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Administrative Review
POR: 3/7/2017-6/30/2018
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September 6, 2019

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Steel Concrete Reinforcing Bar
from the Republic of Turkey; 2017-2018

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey).¹ This review covers six companies. The period of review (POR) is March 7, 2017 through June 30, 2018. We preliminarily find that mandatory respondents, Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas) and Kaptan Demir Celik Endüstrisi ve Ticaret A.S. (Kaptan Demir) each made sales of the subject merchandise at prices below normal value. The estimated weighted-average dumping margins are shown in the “Preliminary Results of this Review” section of the accompanying *Federal Register* notice. We are conducting this administrative review in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213.

II. BACKGROUND

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), on July 30, 2018, we received requests for an administrative review of the antidumping duty order on rebar for six companies: (1) Icdas; (2) Kaptan Demir; (3) Colakoglu Dis Ticaret A.S (Colakoglu Dis Ticaret); (4) Colakoglu Metalurji A.S. (Colakoglu Metalurji); (5)

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 45596 (September 10, 2018) (*Initiation Notice*).



Habas Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.S. (Habas); and (6) Kaptan Metal Dis Ticaret ve Nakliyat A.S. (Kaptan Metal).²

On September 10, 2018, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of the administrative review of the antidumping duty order on rebar from Turkey, covering all of these companies.³ In the “Respondent Selection” section of the *Initiation Notice*, Commerce stated that, if necessary, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for entries of rebar from Turkey during the POR.⁴ On October 30, 2018, relying on CBP data, Commerce selected Icdas and Kaptan Demir as the mandatory respondents for this review.⁵

We issued the standard antidumping duty questionnaire to Kaptan Demir and Icdas on November 5, 2018. Between December 3, 2018 and July 21, 2019, Kaptan Demir submitted timely responses to Commerce’s original and supplemental questionnaires.⁶ Between December 3, 2018 and July 22, 2019, Icdas submitted timely responses to Commerce’s original and supplemental questionnaires.⁷

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.⁸ On April 9, 2019, and August 7, 2019, Commerce postponed the preliminary results of this review.⁹ The revised deadline for the preliminary results is September 6, 2019.

² See Colakoglu Dis Ticaret and Colakoglu Metalurji’s Letter, “Colakoglu’s Request for Antidumping Duty Administrative Review,” dated July 30, 2018; *see also* Habas’s Letter, “Request for Antidumping Administrative Review,” dated July 30, 2018; Icdas’s Letter, “Icdas’s Request for Antidumping Administrative Review,” dated July 30, 2018; and Kaptan Demir and Kaptan Metal’s Letter, “Request for Antidumping Administrative Review,” dated July 30, 2018.

³ See *Initiation Notice* at 83 FR 45604.

⁴ *Id.* at 83 FR 45596.

⁵ See Memorandum, “Respondent Selection for the Antidumping Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey,” dated October 30, 2018 (Respondent Selection Memorandum).

⁶ See Kaptan Demir’s December 3, 2018 Section A Questionnaire Response (Kaptan Demir’s December 3, 2018 AQR); *see also* Kaptan Demir’s January 29, 2019 Sections B-D Questionnaire Response (Kaptan Demir’s January 29, 2019 BCDQR); Kaptan Demir’s July 1, 2019 Supplemental A-C Questionnaire Response (Kaptan Demir’s July 1, 2019 SQR); and Kaptan Demir’s July 21, 2019 Supplemental D Questionnaire Response (Kaptan Demir’s July 21, 2019 SQR).

⁷ See Icdas’s December 3, 2018 Section A Questionnaire Response (Icdas’s December 3, 2018 AQR); *see also* Icdas’s February 5, 2019 Sections B-D Questionnaire Response (Icdas’s February 5, 2019 BCDQR); Icdas’s July 9, 2019 Supplemental A-C Questionnaire Response (Icdas’s July 9, 2019 SQR); and Icdas’s July 22, 2019 Supplemental D Questionnaire Response (Icdas’s July 22, 2019 SQR).

⁸ See Memorandum to the Record from 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, “Deadlines Affected by the Partial Shutdown of the Federal Government,” dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

⁹ See Memoranda, “Steel Concrete Reinforcing Bar from the Republic of Turkey – 1st Administrative Review: Extension of Deadline for the Preliminary Results of the Review,” dated April 9, 2019 and “Steel Concrete Reinforcing Bar from the Republic of Turkey: Second Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review – 2017-2018,” dated August 7, 2019.

On May 24, 2019, the petitioner submitted an allegation, supported with new factual information, that a particular market situation (PMS) exists in Turkey, such that the cost of production of rebar does not reflect the ordinary course of trade during the POR.¹⁰ On August 6, 2019, Commerce issued a memorandum recommending that we initiate the PMS analysis based on the totality of evidence presented and establishing a deadline for interested parties to file rebuttal, clarification, and correction information concerning the PMS allegation, pursuant to 19 CFR 351.301(c)(2)(v).¹¹ Between August 20 and 21, 2019, interested parties filed rebuttal factual information regarding the PMS allegation.¹² In light of the timing, and in order to complete a fulsome analysis of the rebuttal factual information, we have not made a finding regarding the PMS allegation for these preliminary results. We intend to issue a post-preliminary decision regarding the PMS allegation.

On August 6 and 9, 2019, the petitioner filed pre-preliminary comments concerning Kaptan Demir and Icdas, respectively.¹³ On August 19, 2019, Commerce accepted the petitioner's August 7, 2019 new factual information and established a deadline for interested parties to submit rebuttal, clarification, or corrections to the information contained therein, pursuant to 19 CFR 351.301(c)(5)(ii).¹⁴ On August 22, 2019, Icdas timely filed rebuttal factual information and comments regarding the petitioner's August 7, 2019 new factual information and August 9, 2019 pre-preliminary comments.¹⁵ We have considered these comments for these preliminary results.

III. SCOPE OF THE ORDER

The merchandise subject to this review is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade or lack thereof. Subject merchandise includes deformed steel wire with bar markings (*e.g.*, mill mark, size, or grade) and which has been subjected to an elongation test.

The subject merchandise includes rebar that has been further processed in the subject countries or a third country, including but not limited to cutting, grinding, galvanizing, painting, coating, or any other processing that would not otherwise remove the merchandise from the scope of these orders if performed in the country of manufacture of the rebar.

¹⁰ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Particular Market Situation Allegation and Factual Information," dated May 24, 2019 (Petitioner's PMS Allegation).

¹¹ See Memorandum, "Allegation of a Particular Market Situation in the 2017-18 Antidumping Duty Administrative Review of Steel Concrete Reinforcing Bar from Turkey," dated August 6, 2019.

¹² See Kaptan Demir's Letter, "Steel Concrete Reinforcing Bar from Turkey; Kaptan PMS Rebuttal Submission," dated August 19, 2019, and Icdas's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Icdas's Response to Particular Market Situation Allegation Initiation," dated August 20, 2019.

¹³ See Petitioner's Letters, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Pre-Preliminary Results Comments on Kaptan Demir Celik Endüstrisi ve Ticaret A.S.," dated August 6, 2019 and "Steel Concrete Reinforcing Bar from the Republic of Turkey: Pre-Preliminary Results Comments on Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S." dated August 9, 2019.

¹⁴ See Memorandum, "Steel Concrete Reinforcing Bar from the Republic of Turkey – Submission of New Factual Information," dated August 19, 2019 (citing Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Submission of New Factual Information," dated August 7, 2019).

¹⁵ See Icdas's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Response to RTAC Pre-Preliminary Comments dated August 9, 2019 and New Factual Information Submission Dated August 7, 2019," dated August 22, 2019.

Specifically excluded are plain rounds (*i.e.*, nondeformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.*, mill mark, size, or grade) and without being subject to an elongation test.

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010. The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0017, 7221.00.0018, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6030, 7227.90.6035, 7227.90.6040, 7228.20.1000, and 7228.60.6000.

HTSUS numbers are provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

IV. COMPANIES NOT SELECTED FOR INDIVIDUAL EXAMINATION

This review covers four companies that were not selected for individual examination: (1) Colakoglu Dis Ticaret; (2) Colakoglu Metalurji; (3) Habas; and (4) Kaptan Metal. None of these four companies: (1) were the subject of a withdrawal of a request for review; (2) requested to participate as a mandatory respondent; or (3) submitted a claim of no shipments.

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

Accordingly, in this review, we have preliminarily assigned to the four companies not individually examined in this review a margin of 1.41 percent, which is the weighted-average of the estimated weighted-average dumping margins calculated for Kaptan Demir and Icdas, using each company's publicly-ranged values for the merchandise under consideration.

V. COMPARISONS TO NORMAL VALUE

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1), to determine whether Kaptan Demir and Icdas's sales of rebar from Turkey were made in the United States at less than normal value, we compared the export price (EP) to the normal value (NV) as described in the "Export Price" and "Normal Value" sections of this notice.

A. Product Comparisons

When making this comparison in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the “Scope of the Order” section of this notice, above (*i.e.*, the foreign like product), that were in the ordinary course of trade for purposes of determining an appropriate normal value for comparison to the EP. In order to define products sold in the home and U.S. markets, we relied on five physical characteristics: type of steel, minimum specified yield strength, coating, martensitic, nominal diameter, and form. If contemporaneous home market sales were reported for merchandise which was identical to subject merchandise sold in the U.S. market, then we calculated NV based on the monthly weighted-average home market prices of all such sales. If there were no contemporaneous home market sales of identical merchandise, then we identified home market sales of the most similar merchandise that were contemporaneous with the U.S. sales in accordance with 19 CFR 351.414(e), and calculated NV based on the monthly weighted-average home market prices of all such sales. Where there were no sales of identical or similar merchandise made in the ordinary course of trade in the comparison market, we calculated NV based on constructed value (CV).

B. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEPs)) (the average-to-average or A-to-A method) unless Commerce determines that another method is appropriate in a particular situation. In antidumping duty investigations, Commerce examines whether to compare weighted-average NVs with transaction-specific EPs (or CEPs) (the average-to-transaction or A-to-T method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce’s examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in antidumping duty investigations.¹⁶

In recent investigations, Commerce applied a “differential pricing” analysis for determining whether application of A-to-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.¹⁷ 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 administrative review. 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

¹⁶ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012) and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

¹⁷ 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); see also *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).

masking of dumping that can occur when Commerce uses the A-to-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the A-to-A method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported or consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip) 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 POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that Commerce uses in making comparisons between EPs or CEPs and NVs 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* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data 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 net prices to a particular purchaser, region or time period differ significantly from the net 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 means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales in the test groups pass the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large threshold (*i.e.*, 0.8).

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

the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-to-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-to-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative 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 margin between the A-to-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or (2) the resulting weighted-average dumping margin moves 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.

C. Results of the Differential Pricing Analysis

Kaptan Demir

For Kaptan Demir, based on the results of the differential pricing analysis, Commerce finds that 84.11 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁸ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the A-to-A method cannot account for such differences, because the margin moves across the *de minimis* threshold between the weighted-average dumping margin calculated using the A-to-A method and the weighted-average dumping margin calculated using an alternative comparison method applying the A-to-T method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the A-to-T method to all U.S. sales to calculate the weighted-average dumping margin for Kaptan Demir.

Icdas

For Icdas, based on the results of the differential pricing analysis, Commerce finds that 93.62 percent of the value of U.S. sales pass the Cohen's *d* test,¹⁹ and confirms the existence of a

¹⁸ See Memorandum, "Antidumping Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results Analysis Memorandum for Kaptan Demir Celik Endüstrisi ve Ticaret A.S.," dated concurrently with this memorandum (Kaptan Demir's Preliminary Analysis Memorandum).

¹⁹ See Memorandum, "Antidumping Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results Analysis Memorandum for Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.," dated concurrently with this memorandum (Icdas's Preliminary Analysis Memorandum).

pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the A-to-A method cannot account for such differences, because the margin moves across the *de minimis* threshold between the weighted-average dumping margin calculated using the A-to-A method and the weighted-average dumping margin calculated using an alternative comparison method applying the A-to-T method to all U.S. sales. Thus, for these preliminary results, Commerce is applying the A-to-T method to all U.S. sales to calculate the weighted-average dumping margin for Icdas.

VI. DATE OF SALE

According to 19 CFR 351.401(i), Commerce will normally use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that 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.

Kaptan Demir

For U.S. sales, Kaptan Demir reported its date of sale as the earlier of date of shipment or date of invoice.²⁰ Kaptan Demir indicated that the terms of sale are subject to change up until the vessel is loaded and invoice is issued.²¹ Therefore, in accordance with our normal practice, in the absence of information indicating a different date of sale better reflects the date on which the material terms of sale are established, we are using invoice date as date of sale, except when the shipment date proceeds invoice date. This conforms to our long-standing practice of using as date of sale the earlier of the invoice date or the shipment date, if no other date is more appropriate as date of sale.²²

For all home market sales, Kaptan Demir reported the invoice date as the date of sale.²³ Therefore, in accordance with 19 CFR 351.401(i), in the absence of information indicating a different date of sale better reflects the date on which the material terms of sale are established, we are using invoice date as date of sale.

Icdas

In Icdas's December 3, 2018 AQR, Icdas reported its U.S. date of sale as the contract date.²⁴ In Icdas's February 5, 2019 BCDQR, Icdas reported its U.S. date of sale as the "latter of the date of contract/purchase order or the signature date."²⁵ In Icdas's July 9, 2019 SQR, Icdas explained

²⁰ See Kaptan Demir's December 3, 2018 AQR at 16; see also Kaptan Demir's January 29, 2019 BCDQR at 16.

²¹ See Kaptan Demir's December 3, 2018 AQR at 16.

²² See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 73 FR 55036 (September 24, 2008), and accompanying IDM at Comment 1; and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30664 (June 8, 1999), and accompanying IDM at Comment 5.

²³ See Kaptan Demir's January 29, 2019 BCDQR at 16.

²⁴ See Icdas's December 3, 2018 AQR at 22.

²⁵ See Icdas's February 5, 2019 BCDQR at 17-18.

that, in fact, contract date was “the latter of the final contract, purchase order, size breakdown receipt date or the signature date on the contract.”²⁶ However, Icdas’ responses do not demonstrate that the material terms of sale were established by the “contract date.”²⁷ Specifically, Icdas stated that a sales contract or purchase order may change if requested by the customer.²⁸ Therefore, in accordance with our normal practice, in the absence of information indicating a different date of sale better reflects the date on which the material terms of sale are established, we are using invoice date as date of sale, except when the shipment date precedes invoice date. This conforms to our long-standing practice of using as date of sale the earlier of the invoice date or the shipment date, if no other date is more appropriate as date of sale.²⁹

For all home market sales, Icdas reported the date of sale as the date of the invoice, except for the instances where shipment date preceded the invoice date.³⁰ Therefore, in accordance with our normal practice, in the absence of information indicating a different date of sale better reflects the date on which the material terms of sale are established, we are using invoice date as date of sale, except when the shipment date proceeds invoice date.

VII. EXPORT PRICE

In accordance with section 772(a) of the Act, “the term ‘export price’ means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).” For Kaptan Demir and Icdas, we based each company’s EP on the price at which merchandise under consideration was sold to the first unaffiliated purchaser in the United States.³¹ Pursuant to section 772(c)(1)(C) of the Act, we adjusted EP for export subsidies. Where appropriate, we made deductions, consistent with section 772(c)(2)(A) of the Act, for movement expenses: domestic inland freight, domestic brokerage and handling, domestic warehousing, international freight, international brokerage and handling, and other international movement expenses.³²

Kaptan Demir and Icdas each claimed a duty drawback adjustment to U.S. price.³³ Section 772(c)(1)(B) of the Act states that EP shall be increased by “the amount of any import duties imposed by the country of exportation... which have not been collected, by reason of the exportation of the subject merchandise to the United States.” In determining whether a

²⁶ See Icdas’s July 9, 2019 SQR at 26.

²⁷ *Id.* at 26 and Exhibit S1-51.

²⁸ *Id.* at 26.

²⁹ See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 73 FR 55036 (September 24, 2008), and accompanying IDM at Comment 1; and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30664 (June 8, 1999), and accompanying IDM at Comment 5.

³⁰ See Icdas’s December 3, 2019 AQR at 22.

³¹ See Kaptan Demir’s December 3, 2019 AQR at 11 and Icdas’s December 3, 2018 AQR at 17.

³² See Icdas’s February 5, 2019 BCDQR at 27-40 and Kaptan Demir’s January 29, 2019 BCDQR at 25-32.

³³ See Kaptan Demir’s February 5, 2019 BCDQR at 36-39 and Exhibits C-13-C-18 and Icdas’s January 29, 2019 BCDQR at 33-35 and Exhibits C-15-C-19.

respondent is entitled to duty drawback, 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 traditionally use (and the United States Court of International Trade (CIT) sustained)³⁴ the following two-prong test:³⁵ first, that the import duty paid and the rebate payment are directly linked to, and dependent upon, one another (or the exemption from import duties is linked to the exportation of subject merchandise); and second, that there were sufficient imports of the imported raw material to account for the drawback received upon the exportation of the subject merchandise.³⁶

We are preliminarily granting a duty drawback adjustment to Kaptan Demir and Icdas because each company has satisfied the criteria described above for the Turkish duty drawback program.³⁷ We find that Icdas and Kaptan Demir each met both of the prongs of the two-pronged test to qualify for a duty drawback adjustment. Accordingly, Commerce will preliminarily grant Icdas and Kaptan Demir a duty drawback adjustment using the duty neutral approach. Under this methodology, Commerce will make an upward adjustment to EP and CEP based on the amount of the duty imposed on the input and rebated or not collected upon the exportation 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 POR.³⁸ This ensures that the amount added to both sides of the comparison of EP or CEP with NV is equitable, *i.e.*, duty neutral, meeting the purpose of the adjustment as affirmed in *Saha Thai*.³⁹ Based on the facts of this review, Commerce finds that the import duty costs, based on the consumption of imported inputs during the POR, including imputed duty costs for imported inputs, properly accounts for the amount of duties imposed, as required by section 772(c)(1)(B) of the Act.

³⁴ See, e.g., *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F.3d 1335, 1340-41 (Fed Cir. 2011) (*Saha Thai*).

³⁵ See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61723 (October 19, 2006) (citing *Wheatland Tube Company v. United States*, 414 F. Supp. 2d 1271, 1287 (CIT 2006); *Allied Tube & Conduit Corp. v. United States*, 374 F. Supp. 2d 1257, 1261 (CIT 2005); *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1093 (CIT 2001); *Far East Machinery Co., Ltd v. United States*, 699 F. Supp. 309, 311 (CIT 1988); *Carlisle Tire & Rubber Co. v. United States*, 657 F. Supp. 1287, 1289-90 (CIT 1987)).

³⁶ See, e.g., *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7513 (February 13, 2006), and accompanying IDM at Comment 2; see also *Certain Welded Carbon Steel Pipe and Tube from Turkey: Final Results of Antidumping Duty Administrative Review*, 70 FR 73447 (December 12, 2005), and accompanying IDM at Comment 7; and *Federal-Mogul Corp. v. United States*, 862 F. Supp. 384, 410 (CIT 1994).

³⁷ See Kaptan Demir's February 5, 2019 BCDQR at 36-39 and Exhibits C-13-C-18 and Icdas's January 29, 2019 BCDQR at 33-35 and Exhibits C-15-C-19.

³⁸ See Icdas's Preliminary Analysis Memorandum; see also Kaptan Demir's Preliminary Analysis Memorandum.

³⁹ The U.S. Court of Appeals for the Federal Circuit (CAFC) stated in the *Saha Thai* litigation 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.

VIII. NORMAL VALUE

A. Home Market Viability as Comparison Market

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 five percent or more of the aggregate volume of U.S. sales), we compare the volume of each respondent's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act.⁴⁰ Based on this comparison, we determined that both Kaptan Demir and Icdas each had a viable home market during the POR.⁴¹ Consequently, for both respondents, we based NV on home market sales to unaffiliated purchasers made in usual quantities in the ordinary course of trade.

B. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act and the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act,⁴² 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 (CV), the starting price of the sales from which we derive the adjustments to CV 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.

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.⁴³ 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.

Kaptan Demir

Kaptan Demir's questionnaire responses indicate that its sales in both the U.S. and home markets are at the same level of trade.⁴⁴ In addition, Kaptan Demir states that it "performs limited selling activities in support of its sales in the home market and in the U.S. {market}," an assertion confirmed by its chart comparing the selling functions in each market.⁴⁵ Specifically, in both the U.S. and home markets, Kaptan Demir broadly provides inspection and certification, payment,

⁴⁰ See Icdas's December 3, 2019 AQR at Exhibit 1; *see also* Kaptan Demir's December 3, 2019 AQR at Exhibit 1.

⁴¹ *Id.*

⁴² See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

⁴³ See 19 CFR 351.412(c)(2).

⁴⁴ See Kaptan Demir's December 3, 2018 AQR at Exhibit A-6.

⁴⁵ Kaptan Demir's selling functions chart is business proprietary in nature. See Kaptan Demir's December 3, 2018 AQR at 13 and Exhibit A-6.

and delivery arrangement.⁴⁶ Therefore, we preliminarily determine that there is one level of trade for all sales in both the home market and the U.S. market and, consequently, no basis exists for a level-of-trade adjustment.

Icdas

Icdas's questionnaire responses indicate that its sales in both the U.S. and home markets are at the same level of trade.⁴⁷ Specifically, Icdas's selling functions chart for its home market and U.S. sales indicates that the selling functions performed for sales in both markets are virtually identical, with no significant variation.⁴⁸ In both the home and U.S. markets, Icdas broadly provides packing, distribution and/or logistics arrangement, and arrangement of payment terms and/or financing.⁴⁹ Icdas's chart comparing the selling functions between the U.S. market and its home market supports the notion that there is no significant variation between the level of trade in each market.⁵⁰ Therefore, we preliminarily determine that there is one level of trade for all sales in both the home market and the U.S. market and, consequently, no basis exists for a level-of-trade adjustment.

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 were made at arm's-length prices.⁵¹ Commerce excludes home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because Commerce considered them to be outside the ordinary course of trade.⁵²

During the POR, Kaptan Demir and Icdas each made sales of rebar in the home market to affiliated parties.⁵³ Consequently, we tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). In addition to comparing sales at the same level of trade, the test adjusts affiliated and unaffiliated party prices for numerous differences relating to the sales. The adjustments account for, among other things, differences in packing expenses, movement expenses from the original place of shipment, discounts and rebates, and selling expenses that relate directly to the sale at issue. While Commerce's questionnaire specifically requests information pertaining to a number of adjustments, it also allows for responding companies to claim additional adjustments for other expenses relating to the sales at issue. Thus, provided that a respondent has accurately reported its claimed differences in

⁴⁶ See Kaptan Demir's December 3, 2018 AQR at 13-14.

⁴⁷ See Icdas's December 3, 2018 AQR at Exhibit A-7.

⁴⁸ *Id.*

⁴⁹ *Id.* at 20.

⁵⁰ *Id.* at Exhibit A-7.

⁵¹ See 19 CFR 351.403(c).

⁵² See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1367 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004) (citing *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55355 (September 7, 2011)).

⁵³ See Kaptan Demir's January 29, 2019 BCDQR at 4 and Icdas's February 5, 2019 BCDQR at 4.

circumstances of sale, along with other expenses and price adjustments relating to the reported sales, the arm's-length test will account for such differences between sales to affiliates and non-affiliates. Pursuant to 19 CFR 351.403(c) and, in accordance with Commerce's practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade, we determined that the sales made to the affiliated party were at arm's length. Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.⁵⁴ With respect to sales to affiliated resellers that failed the arm's-length test, we used the reported downstream sales of these affiliates in our calculations for the preliminary results.

D. Cost of Production Analysis

Section 773(b)(2)(A)(ii) of the Act⁵⁵ requires Commerce to request CV and COP information from respondent companies in all antidumping duty proceedings.⁵⁶ Accordingly, Commerce requested this information from Kaptan Demir and Icdas.

1. 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.⁵⁷

⁵⁴ See section 771(15) of the Act; and 19 CFR 351.102(b).

⁵⁵ See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015); see also *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

⁵⁶ *Id.*, 80 FR at 46794-95.

⁵⁷ See *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (*SSSSC from Mexico*) and accompanying 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 from Belgium*) and accompanying IDM at Comment 4.

2. 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 from our standard annual-average cost approach.⁵⁸ In the instant case, record evidence shows that Kaptan Demir and Icdas experienced significant cost changes (*i.e.*, changes that exceeded 37.5 percent over the 18 month period⁵⁹) between the high and low quarterly COM during the POR.⁶⁰ This change in COM is attributable primarily to the price volatility for the primary input used in the production of rebar.⁶¹

3. 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.⁶² 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.⁶³ 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 showed a reasonable correlation for Kaptan Demir, as well as Icdas.⁶⁴

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 both Kaptan Demir's and Icdas' changing sales prices and costs during the POR.⁶⁵ Thus, we preliminarily determine that a shorter cost period approach, based on a quarterly-average COP, is appropriate for both Kaptan Demir and Icdas because we found significant cost changes in COM as well as a reasonable linkage between costs and sales prices.

4. Calculation of Cost of Production

Kaptan Demir

We calculated the COP for Kaptan Demir based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative

⁵⁸ See *SSPC from Belgium* IDM at Comment 4.

⁵⁹ We consider the costs reported for the 16th month of the POR, *i.e.*, June 2018, to be reflective of the June-August 2018 quarter costs.

⁶⁰ See Icdas' Preliminary Analysis Memorandum and Kaptan Demir's Preliminary Analysis Memorandum.

⁶¹ *Id.*

⁶² See *SSSSC from Mexico* IDM at Comment 6; see also *SSPC from Belgium* IDM at Comment 4.

⁶³ See *SSPC from Belgium* IDM at Comment 4.

⁶⁴ See Kaptan Demir's Preliminary Analysis Memorandum and Icdas's Preliminary Analysis Memorandum.

⁶⁵ *Id.*; see also *SSSSC from Mexico* IDM at Comment 6; and *SSPC from Belgium* IDM at Comment 4.

(SG&A) expenses and packing, in accordance with section 773(b)(3) of the Act. We relied on the COP data submitted by Kaptan Demir.⁶⁶

Icdas

We calculated the COP for Icdas based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative (SG&A) expenses and packing, in accordance with section 773(b)(3) of the Act. We relied on the quarterly COP data submitted by Icdas⁶⁷ except as follows:

- We revised the calculation of the general and administrative expense ratio by disallowing certain “other ordinary revenue and income” items.
- We revised the calculation of the interest expense ratio by denying Icdas’s offset for income from trade receivables.⁶⁸

5. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales by the respondent had been made at prices below the COP. In particular, in determining whether to disregard home market sales made at prices below their COP, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with sections 773(b)(2)(B), (C), and (D) of the Act. We determined the net comparison market prices for the below-cost test by adjusting the gross unit price for all applicable billing adjustments, discounts and rebates, movement charges, direct and indirect selling expenses, and packing expenses excluding all adjustments for imputed expenses.

6. Results of the COP Test

Section 773(b)(1) of the Act provides that, where sales made at less than the COP “have been made within an extended period of time in substantial quantities” and “were not at prices which permit recovery of all costs within a reasonable period of time,” Commerce may disregard such sales when calculating NV. Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in “substantial quantities,” *i.e.*, where less than 20 percent of sales of a given product were made at prices less than the COP. We disregarded below-cost sales when they were made in substantial quantities, *i.e.*, where 20 percent or more of a respondent’s sales of a given product were at prices less than the COP and where “the weighted average per unit price of the sales . . . is less than the weighted average per unit cost of production for such sales.”⁶⁹ Finally, based on our comparison of prices to the weighted-average COPs, we

⁶⁶ See Kaptan Demir’s Preliminary Analysis Memorandum.

⁶⁷ See Icdas July 22, 2019 SQR at Exhibit S2-7.

⁶⁸ See Icdas’s Preliminary Analysis Memorandum for further details concerning these adjustments.

⁶⁹ See section 773(b)(2)(C)(ii) of the Act.

considered whether the prices would permit the recovery of all costs within a reasonable period of time.⁷⁰

E. Calculation of NV Based on Comparison Market Prices

For each respondent, we calculated NV based on the prices 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, and for sales to affiliated resellers that failed the arm's length test, we used the reported downstream sales of the affiliates. 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. Direct selling expenses consisted of commission expenses, late payment expenses, credit expenses, and bank charges. 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.⁷¹

When comparing U.S. sale prices with NVs based on comparison market sale prices of similar, but not identical, merchandise, we also made adjustments 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.⁷²

IX. 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>.

⁷⁰ See section 773(b)(2)(D) of the Act.

⁷¹ See Kaptan Demir's Preliminary Analysis Memorandum; *see also* Icdas's Preliminary Analysis Memorandum.

⁷² See 19 CFR 351.411(b).

X. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

9/6/2019

X



~~Signed by: JEFFREY KESSLER~~

Jeffrey I. Kessler

Assistant Secretary

for Enforcement and Compliance