length transactions, we adjusted these expenses based on: (1) the amounts charged between the affiliate and an unaffiliated party for the same service; or (2) the costs charged to the affiliate.⁴³

³⁹ See HDM Celik’s May 2, 2017 CQR, at C-21.

⁴⁰ See, e.g., *Shrimp from Thailand*, and IDM at Comment 11; see also *Steel Beams from Germany*, and accompanying IDM at Comment 2.

⁴¹ See, e.g., *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 63291 (October 16, 2012) (*OJ from Brazil 2012*), and accompanying IDM at Comment 6.

⁴² See, e.g., Borusan’s April 23, 2018 BCDQR, at C-34, C-38 – C-39, C-41 – C-42; and Borusan’s June 15, 2018 SABCQR, at 32; 34-37, 41.

⁴³ See Borusan Preliminary Calculation Memo for further discussion of these adjustments.

Section 772(c)(1)(B) of the Act states that the price used to establish 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 exportation of the subject merchandise to the United States.” In determining whether a respondent is entitled to duty drawback, we look for a reasonable link between the duties imposed and those rebated or exempted. Although we do not require that the imported material be traced directly from importation through exportation, we do, however, require that the company meet our “two-pronged” test in order for this adjustment to be made to U.S. prices.⁴⁴ The first prong of the test is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another (or the exemption from import duties is linked to exportation). The second prong of the test is that the company must demonstrate that there were sufficient imports of materials to account for the duty drawback or exemption granted for the export of the manufactured product.⁴⁵

In this case, Borusan provided information to satisfy each of the two prongs.⁴⁶ Because it satisfied the criteria described above, we preliminarily granted a duty drawback adjustment to Borusan consistent with our practice.⁴⁷ Under this methodology, Commerce will make an upward adjustment to U.S. price based on the amount of the duty imposed on the input and rebated or not collected on the export of the subject merchandise by properly allocating the amount rebated or not collected to all production for the relevant period based on the cost of inputs during the POI.⁴⁸ This ensures that the amount added to both sides of the dumping calculation is equal, *i.e.*, duty neutral, meeting the purpose of the adjustment as affirmed in *Saha Thai*.⁴⁹ Also, consistent with the practice established in *Rebar Trade Redetermination on Remand*,⁵⁰ we limited the amount of the duty drawback adjustment by the per-unit duty costs included in the respondent’s COP.⁵¹

⁴⁴ See *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed. Cir. 2011) (*Saha Thai*).

⁴⁵ *Id.*; see also *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 IDM at Comment 2.

⁴⁶ See Borusan’s April 23, 2018 BCDQR, at C-45 to C-49, and Exhibits C-18 to C-20 and D-12; Borusan’s June 15, 2018 SABCQR, at 42-43, and Exhibit C-43; and Borusan’s August 3, 2018 SSABCQR, at 20-21, and Exhibit C-52.

⁴⁷ See, e.g., *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 82 FR 23192 (May 22, 2017), and accompanying IDM at Comment 1.

⁴⁸ See *Certain Corrosion-Resistant Steel Products from India: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 81 FR 63 (January 4, 2016), and accompanying Preliminary Decision Memorandum (PDM) at 15.

⁴⁹ In *Saha Thai*, the CAFC explained that “it is clear that Commerce only added imputed import duty costs to COP in an amount appropriate to offset Saha’s actual import duty exemptions under the bonded warehouse program. This did not result in double counting because Commerce merely added the cost of import duties that Saha would have paid on the inputs in category C if Saha had sold the subject merchandise in Thailand rather than exporting it to the United States. Commerce thus calculated an appropriate average COP.” See *Saha Thai*, 635 F. 3d. at 1344.

⁵⁰ See *Final Results of Redetermination Pursuant to Court Remand: Rebar Trade Action 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*) available at <https://enforcement.trade.gov/remands/15-130.pdf>, at 15-18.

⁵¹ See Borusan Preliminary Calculation Memo.

HDM Celik

We calculated EP based on packed prices to unaffiliated purchasers in the United States. Where appropriate, we adjusted the price for revenues HDM Celik charged and reported separately on its invoices for certain U.S. transactions, including welding revenue, coating revenue, twisting revenue, and banding revenue.⁵² We also made deductions from the starting price, where appropriate, for movement expenses, *i.e.*, foreign inland freight expenses, foreign brokerage and handling expenses, foreign port charges, foreign demurrage charges, and international freight expenses, in accordance with section 772(c)(2)(A) of the Act. Finally, HDM Celik did not claim, and we did not grant, a duty drawback adjustment, because it reported that it is located in a free trade zone.⁵³

IX. NORMAL VALUE

A) Particular Market Situation

1. Background

As noted above, in July 2018, the petitioners submitted factual information in support of an allegation that a PMS exists in Turkey during the POI. The petitioners argued that a PMS existed in Turkey which distorted the COP of welded pipe, based on the cumulative effects of: (1) the Government of Turkey's (GOT's) control of Eregli Demir Celik Fabrikiler Ticaret A.S. (Erdemir), the largest producer of flat-rolled steel in Turkey, and its affiliate Iskenderun Demir ve Celik A.S. (Isdemir); (2) Turkish subsidies on the hot-rolled coil (HRC) and plate inputs; and (3) Turkish imports of HRC and plate from Russia as a result of Chinese overcapacity.⁵⁴

Subsequently, in July 2018, Commerce invited interested parties to submit factual information and comments regarding the alleged PMS in this investigation.⁵⁵ In that memorandum, we recommended finding that "the petitioners' allegation of a PMS in this investigation is sufficient to warrant analysis."⁵⁶ In August 2018, Borusan submitted factual information and comments concerning the PMS allegation.

2. Interested Parties' Arguments

The petitioners assert that a PMS exists in Turkey based on both the individual and collective effects of the GOT's control of Erdemir and Isdemir, subsidies to Turkish HRC and plate producers, and Turkish imports of HRC and plate from Russia.⁵⁷ According to the petitioners, Erdemir and Isdemir account for the vast majority of flat-rolled steel production in Turkey and most of this production is directed to users in the home market, such as welded pipe producers.⁵⁸

⁵² See HDM Celik's May 2, 2018 CQR.

⁵³ *Id.*, at C-36.

⁵⁴ See Petitioners' PMS Allegation.

⁵⁵ See PMS Allegation Memorandum at 3.

⁵⁶ *Id.* at 2.

⁵⁷ See Petitioners' PMS Allegation.

⁵⁸ *Id.* at 12-14 and Exhibit 6.

The petitioners also provide information showing that HRC and plate are the primary inputs into welded pipe, representing a significant portion of its cost.⁵⁹ Furthermore, the petitioners note that Commerce has found both in *Hot-Rolled Steel from Turkey* and *Welded Pipe from Turkey* that the GOT subsidizes HRC and plate.⁶⁰ Moreover, the petitioners assert that Commerce should take into account the extent to which imports from Russia have surged into Turkey and distorted HRC and plate prices.⁶¹ According to the petitioners, Russia has sold HRC and plate into Turkey at unfairly low prices, distorting the market.⁶² The petitioners link: (1) Russia's movement into the Turkish market to Chinese overcapacity, which has pushed Russia out of its traditional Asian markets; and (2) Russia's increase in HRC imports to Turkey with depressed prices for HRC and plate in the Turkish market.⁶³ The petitioners argue that Commerce must make an adjustment to account for the persistence of Chinese overcapacity in the global steel market and provide a regression analysis showing that, where global steel overcapacity increases, the average unit values of HRC and plate imports decrease.⁶⁴

The petitioners urge Commerce to make several adjustments to account for the various aspects of their PMS allegation.⁶⁵ Specifically, the petitioners argue that, for Turkish HRC subsidies, Commerce should adjust the respondents' HRC and plate costs based on the countervailing duty (CVD) rates determined in *Hot-Rolled Steel from Turkey*.⁶⁶ Additionally, the petitioners contend that, to account for the effect of overcapacity in China on the price of Russian HRC and plate imports into Turkey, Commerce should make an adjustment to the cost of all of the respondents' HRC and plate purchases.⁶⁷ For this adjustment, the petitioners propose using: (1) a 97.3 percent adjustment calculated using a regression analysis; (2) averaging separate adjustments for hot-rolled imports from the respondents' suppliers outside of Turkey and increasing the reported HRC and plate costs by that average; (3) averaging all or a combination of the rates calculated in numerous AD and CVD proceedings on hot-rolled steel and cut-to-length (CTL) plate from Russia, Ukraine, Korea, and China; or (4) the 23 percent simple average of the rates calculated in a recent European Union determination.⁶⁸

Borusan disagrees that Commerce should find that a PMS exists in Turkey.⁶⁹ Borusan notes that Commerce has consistently found in its CVD proceedings that the GOT's "purported" control of Erdemir does not distort the Turkish HRC market.⁷⁰ Borusan also disputes that Erdemir

⁵⁹ *Id.* at 15-16 and Exhibit 5.

⁶⁰ *Id.* at 17 (citing *Large Diameter Welded Pipe from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 30697 (June 29, 2018) (*Welded Pipe from Turkey*), and accompanying PDM at 7-11; and *Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products from the Republic of Turkey: Final Affirmative Determination*, 81 FR 53433 (August 12, 2016) (*Hot-Rolled Steel from Turkey*)).

⁶¹ *Id.* at 18.

⁶² *Id.* at 20-22 and Exhibits 6 and 12.

⁶³ *Id.*

⁶⁴ *Id.* at 40-42 and Exhibit 13.

⁶⁵ *Id.* at 40-44.

⁶⁶ *Id.* at 42.

⁶⁷ *Id.*

⁶⁸ *Id.* at 42-44 and Exhibit 14.

⁶⁹ See Borusan's PMS Rebuttal.

⁷⁰ *Id.* at 4 and Attachment 1 (citing *Welded Pipe from Turkey*, and accompanying PDM).

constitutes the “vast majority” of domestic flat-rolled steel production, noting that, in 2017, Erdemir had 55 percent of domestic production and 36.22 percent of domestic supply, based on information in *Welded Pipe from Turkey*.⁷¹ Further, Borusan argues that, not only did Commerce measure the subsidy to Borusan for its HRS purchases from Erdemir at a *de minimis* rate in *Welded Pipe from Turkey*, but also any subsidies on HRC are being countervailed in that CVD investigation.⁷² Borusan also notes that it did not purchase any HRC from Russia during the POI.⁷³ In any event, Borusan argues that Russia has not been pushed out of Asian markets and into Turkey by China; rather, due to its close proximity to Turkey, Russia has historically been a major supplier of HRC for Turkey.⁷⁴ Finally, Borusan argues that if Commerce were to make any adjustment based on the rates calculated in *Hot-Rolled Steel from Turkey*, those rates no longer apply because that investigation was terminated by the ITC.⁷⁵

3. Analysis

Section 504 of the Trade Preferences Extension Act of 2015 (TPEA)⁷⁶ added the concept of the term “particular market situation” to the definition of “ordinary course of trade,” under section 771(15) of the Act, and for purposes of CV under section 773(e) of the Act. Through section 773(e), “particular market situation” also applies to COP under section 773(b)(3) of the Act. Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the {COP} in the ordinary course of trade, {Commerce} may use another calculation methodology under this subtitle or any other calculation methodology.”

In this investigation, the petitioners alleged that a PMS exists in Turkey during the POI which distorts the COP of welded pipe based on the following factors: (1) the GOT’s control of Erdemir and Isdemir; (2) Turkish subsidies on the HRC and plate inputs; and (3) Turkish imports of HRC and plate from Russia as a result of Chinese overcapacity. Section 504 of the TPEA does not specify whether to consider these allegations individually or collectively.

Based on record information, we preliminarily find that a PMS exists in Turkey, which distorts the COP of welded pipe. This PMS results from the collective impact of the GOT’s control of Erdemir and Isdemir, Turkish HRC and plate subsidies, and Turkish imports of HRC and plate from Russia.

In this investigation, we considered the three components of the petitioner’s allegation as a whole, based on their cumulative effect on the Turkish welded pipe market through the COP for welded pipe and its inputs. Based on the totality of the conditions in the Turkish market, we preliminarily find that the allegations support a finding of a PMS.

⁷¹ *Id.* at 4-5 and Attachment 1 (citing *Welded Pipe from Turkey* and accompanying PDM).

⁷² *Id.* at 5 and Attachment 1 (citing *Welded Pipe from Turkey* and accompanying PDM).

⁷³ *Id.* at 6 and Attachment 4.

⁷⁴ *Id.* at 7 and Attachment 7.

⁷⁵ *Id.* at 5 and Attachment 3.

⁷⁶ See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015).

The information on the record shows government assistance in the production of HRC and plate through the GOT's ownership of Erdemir and Isdemir, which accounts for a significant portion of Turkey's market of HRC and plate.⁷⁷ Additionally, Erdemir's and Isdemir's involvement in the Turkish flat rolled steel market, coupled with increased imports from Russia, result in low-cost sales of HRC to domestic consumers, including producers of welded pipe.⁷⁸ Furthermore, information from the ITC shows that raw material costs, which are primarily HRC and plate, accounted for between 76.8 and 78.0 percent of the cost of goods sold of welded pipe between 2015 and 2017.⁷⁹ These market conditions suggest that the acquisition prices of HRC in Turkey are not reflective of the ordinary course of trade for this input. Thus, based on the totality of the circumstances, as evidenced by the record of this investigation, we preliminarily find that various market forces cause distortions, which affect the COP for welded pipe from Turkey and support a finding that a PMS existed during the POI in this proceeding.

Having preliminarily determined that a PMS exists for the respondents' production costs for welded pipe, we then examined whether there was sufficient record evidence to quantify the impact of the PMS in order to potentially employ an alternative calculation methodology, as contemplated by section 504 of the TPEA. Borusan provided comments on the allegations relating to the GOT's control of flat-rolled steel producers Erdemir and Isdemir, Turkish HRC and plate subsidies, and Turkish imports of HRC and plate from Russia.⁸⁰ We disagree with Borusan that it would be inappropriate to make a PMS adjustment based on the CVD rates applied in *Hot-Rolled Steel from Turkey* because that investigation did not result in a CVD order due to the ITC's negative injury determination. Specifically, we disagree that this fact alone should discredit the use of the CVD rates calculated in that investigation in making a PMS adjustment in this proceeding. Injury to the domestic industry is immaterial to the question of whether Commerce found subsidization of the foreign industry. Furthermore, we find that the rates calculated in the CVD investigation on *Hot-Rolled Steel from Turkey* are the best indication of the rate of subsidization of Turkish HRC producers given that Commerce calculated a rate for Erdemir in that proceeding. Finally, we disagree with Borusan's argument that, because Commerce is measuring the subsidization of Borusan's purchases of HRC for less than adequate remuneration in the CVD investigation of *Welded Pipe from Turkey*, it is inappropriate to adjust for them here. However, we note that the PMS allegation in this investigation is for the HRC input used to produce welded pipe, not the welded pipe ultimately produced. Therefore, we find it appropriate to use the results of *Hot-Rolled Steel from Turkey* to adjust the HRC input into welded pipe, consistent with our HRC input treatment in the Korean pipe administrative reviews.⁸¹

⁷⁷ See Petitioners' PMS Allegation at 10 (citing *Welded Pipe from Turkey* and accompanying PDM at 8).

⁷⁸ *Id.* at 14.

⁷⁹ *Id.* at 15 at Exhibit 5.

⁸⁰ See Borusan's PMS Rebuttal.

⁸¹ See *Welded Line Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 33919 (July 18, 2018), and accompanying IDM at Comment 1 (*WLP from Korea*); *Certain Oil Country Tubular Goods from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015-2016*, 83 FR 17146 (April 18, 2018) (*OCTG from Korea*), and accompanying IDM at Comment 1; and *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea*, 83 FR 2754 (June 13, 2018) (*CWP from Korea*), and accompanying IDM at Comment 1.

We preliminarily determine to apply an upward adjustment to Borusan's and HDM Celik's reported costs for HRC on the basis that a PMS exists. Our adjustment for this preliminary determination is derived from the GOT's subsidization of HRC. For all HRC purchased by the respondents, we have based this adjustment on the subsidy rates found for Erdemir and all other producers of HRC in the final determination in *Hot-Rolled Steel from Turkey*.⁸² We quantified this adjustment as the net domestic subsidization rate (*i.e.*, the CVD rate, excluding all export subsidies).⁸³ In our view, these rates quantify the impact of the GOT's assistance in the production of hot-rolled steel products, which is part of the PMS that we have preliminarily found to exist.

We will seek additional information regarding the proposed regression analysis and the impact of Chinese overcapacity, and we will continue to develop the concepts and types of analysis that are necessary to address allegations of PMS under section 773(e) of the Act.

B) Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, *i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales, we normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third-country market as the basis for comparison market sales, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we determined that the aggregate volume of home market sales of the foreign like product for each respondent was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise.⁸⁴ Therefore, we used home market sales as the basis for NV for Borusan and HDM Celik, in accordance with section 773(a)(1)(B) of the Act.

C) Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).⁸⁵ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that

⁸² While we have found for this preliminary determination that all three allegations are part of our PMS finding, the record did not contain sufficient information to make adjustments specifically relating to the allegation regarding Turkish imports of HRC from Russia. Therefore, in order to adjust for the PMS, we used record information relating to HRC.

⁸³ See Borusan Preliminary Calculation Memo and HDM Celik Preliminary Calculation Memo.

⁸⁴ See, *e.g.*, Borusan's April 2, 2018 SAQR at A-2 and Exhibit A-1; and HDM Celik's April 26, 2018 AQR, at A1 and Exhibit A-1.

⁸⁵ See 19 CFR 351.412(c)(2).

there is a difference in the stages of marketing.⁸⁶ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market, *i.e.*, the chain of distribution, including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales, *i.e.*, NV based on either home market or third country prices,⁸⁷ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.⁸⁸

When Commerce is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales to sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, *i.e.*, no LOT adjustment is possible, Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁸⁹

In this investigation, we obtained information from Borusan and HDM Celik regarding the marketing stages involved in making reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution.⁹⁰ Our LOT findings are summarized below.

Borusan

In the home market, Borusan reported that it made sales through one channel of distribution, *i.e.*, sales to end users or trading companies.⁹¹ According to Borusan, it performed the following selling functions for sales to all home market customers: strategic/economic planning, sales promotion/customer advice/product information, inventory maintenance, order input/processing, direct sales personnel, sales/marketing support, technical assistance, pay commissions, provide warranty service, and freight and delivery services.⁹²

⁸⁶ *Id.*; see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil 2010*) and accompanying IDM at Comment 7.

⁸⁷ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

⁸⁸ See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

⁸⁹ See, e.g., *OJ from Brazil 2010*, and accompanying IDM at Comment 7.

⁹⁰ See Borusan's April 2, 2018 AQR, at A-15 – A-18 and Exhibit A-7; and HDM Celik's May 7, 2018 SAQR, at SA7 – SA8, and Exhibit SA-7.

⁹¹ See Borusan's April 12, 2018 AQR, at A-15.

⁹² *Id.* at Exhibit A-7.

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that Borusan performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and technical support for all of its reported home market sales. Because we find that Borusan performed the same selling activities to sell to all of its home market customers, we preliminarily determine that there is one LOT in the home market for Borusan.

With respect to the U.S. market, Borusan also reported that it made sales through one channel of distribution, *i.e.*, sales to end-users.⁹³ Borusan reported that it performed the following selling functions for sales to all U.S. customers: strategic/economic planning, inventory maintenance, order input/processing, direct sales personnel, sales/marketing support, technical assistance, and freight and delivery services.⁹⁴

Based on the selling function categories noted above, we find that Borusan performed sales and marketing, freight, and delivery services, and provided technical support for all of its reported U.S. sales. Because we find that Borusan performed the same selling activities to sell to all of its U.S. customers, we preliminarily determine that there is one LOT in the U.S. market for Borusan.

Finally, we compared the U.S. LOT to the home market LOT, and we preliminarily find that the selling functions Borusan performed for its U.S. and home market customers do not differ significantly. Therefore, we preliminarily find that Borusan's POI home market sales were made at the same LOT as its POI U.S. sales, and, thus, a LOT adjustment is not warranted.

HDM Celik

In the home market, HDM Celik reported that it made sales through one channel of distribution, *i.e.*, direct sales to end users and distributors.⁹⁵ According to HDM Celik, it performed the following selling functions for sales to all home market customers: freight and delivery, deferred payment options, and home market sales funds.⁹⁶

Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Based on these selling function categories, we find that HDM Celik performed sales and marketing and provided freight and delivery services for all of its reported home market sales. Because we find that HDM Celik performed the same selling activities to sell to all of its home market customers, we preliminarily determine that there is one LOT in the home market for HDM Celik.

⁹³ *Id.* at A-16.

⁹⁴ *Id.* at Exhibit A-7. Borusan did not list inventory maintenance for U.S. sales in its selling functions chart in Exhibit A-7; however, it reported warehousing expenses in its U.S. sales listing. *See* Borusan's April 23, 2018 BCDQR, at C-33 and C-41 – C-42.

⁹⁵ *See* HDM Celik's April 26, 2018 AQR, at A10.

⁹⁶ *See* HDM Celik's May 7, 2018 SAQR, at SA7 – SA8, and Exhibit SA-7.

With respect to the U.S. market, HDM Celik reported that it made sales through one channel of distribution, *i.e.*, sales to end-users.⁹⁷ HDM Celik reported that it performed the following selling functions all of its reported U.S. sales: freight and delivery, and deferred payment options.⁹⁸

Based on the selling function categories noted above, we find that HDM Celik performed sales and marketing and provided freight and delivery services for all of its reported U.S. sales. Because we find that HDM Celik performed the same selling activities to sell to all of its U.S. customers, we preliminarily determine that there is one LOT in the U.S. market for HDM Celik.

Finally, we compared the U.S. LOT to the home market LOT, and we preliminarily find that the selling functions performed for HDM Celik's U.S. and home market customers do not differ significantly. Therefore, we preliminarily find that HDM Celik's POI home market sales were made at the same LOT as its POI U.S. sales and, thus, a LOT adjustment is not warranted.

D) Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested COP information from Borusan and HDM Celik.⁹⁹ We examined Borusan's and HDM Celik's cost data and preliminarily determine that our quarterly cost methodology is not warranted.¹⁰⁰ Accordingly, we are applying our standard methodology of using annual costs based on the reported data.

1. 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 (G&A) expenses and interest expenses.

We relied on the COP data submitted by Borusan,¹⁰¹ except as follows:¹⁰²

- We adjusted the reported HRC input costs to reflect the PMS, as discussed above.
- We revised the numerator of Borusan's G&A expense rate to exclude certain income items.

We relied on the COP data submitted by HDM Celik,¹⁰³ except as follows:¹⁰⁴

⁹⁷ See HDM Celik's April 26, 2018 AQR, at A9 – A10.

⁹⁸ See HDM Celik's May 7, 2018 SAQR, at SA7 – SA8, and Exhibit SA-7.

⁹⁹ See Borusan's Initial AD Questionnaire; and HDM's Initial AD Questionnaire.

¹⁰⁰ See Borusan's April 23, 2018 BCDQR at Exhibit D-3. See HDM Celik's June 11, 2018 SDR at Exhibit SD-2.

¹⁰¹ See Borusan's June 29, 2018 SDR at Exhibit D-22.

¹⁰² See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Borusan Mannesmann Boru Sanayi ve Ticaret," dated concurrently with this memorandum.

¹⁰³ See HDM Celik's August 2, 2018 SSBCR at Exhibit 2SBC-8.

¹⁰⁴ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – HDM Çelik Boru Sanayi ve Ticaret A.Ş.," dated concurrently with this memorandum (HDM Celik Preliminary Cost Calculation Memo).

- We adjusted the reported HRC input costs to reflect the PMS, as discussed above.
- HDM Celik reported a payroll tax exemption an offset to G&A expenses. We reallocated this offset among production labor, selling, and G&A labor.
- We reduced HDM Celik’s reported cost of manufacturing to exclude inland freight to port expenses, which were also reported as selling expenses.
- We revised the denominator of HDM Celik’s G&A expense rate to exclude the payroll tax offset to production labor, inland freight to port expenses, and packing expenses.
- We revised the numerator of HDM Celik’s financial expense rate to exclude certain gains and the denominator to exclude the payroll tax offset to production labor, inland freight to port expenses, and packing expenses.

2. 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. The prices were exclusive of any applicable billing adjustments, discounts and rebates, where applicable, movement charges, actual direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

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

We found that, for certain products, more than 20 percent of Borusan’s home market sales during the POI were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act. With regard to HDM Celik, none of its home market sales during the POI were at prices less than COP.

E) Calculation of NV Based on Comparison Market Prices

Borusan

We calculated NV based on delivered or ex-factory prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, in accordance with 19 CFR 351.401(c). We made deductions for movement expenses, including inland freight and handling charges, under section 773(a)(6)(B)(ii) of the Act. We capped freight revenue by the amount of inland freight expenses incurred on home market sales, in accordance with our practice.¹⁰⁵ According to Borusan, it uses an affiliated company to arrange or provide certain freight-related services.¹⁰⁶ Where Borusan was unable to demonstrate that these expenses reflected arm's-length transactions, we adjusted these expenses based on (1) invoices between the affiliate and an unaffiliated party for the same service; or (2) the costs charged to the affiliate.¹⁰⁷

We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, late delivery charges, penalty expenses, testing expenses, credit expenses, bank charges and other direct selling expenses, and added U.S. direct selling expenses, *i.e.*, credit expenses and bank charges. Borusan also reported vehicle purchase expenses as direct selling expenses for certain home market sales;¹⁰⁸ however, because these expenses appear indirect in nature, we preliminarily reclassified them as indirect selling expenses.¹⁰⁹

Borusan reported fees associated with a disputed penalty for late delivery of POI sales to a certain customer and allocated these fees based on an agreement made during 2018.¹¹⁰ In accordance with our practice for post-sale price adjustments,¹¹¹ we reallocated these fees to reflect the allocation stated in an agreement that pre-dates the investigation.¹¹²

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.¹¹³

¹⁰⁵ See, *e.g.*, *OJ from Brazil 2012*, and accompanying IDM at Comment 6.

¹⁰⁶ See Borusan's April 23, 2018 BCDQR at B-38 – B-39.

¹⁰⁷ See Borusan Preliminary Calculation Memo for further discussion of these adjustments.

¹⁰⁸ See, *e.g.*, Borusan's August 3, 2018 SSABCQR, at 10-11.

¹⁰⁹ *Id.*

¹¹⁰ See Borusan's August 3, 2018 SSABCQR at 9-10.

¹¹¹ See, *e.g.*, *Certain Tapered Roller Bearings from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 83 FR 29092 (June 22, 2018), and accompanying IDM at Comment 5.

¹¹² See Borusan Preliminary Calculation Memo for further discussion of these adjustments.

¹¹³ See 19 CFR 351.411(b).

HDM Celik

We calculated NV based on delivered or ex-factory prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for billing adjustments, in accordance with 19 CFR 351.401(c). We also made deductions for movement expenses, including inland freight and brokerage and port charges under section 773(a)(6)(B)(ii) of the Act.

We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act. For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale. Specifically, we deducted direct selling expenses incurred for home market sales, *i.e.*, credit expenses and bank charges, and added U.S. direct selling expenses, *i.e.*, credit expenses and bank charges.

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.¹¹⁴

F) Price-to-Constructed Value Comparison

For HDM Celik, where we were unable to find a home market match of identical or similar merchandise, we based normal value on CV in accordance with section 773(a)(4) of the Act. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the HDM Celik's material and fabrication costs, SG&A expenses, profit, and 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 SG&A expenses and profit on the amounts incurred and realized by HDM Celik in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.¹¹⁵

For comparisons to HDM Celik's EP sales, we made circumstances-of-sale adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S.

¹¹⁴ *Id.*

¹¹⁵ *See* HDM Celik Preliminary Cost Calculation Memo.

direct selling expenses, to CV, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410.

X. CURRENCY CONVERSION

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

XI. ADJUSTMENTS TO CASH DEPOSIT RATES FOR EXPORT SUBSIDIES

In an LTFV investigation for which there is a companion CVD investigation, it is Commerce's practice to calculate the AD cash deposit rate for each respondent by adjusting the respondent's estimated weighted-average dumping margin to account for export subsidies found for that respondent in the companion CVD investigation. This is consistent with section 772(c)(1)(C) of the Act, which states that U.S. price "shall be increased by the amount of any countervailing duty imposed on the subject merchandise ... to offset an export subsidy."¹¹⁶

Borusan and HDM Celik were also selected as mandatory respondents in the companion CVD investigation, and we made export subsidy findings for certain programs.¹¹⁷ Specifically, in the CVD preliminary determination, Commerce found six Turkish subsidy programs to be export contingent.¹¹⁸ Based on our findings in that investigation, we find that an export subsidy adjustment of 0.66 percent to the estimated weighted-average dumping margin is warranted for Borusan,¹¹⁹ and an export subsidy adjustment of 1.00 percent is warranted for HDM Celik.¹²⁰ With respect to the all-others rate, we find that an export subsidy adjustment of 0.76 percent to the cash deposit rate is warranted because this is the export subsidy rate included in the CVD all-others rate, to which these companies are subject in the companion CVD proceeding.¹²¹

¹¹⁶ See *Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review*, 75 FR 38076, 38077 (July 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

¹¹⁷ See *Large Diameter Welded Pipe from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 30697 (June 29, 2018), and accompanying PDM (LDWP from Turkey CVD PDM).

¹¹⁸ The following subsidy programs were preliminarily found to be export contingent in the companion CVD investigation: Deduction from Taxable Income for Export Revenue (0.07 percent for Borusan, 0.03 percent for HDM Celik); Inward Processing Certificate (0.01 percent for Borusan); Export Financing: Rediscount Program (0.49 percent for Borusan); and Law 3218: Exemption from Income Taxes on Wages Paid to Workers (0.97 percent for HDM Celik). See LDWP from Turkey CVD PDM.

¹¹⁹ See Borusan Preliminary Calculation Memo.

¹²⁰ See HDM Celik Preliminary Calculation Memo.

¹²¹ See Memorandum, "Preliminary Determination Calculations for the All-Others Rate" dated concurrently with this memorandum.

XII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.

Agree

Disagree

8/20/2018

X  _____

Signed by: GARY TAVERMAN