



A-489-501
Administrative Review
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July 16, 2020

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: Circular Welded Carbon Steel
Standard Pipe and Tube Products from Turkey; 2018-2019

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on welded carbon steel standard pipe and tube products (pipe and tube) from Turkey. This review covers the following companies: Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan Mannesmann) and Borusan Istikbal Ticaret T.A.S. (Borusan Istikbal) (collectively, Borusan);¹ Toscelik Profil ve Sac Endustrisi A.S. (Toscelik Endustrisi), Tosyali Dis Ticaret A.S. (Tosyali Ticaret), and Toscelik Metal Ticaret A.S. (Toscelik Metal) (collectively, Toscelik);² Borusan Birlesik Boru Fabrikalari San ve Tic (Borusan Birlesik); Borusan Gemlik Boru Tesisleri A.S. (Borusan Gemlik); Borusan Holding (BMBYH), Borusan

¹ In prior segments of this proceeding, we treated Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S. as a single entity. See, e.g., *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014*, 80 FR 76674, 76674 (December 10, 2015). We preliminarily determine that there is no evidence on the record for altering our treatment of Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret T.A.S., as a single entity. The record does not support treating the following companies as part of the Borusan Mannesmann Boru Sanayi ve Ticaret A.S./Borusan Istikbal Ticaret T.A.S. entity: (1) Borusan Birlesik; (2) Borusan Gemlik; (3) Borusan Ihracat; (4) Borusan Ithicat; and (5) Tubeco. Accordingly, as discussed *infra*, each of these five companies will be assigned the rate applicable to companies not selected for individual examination in this review.

² In prior segments of this proceeding, we treated Toscelik Profil ve Sac Endustrisi A.S., Tosyali Dis Ticaret A.S., and Toscelik Metal as a single company. See, e.g., *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014*, 80 FR 76674, 76674 n.2 (December 10, 2015). We preliminarily determine that there is no evidence on the record for altering our treatment of Toscelik Profil ve Sac Endustrisi A.S., Tosyali Dis Ticaret A.S., and Toscelik Metal as a single company.

Ihracat Ithalat ve Dagitim A.S. (Borusan Ihracat); Borusan Ithicat ve Dagitim A.S. (Borusan Ithicat); Borusan Mannesmann Yatirim Holding (BMYH), Tubeco Pipe and Steel Corporation (Tubeco); Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan); Kale Baglanti Teknolojileri San. ve Tic. A.S. (Kale Baglanti), Noksel Selik Boru Sanayi A.S. (Noksel Selik), Yucel Boru ve Profil Endustrisi A.S. (Yucel), Yucelboru Ihracat Ithalat ve Pazarlama A.S. (Yucelboru), Cayirova Boru Sanayi ve Ticaret A.S. (Cayirova), Kale Baglann Teknolojileri San. Ve Tic. A.S. (Kale Baglann) , Borusan Istikbal Ticaret (Istikbal Ticaret) and Cinar Boru Profil San. ve Tic. As (Cinar Boru).

The period of review (POR) is May 1, 2018 through April 30, 2019. We preliminarily find that Borusan made sales below normal value (NV), and that Cinar Boru, Noksel Selik, Cayirova, Yucel, Yucelboru, and Tosçelik had no shipments during the POR.

II. BACKGROUND

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and in accordance with 19 CFR 351.213(b)(1), on May 29, 2019, Wheatland Tube Company (the petitioner) requested reviews of various firms, including Borusan.³ Moreover, on May 31, 2019, Independence Tube Corporation and Southland Tube, Incorporated, Nucor companies, (collectively, Nucor Pipe Mills), domestic producers of pipe and tube and interested parties pursuant to section 771(9)(C) of the Act and 19 CFR 351.102(b)(17), requested reviews of various firms.⁴ In accordance with 19 CFR 351.213(b)(2), Borusan requested an administrative review of its exports on May 31, 2018.⁵ On July 15, 2019, Commerce published a notice of initiation of administrative review of the antidumping duty order on pipe and tube from Turkey for the period May 1, 2018, through April 30, 2019.⁶ In the *Initiation Notice*, we stated our intention, in the event we limited the number of respondents for individual examination, to select respondents based on U.S. Customs and Border Protection (CBP) data.⁷ We selected as our sole mandatory respondent the exporter/producer accounting for the largest volume of pipe and tube from Turkey during the POR (*i.e.*, Borusan).⁸

We issued our standard antidumping questionnaire to Borusan on September 4, 2019. Between August 25, 2019, and July 2, 2020, Borusan submitted timely responses to Commerce's original

³ See Petitioner's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey Request for Administrative Review," dated May 29, 2019.

⁴ See Nucor Pipe Mills' Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey: Request for Administrative Review," dated May 31, 2019.

⁵ See Borusan's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Request for Antidumping Duty Administrative Review," dated May 31, 2019.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 33739 (July 15, 2019) (*Initiation Notice*).

⁷ See *Initiation Notice*, 84 FR 33739.

⁸ See Memorandum, "Administrative Review of the Antidumping Duty Order on Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Respondent Selection," dated August 28, 2019 (Respondent Selection Memorandum).

and supplemental questionnaires.⁹ During the same time period, the petitioner submitted comments regarding Borusan's questionnaire responses.¹⁰

On January 16, 2020, we extended the deadline for the preliminary results by 117 days to May 27, 2020.¹¹ Moreover, on April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these results until July 17, 2020.¹²

On February 4, 2020, the petitioner submitted information indicating that inflation in Turkey was above 25 percent during the POR.¹³ Based on record information and our evaluation of certain inflation indices during the POR, we determined that there was, in fact, inflation above 25 percent in Turkey during the POR.¹⁴ As a result, on February 11, 2020, we issued a high inflation Section D questionnaire to Borusan.¹⁵ On March 9, 2020, Borusan timely submitted its response to Commerce's High Inflation cost questionnaire.¹⁶ On April 17, 2020, and June 26, 2020, Commerce issued Borusan second and third supplemental questionnaires relating to High Inflation, respectively,¹⁷ to which Borusan submitted timely responses on June 16, 2020 and July 2, 2020,¹⁸ respectively. Between February 24, 2020 and April 10, 2020, Borusan and the petitioner submitted comments on whether Commerce should find that High Inflation existed in Turkey during the POR.¹⁹

⁹ See, e.g., Borusan's Letters, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Response to Section A of Initial Questionnaire," dated September 25, 2019; "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Response to Sections B-D of Initial Questionnaire," dated November 8, 2019; and "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Response to Supplemental Sections A-C Questionnaire," dated March 6, 2020.

¹⁰ See, e.g., petitioner's Letters, "Circular Welded Carbon Steel Pipes and Tubes from Turkey: Deficiency Comments on Borusan's Section C Response," dated February 3, 2020; and "Circular Welded Carbon Steel Pipes and Tubes from Turkey: Deficiency Comments on Borusan's Section D Response," dated February 4, 2020.

¹¹ See Memorandum, "2018-2019 Antidumping Duty Administrative Review of Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated January 16, 2020.

¹² See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

¹³ See Petitioner's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey: Deficiency Comments on Borusan's Section D Response," dated February 4, 2020.

¹⁴ See Commerce's Letter, "Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: High Inflation Cost of Production and Constructed Value Questionnaire," dated February 11, 2020.

¹⁵ *Id.*

¹⁶ See Borusan's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A489-501: Response to High Inflation Cost of Production and Constructed Value Questionnaire," dated March 9, 2020.

¹⁷ See Commerce's Letters, "Supplemental Questionnaire on High Inflation Cost of Production and Constructed Value," dated April 17, 2020; and "Administrative Review of the Antidumping Duty Order on Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Second Supplemental Questionnaire for High Inflation," dated June 26, 2020.

¹⁸ See Borusan's Letters, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A489-501: Response to Supplemental High Inflation Cost of Production and Constructed Value Questionnaire," dated June 16, 2020; and "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A489-501: Second Supplemental Response - High Inflation Cost of Production and Constructed Value Questionnaire," dated July 2, 2020.

¹⁹ See, e.g., Commerce's Letter, "Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey - Clarification of Instructions for Responding to Section D Questionnaire for High Inflation," dated February 24, 2020; see also Commerce's Letter, "Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey:

III. SCOPE OF THE ORDER

The products covered by this order are welded carbon steel standard pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches of any wall thickness, and are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably A-120, A-53 or A-135.

IV. RATES FOR RESPONDENTS NOT SELECTED FOR INDIVIDUAL EXAMINATION

In accordance with section 777A(c)(2)(B) of the Act, we selected Borusan as the sole mandatory respondent.²⁰ The statute and Commerce's regulations do not address the determination of a weighted-average dumping margin to be applied to an individual company not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, we have used section 735(c)(5) of the Act, which provides instructions for determining the weighted-average dumping margin for all other producers and exporters in an investigation, for guidance when determining the weighted-average dumping margin for respondents that we did not examine in an administrative review. Section 735(c)(5)(A) of the Act articulates a preference that we do not calculate an all-others rate using rates that are zero or *de minimis* or based entirely on facts available. Accordingly, our usual practice has been to average the rates for the examined companies, excluding zero, *de minimis*, and rates based entirely on facts available.²¹

Additionally, after we selected Borusan as the sole mandatory respondent, eleven companies, Borusan Birlesik; Borusan Gemlik; BMBYH; Borusan Ihracat; Borusan Ithicat; BMYH; Tubeco; Erbosan; Kale Baglanti; Kale Baglann; and Istikbal Ticaret, remain subject to this administrative review because none of these eleven companies: (1) were selected as a mandatory respondent; (2) was the subject of a withdrawal of request for review; (3) requested to participate as a

BMB's Request for a Meeting to Discuss the High Inflation Cost of Production and Constructed Value Questionnaire," dated March 3, 2020; Borusan's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Response to the U.S. Department of Commerce's March 3, 2020 Letter," dated March 4, 2020; Petitioner's Letter, "Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Response to BMB Request to Deviate from Long-Standing Practice Regarding High Inflation Economies," dated March 5, 2020; Petitioner's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey: Rebuttal Factual Information to Borusan's High Inflation Section D Response," dated March 13, 2020; Petitioner's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey: Additional Deficiency Comments on Borusan's Section D Response," dated April 2, 2020; and Borusan's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: BMB's Reply to Wheatland Tube Company's Comments on BMB's High Inflation Cost of Production and Constructed Value Questionnaire Response," dated April 10, 2020.

²⁰ See Respondent Selection Memorandum.

²¹ See, e.g., *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011), and accompanying Issues and Decision Memorandum at Comment 11.

voluntary respondent; or (4) submitted a claim of no shipments. As such, these eleven companies remain as unexamined respondents.

In these preliminary results, we determined a weighted-average dumping margin of 12.03 percent for Borusan, the only mandatory respondent in this administrative review. When only one weighted-average dumping margin for the individually investigated respondent is not zero, *de minimis* or based entirely on facts available, the rate for companies that we did not examine will be equal to that single weighted-average dumping margin.²² Accordingly, for the preliminary results of this review, the rate for the following non-examined companies is 12.03 percent: Borusan Birlesik; Borusan Gemlik; BMBYH; Borusan Ihracat; Borusan Ithicat; BMYH; Tubeco; Erbosan; Kale Baglanti; Kale Baglann; and Istikbal Ticaret.

V. PRELIMINARY RESULTS OF NO SHIPMENTS

On June 26, 2019, and July 22, 2019, we received no shipment certifications from Cinar Boru and Noksel Selik, respectively. In their certifications, these companies stated that they had no sales, shipments, or entries of the subject merchandise to the United States during the POR.²³ Similarly, on July 30, 2019, we received certification from Cayirova, Yucel, and Yucelbor stating that they each individually had no sales, shipments, or entries of the subject merchandise to the United State during the POR.²⁴ Moreover, on July 31, 2019, Tosçelik submitted a letter to Commerce certifying that it had no sales, shipments, or entries of the subject merchandise to the United States during the POR.²⁵ On July 18, 2019, Commerce obtained CBP data for U.S. imports of pipe and tube from Turkey entering under case number A-489-501 during the period May 1, 2018 through April 30, 2019, for all parties for which it initiated this administrative review.²⁶ We received no information from CBP that contradicts the claims of companies that they had no shipments during the POR.

Based on the foregoing, we preliminarily determine that Cinar Boru, Noksel Selik, Cayirova, Yucel, Yucelboru, Toscelik Endustrisi A.S., Tosalı Ticaret, and Toscelik Metal each had no reviewable shipments during the POR. Also, consistent with our practice, Commerce finds that

²² See, e.g., *Small Diameter Graphite Electrodes from the People's Republic of China: Preliminary Results and Partial Rescission of Administrative Review*, 77 FR 13284, 13288 (March 6, 2012), unchanged in *Small Diameter Graphite Electrodes from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review*, 77 FR 40854, 40855 (July 11, 2012); see also *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 36656, 36660 (July 24, 2009), and *Certain Oil Country Tubular Goods from Turkey: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 26957 (June 11, 2018), and accompanying Preliminary Decision Memorandum at 4, unchanged in *Certain Oil Country Tubular Goods from Turkey: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 64107 (December 13, 2018).

²³ See Cinar Boru's Letter, "See Circular Welded Carbon Steel Pipes and Tubes from Turkey (A-489-501)," dated June 26, 2019, and Noksel's Letter, "Circular Welded Carbon Steel Pipes and Tubes (A-489-501) Anti-Dumping Duty Administrative Review (5/1/18 - 4/30/19)," dated July 22, 2019.

²⁴ See Cayirova, Yucel, and Yucelboru's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey; Notification of No Shipments," dated July 30, 2019.

²⁵ See Tosçelik's Letter, "Circular Pipe from Turkey; Tosçelik No Shipment Letter," dated July 31, 2019.

²⁶ See Memorandum, "Circular Welded Carbon Steel Standard Pipe and Tube from Turkey: Release of Customs and Border Protection Data," dated July 25, 2019.

it is not appropriate to rescind the review with respect to these companies, but rather to complete the review with respect to them, and to issue appropriate instructions to CBP based on the final results of this review.²⁷ In our May 6, 2003, “automatic assessment” clarification, we explained that, where respondents in an administrative review demonstrated that they had no knowledge of sales through resellers to the United States, we would instruct CBP to liquidate such entries at the rate for the intermediate reseller or at the all-others rate applicable to the proceeding.²⁸ Because “as entered” liquidation instructions do not alleviate the concerns that the *Assessment Policy Notice* was intended to address, instead of rescinding the review with respect to Cinar Boru, Noksel Selik, Cayirova, Yucel, Yucelboru, Toscelik Endustrisi A.S., Tosyali Ticaret., and Toscelik Metal, we find it appropriate to complete the review and issue liquidation instructions to CBP concerning entries for them. If we continue to find that these companies had no shipments of subject merchandise in the final results, we will instruct CBP to liquidate any existing entries of merchandise produced by them, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.²⁹

VI. DISCUSSION OF THE METHODOLOGY

Comparisons to Normal Value

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether the respondent’s sales of the subject merchandise from Turkey to the United States were made at less than NV, Commerce compared the constructed export price (CEP) and export price (EP) to the NV as described in the “Constructed Export Price,” “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 NV to weighted-average export prices (EP) (or constructed export prices) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, Commerce examines whether to compare weighted-average normal values with the 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. 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

²⁷ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

²⁸ *Id.*

²⁹ See, e.g., *Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 75 FR 56989 (September 17, 2010).

19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in less-than-fair-value investigations.³⁰

In certain investigations, Commerce applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.³¹ 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 masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent’s weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, {zip code}) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the period of review based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region and time period, that Commerce uses in making comparisons between export price (or constructed export price) and normal value for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the prices

³⁰ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and the accompanying Issues and Decision Memorandum at comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

³¹ See, *e.g.*, *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); or *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

to the particular purchaser, region or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

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

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

For Borusan, based on the results of the differential pricing analysis, we preliminarily find that 82.99 percent of the value of U.S. sales pass the Cohen's *d* test,³² and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, Commerce preliminarily determines that the average-to-average method cannot account for such differences because there is a 25 percent relative change between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to all U.S. sales.³³ Thus, for these preliminary results, we are applying the average-to-transaction method to all U.S. sales to calculate the weighted-average dumping margin for Borusan.^{34e}

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by Borusan in Turkey during the POR that fit the description in the “Scope of the Order” section above to be foreign like products for purposes of determining NV for the subject merchandise sold in the United States. Pursuant to 19 CFR 351.414(f)(3), we compared Borusan’s U.S. sales to foreign like product sales made in the home market, where appropriate.

Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(A) of the Act, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent to the product sold in the United States. In the order of importance, these physical characteristics are as follows: grade, nominal pipe size, wall thickness, surface finish, and end finish.³⁵

Because Turkey’s economy experienced high inflation (*i.e.*, above 25 percent) during the POR, we compared U.S. and home market sales on a monthly basis. This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to inflation.

Date of Sale

Section 351.401(i) of Commerce’s regulations states that Commerce normally will use the date of invoice, as recorded in the producer’s or exporter’s records which are kept in the ordinary course of business. The regulation provides further that Commerce may use a date other than the

³² See Memorandum, “Analysis for the Preliminary Results of the Antidumping Duty Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey,” dated concurrently with this memorandum (Preliminary Analysis Memorandum) at Attachment 1.

³³ *Id.*

³⁴ *Id.*

³⁵ See Commerce’s Letter, “Antidumping Duty Questionnaire,” dated September 4, 2019 at B9-B13 and C9-C12.

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.³⁶

With respect to Borusan's U.S. sales, record evidence indicates that the invoice date is the date that best reflects when the final material terms of sale are set, because the sale quantities are not finalized until the invoice is issued. After the invoice is issued, there are no further changes in the material terms of sale.³⁷ Moreover, consistent with Commerce's practice, we used the shipment date as the date of sale where the shipment date preceded the invoice date because under these circumstances the shipment date best reflects the date on which the material terms of sale were established.³⁸ Therefore, we are preliminarily using the earlier of the invoice date or the shipment date as the date of sale for Borusan's U.S. sales. Similarly, for Borusan's home market sales, consistent with our practice, we have used the invoice date as the date of sale because record evidence indicates that the invoice date is the date by which material terms of sale, such as prices and quantities, have been finalized, and there is no indication that changes to material terms of sale occurred subsequent to invoice date.³⁹ Moreover, consistent with Commerce's practice, we used the shipment date as the date of sale where the shipment date preceded the invoice date because under these circumstances the shipment date best reflects the date on which the material terms of sale were established.⁴⁰

Treatment of Duties Under Section 232 of the Trade Expansion Act of 1962

In March 2018, the President exercised his authority under Section 232 of the Trade Expansion Act of 1962, as amended,⁴¹ and issued Proclamation 9705 that mandated, to address national security concerns, imposition of a global tariff of 25 percent⁴² on imports of steel articles in order to reduce imports to a level that the Secretary assessed would enable domestic steel producers to use approximately 80 percent of existing domestic production capacity and thereby achieve long-term economic viability through increased production. In considering whether U.S. price should be adjusted for section 232 duties, we look to section 772 of the Act. In particular, section 772(c)(2)(A) of the Act directs Commerce to adjust EP and CEP for "the amount, if any, included in such price, attributable to any additional costs, charges, or expenses, and United States import duties . . ." Therefore, we find that the analysis here depends on whether section 232 duties constitute "United States import duties," and whether the duties are "included in such price."

³⁶ See *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55353 (September 7, 2011), unchanged in *Light-Walled Rectangular Pipe and Tube from Mexico: Final Results of Antidumping Duty Administrative Review*, 77 FR 1915 (January 12, 2012).

³⁷ See, e.g., Borusan's September 25, 2019 Section A Questionnaire Response at A-20; and Borusan's November 8, 2019 Sections B-D Questionnaire Response (Borusan November 8, 2019 BDQR) at C-17.

³⁸ *Id.*

³⁹ See Borusan November 8, 2019 BDQR at B-21 and B-22.

⁴⁰ *Id.*

⁴¹ See 19 U.S.C. § 1862.

⁴² Please note that, effective August 13, 2018, Section 232 tariff rate for certain steel articles, including the subject merchandise, imported from Turkey had increased from 25 percent to 50 percent. Section 232 duty rate of 50 percent remained in effect until May 20, 2019.

The Court of Appeals for the Federal Circuit (CAFC) has previously considered whether certain types of duties constitute “United States import duties” for purposes of section 772(c)(2)(A) of the Act. In *Wheatland*, the CAFC sustained Commerce’s determination not to adjust U.S. price in antidumping proceedings for section 201 safeguard duties under that statutory provision.⁴³ Having acknowledged Commerce’s analysis of the legislative history to the Antidumping Act of 1921, which “referred to ‘United States import duties’ as normal customs duties and referred to antidumping duties as ‘special dumping duties’ and that ‘special dumping duties’ were distinguished and treated differently from normal customs duties,” the CAFC in *Wheatland* agreed that “Congress did not intend all duties to be considered ‘United States import duties.’”⁴⁴

The CAFC then found reasonable Commerce’s analysis that section 201 duties were more akin to antidumping duties than “ordinary customs duties.”⁴⁵ In comparing section 201 duties with antidumping duties, the CAFC found that: (1) “[l]ike antidumping duties, {section} 201 duties are remedial duties that provide relief from the adverse effects of imports;” (2) “[n]ormal customs duties, in contrast, have no remedial purpose;” (3) “antidumping and {section} 201 duties, unlike normal customs duties, are imposed based upon almost identical findings that the domestic industry is being injured or threatened with injury due to the imported merchandise;” and (4) “[section] 201 duties are like antidumping duties . . . because they provide only temporary relief from the injurious effects of imports,” whereas normal customs duties “have no termination provision, and are permanent unless modified by Congress.”⁴⁶ In sustaining Commerce’s decision regarding section 201 duties in *Wheatland*, the CAFC also held that “[t]o assess both a safeguard duty and an antidumping duty on the same imports without regard to the safeguard duty, would be to remedy substantially overlapping injuries twice.”⁴⁷

Section 232 duties are not akin to antidumping or 201 duties. Proclamation 9705 states that it “is necessary and appropriate to adjust imports of steel articles so that such imports will not threaten to impair the *national security* . . .”⁴⁸ The text of section 232 of the Trade Expansion Act of 1962 also clearly concerns itself with “the effects on the *national security* of imports of the article.”⁴⁹ The particular national security risk spelled out in proclamation 9705 is that the “industry will continue to decline, leaving the United States at risk of becoming reliant on

⁴³ See *Wheatland Tube Co. v. United States*, 495 F.3d 1355, 1363 (Fed. Cir. 2007) (*Wheatland*).

⁴⁴ *Id.* at 1361.

⁴⁵ *Id.* at 1362.

⁴⁶ *Id.* at 1362-63.

⁴⁷ *Id.* at 1365.

⁴⁸ See *Proclamation 9705*, 83 FR at 11627 (emphasis added); *Proclamation 9711 of March 22, 2018*, 83 FR 13361, 13363 (March 28, 2018) (*Proclamation 9711*) (“In proclaiming this tariff, I recognized that our Nation has important security relationships with some countries whose exports of steel articles to the United States weaken our national economy and thereby threaten to impair the national security”); *Proclamation 9740 of April 30, 2018*, 83 FR 20683 (May 7, 2018) (*Proclamation 9740*) (similar); *Proclamation 9759 of May 31, 2018*, 83 FR 25857 (June 5, 2018) (*Proclamation 9759*) (similar); *Proclamation 9772 of August 10, 2018*, 83 FR 40429 (August 15, 2018) (*Proclamation 9772*) (similar); *Proclamation 9777 of August 29, 2018*, 83 FR 45025 (September 4, 2018) (*Proclamation 9777*) (similar).

⁴⁹ See section 232(b)(1)(A) of the Trade Expansion Act of 1962 (emphasis added); see also section 232(a) of the Trade Expansion Act of 1962 (explaining that “[n]o action shall be taken . . . to decrease or eliminate the duty or other import restrictions on any article if the President determines that such reduction or elimination would threaten to impair the national security”).

foreign producers of steel to meet our national security needs—a situation that is fundamentally inconsistent with the safety and security of the American people.”⁵⁰ In other words, section 232 duties are focused on addressing national security prerogatives, separate and apart from any function performed by antidumping and 201 safeguard duties to remedy injury to a domestic industry.

Even more critical to this point is that the Presidential Proclamation states that section 232 duties are to be imposed in addition to other duties unless expressly provided for in the proclamations.⁵¹ The Annex to Proclamation 9740 refers to section 232 duties as “ordinary” customs duties, and it also states that “[a] anti-dumping or countervailing duties, or other duties and charges applicable to such goods shall continue to be imposed, except as may be expressly provided herein.” Notably, there is no express exception in the HTSUS revision in the Annex. In other words, section 232 duties are intended to be treated as any other duties for purposes of the trade remedy laws. Had the President intended that AD duties would be reduced by the amount of section 232 duties imposed, the Presidential Proclamation would have expressed that intent.

For the reasons noted above and consistent with our treatment of 232 duties in *OCTG Ukraine*,⁵² we have determined that section 232 duties should be treated as “United States import duties” for purposes of section 772(c)(2)(A) of the Act — and thereby as “U.S. Customs duties,” which are deducted from U.S. price.

Export Price

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the exporter or producer of 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)” of section 772 of the Act.

Borusan classified certain of its sales to the United States as EP sales which were sold to unaffiliated U.S. customers. We calculated EP for these preliminary results in accordance with subsection 772(a) of the Act, where the subject merchandise is first sold (or arranged to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of

⁵⁰ See *Proclamation 9705*, 83 FR at 11627.

⁵¹ See *Proclamation 9705*, 83 FR at 11627; see also *Proclamation 9711*, 83 FR at 13363; *Proclamation 9740*, 83 FR at 20685-87 (“All anti-dumping or countervailing duties, or other duties and charges applicable to such goods shall continue to be imposed, except as may be expressly provided herein.”); *Proclamation 9759*, 83 FR at 25857; *Proclamation 9772*, 83 FR at 40430-31; and *Proclamation 9777*, 83 FR at 45025. The proclamations do not expressly provide that 232 duties receive different treatment.

⁵² See Memorandum, “Issues and Decision Memorandum for the Final Normal Value Calculations to be Effective from the Release of the Final Normal Values through June 30, 2019, under the Agreement Suspending the Antidumping Duty Investigation on Certain Oil Country Tubular Goods from Ukraine,” dated February 15, 2019 at Comment 1; see also Commerce’s Memorandum, “2017–2018 Administrative Review of Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Section 232 Duties,” dated concurrently with this memorandum at Attachment I.

the United States to unaffiliated purchasers in the United States. We calculated EP based on the “delivery-duty-paid” price to the unaffiliated customer.⁵³

With respect to section 232 duties, Borusan confirmed that it paid section 232 duties on certain of its EP sales with entries made on or after March 23, 2018, the effective date of section 232 duties.⁵⁴ Moreover, we note that, given the terms of delivery for such sales, the price charged to unaffiliated U.S. customers during the POR reflects such duties.⁵⁵ The inclusion of those 232 duties in the price of the sales at issue was supported by the U.S. sales database. Accordingly, we deducted from EP, as appropriate, the amount of section 232 duties that Borusan reported, consistent with section 772(c)(2)(A) of the Act.⁵⁶

Where appropriate, we made deductions, consistent with section 772(c)(2)(A) of the Act, for the following movement expenses: domestic inland freight, domestic brokerage and handling, U.S. brokerage and handling, international freight, marine insurance, U.S. duty, U.S. inland freight and other international movement expenses.⁵⁷

Constructed Export Price

Section 772(b) of the Act defines CEP as “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States to an unaffiliated purchaser in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).” For certain of Borusan’s sales to the United States, we calculated CEP in accordance with section 772(b) of the Act, because the merchandise was sold by a U.S. based seller affiliated with the producer to unaffiliated purchasers in the United States. We calculated CEP based on an FOB warehouse basis, where either Borusan or its U.S. affiliated reseller, Borusan Mannesmann Pipe US, are responsible for all costs incurred in transporting the merchandise to the unaffiliated customer’s warehouse in the United States.⁵⁸

Where appropriate, we made deductions from the starting price, consistent with section 772(c)(2)(A) of the Act, for the following movement expenses: inland freight from the plant to the port of exportation, domestic brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, customs duties, U.S. inland freight from port to warehouse, warehousing expenses in the United States, as well as U.S. inland freight from the affiliate’s warehouse to the unaffiliated U.S. customer’s warehouse.⁵⁹ In accordance with section

⁵³ See Memorandum, “Borusan Preliminary Analysis Memorandum,” issued concurrently with this decision memorandum (Borusan’s Preliminary Analysis Memorandum).

⁵⁴ See, e.g., Borusan’s November 8, 2019 BDQR at C-61.

⁵⁵ See, e.g., Borusan’s Letter, “Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Response to Sections B-D of Initial Questionnaire,” dated November 8, 2019 (Borusan November 8, 2019 BDQR) at C-20 and C-21.

⁵⁶ See Borusan’s Preliminary Analysis Memorandum.

⁵⁷ *Id.*

⁵⁸ See Borusan November 8, 2019 BDQR at C-20 and C-21.

⁵⁹ See Borusan Preliminary Analysis Memorandum.

772(d)(1) of the Act, we calculated the CEP by deducting credit expenses and selling expenses associated with economic activities occurring in the United States, including direct selling expenses and those indirect selling expenses associated with economic activities occurring in the United States.⁶⁰

With respect to section 232 duties, Borusan confirmed that it paid section 232 duties on certain of its CEP sales with entries made on or after March 23, 2018, the effective date of section 232 duties.⁶¹ Moreover, we note that, given the terms of delivery for such sales, the price charged to unaffiliated U.S. customers during the POR reflects such duties.⁶² The inclusion of those 232 duties in the price of the sales at issue was supported by the U.S. sales database. Accordingly, we deducted from CEP, as appropriate, the amount of section 232 duties that Borusan reported, consistent with section 772(c)(2)(A) of the Act.⁶³

Pursuant to section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and comparison markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and comparison markets. No other adjustments were claimed or applied.⁶⁴

Duty Drawback

Borusan also claimed a duty drawback adjustment to U.S. price.⁶⁵ Section 772(c)(1)(B) of the Act states that EP and CEP shall be increased by “the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the export of the subject merchandise to the United States.” In determining whether an adjustment for duty drawback should be made, we look for a reasonable link between the duties imposed and those rebated or exempted. We do not require that the imported material be traced directly from importation through exportation. We do require, however, that the company meet our “two-pronged” test in order for the adjustment to be made to EP or CEP.⁶⁶ The first element is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another; the second element is that the company must demonstrate that there were sufficient imports of the imported material to account for the duty drawback or exemption granted for the export of the manufactured product.⁶⁷

In this review, we are preliminarily granting a duty drawback adjustment to Borusan because record evidence indicates that Borusan satisfies both the first prong of interdependency between

⁶⁰ *Id.*

⁶¹ *See, e.g.*, Borusan’s November 8, 2019 BDQR at C-61.

⁶² *Id.* at C-20 and C-21.

⁶³ *See* Borusan’s Preliminary Analysis Memorandum.

⁶⁴ *Id.*

⁶⁵ *See* Borusan November 8, 2019 BDQR at C-41.

⁶⁶ *See Saha Thai Steel Pipe Public Co., v. United States*, 635 F.3d 1335, 1440-41 (Fed. Cir. 2011) (Saha Thai).

⁶⁷ *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 Issues and Decision Memorandum at Comment 2.

import duty and exemption, and the second prong of sufficient imports to account for the duty drawback claim as described above for Turkey's duty drawback program or Inward Processing Regime.⁶⁸ Also, consistent with the practice established in *Rebar Trade*,⁶⁹ we limited the amount of the duty drawback adjustment by the per-unit duty costs included in the respondents' cost of production (COP).⁷⁰

Normal Value

A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales of pipe and tube in the home market to serve as a viable basis for calculating NV (*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 compared the volume of Borusan's home market sales of the foreign like product to Borusan's volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1)(B) of the Act and 19 CFR 351.404(b). Pursuant to section 773(a)(1)(B) of the Act, because Borusan's aggregate volume of home market sales of the foreign like product was greater than five percent of Borusan's aggregate volume of U.S. sales of the subject merchandise, we determined that Borusan's home market was viable for comparison purposes. Consequently, pursuant to section 773(a)(1)(B)(i) of the Act and 19 CFR 351.404(c)(1)(i), we based Borusan's NV on its home market sales.

B. 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).⁷¹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁷² 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, 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),⁷³ we consider the

⁶⁸ See Borusan November 8, 2019 BDQR at C-41 to C-45.

⁶⁹ See Final Results of Redetermination Pursuant to Court Remand: *Rebar Trade Coalition v. United States Consol. Court No.*, 14-00268 Slip Op. 15-130 (CIT November 23, 2015), dated April 7, 2016 at 15-18.

⁷⁰ See Borusan Preliminary Analysis Memorandum.

⁷¹ See 19 CFR 351.412(c)(2).

⁷² *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, 51001 (August 18, 2010), and accompanying Issues and Decision Memorandum (*Orange Juice from Brazil*) at Comment 7.

⁷³ 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).

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.⁷⁴

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, we 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), we will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁷⁵

In this review, we obtained information from Borusan regarding the marketing stages involved in making its reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution.⁷⁶

The selling activities that Borusan performed can be generally grouped into four selling function categories: (1) sales and marketing (sales forecasting, strategic/economic planning, personnel training/exchange, advertising, packing, customer advise, product information, order input/processing, direct sales personnel, sales/marketing support, market research, cash discounts, and commissions); (2) inventory maintenance (inventory maintenance and post-sale warehousing); (3) technical support (engineering services, technical assistance, and after-sales services); and (4) delivery arrangement (freight and delivery, marine insurance, load port brokerage, U.S. Customs clearance, and U.S. Customs duties and charges).⁷⁷

In the home market, Borusan reported that it used one channel of distribution comprised of direct sales to distributors or industrial users.⁷⁸ Borusan reported that it performed the same selling activities for each type of customer within this channel of distribution.⁷⁹ Based on its reported selling function categories, we preliminarily find that Borusan performed sales and marketing, inventory maintenance, technical support and delivery arrangement for its home market sales. Because there was no difference in selling activities performed by Borusan in its sales to home market customers, we preliminarily determine that there is one LOT in the home market.

In the U.S. market, Borusan made EP and CEP sales through three channels of distribution: (1) EP sales to unaffiliated U.S. customers; (2) sales from Borusan's U.S. affiliate's inventory;⁸⁰ and (3) back-to-back sales through Borusan's U.S. affiliate.⁸¹ Borusan did not report a level of trade

⁷⁴ See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

⁷⁵ See, e.g., Orange Juice from Brazil at Comment 7.

⁷⁶ See Borusan's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. A-489-501: Response to Section A of Initial Questionnaire," dated September 25, 2019 (Borusan's September 25, 2019 AQR) at A-16 to A-20 and Exhibits A-6 and A-7.

⁷⁷ *Id.*

⁷⁸ *Id.* at A-16.

⁷⁹ *Id.* at A-17.

⁸⁰ Borusan's U.S. affiliate is Borusan Mannesmann Pipe US (BMP).

⁸¹ See Borusan's September 25, 2019 AQR at A-17.

in its U.S. sales database, maintaining that there is only one level of trade in the U.S. market.⁸² For the three channels of distribution, we preliminarily find that Borusan performed virtually the same activities at the same or comparable intensity levels. Because the selling functions performed by Borusan in Turkey for U.S. sales do not differ significantly between channels of distribution, we preliminarily determine that there is one LOT in the U.S. market.

Finally, we compared the U.S. LOT to the home market LOT. When Borusan's selling activities are viewed as a whole, we preliminarily find that the difference between the selling activities performed for home market and U.S. sales do not rise to the level of a "substantial difference in selling activities," or that Borusan's U.S. and home market sales were at different stages of marketing (or other equivalent). Consequently, the record evidence supports a finding that in both markets, Borusan performed essentially the same level of services. Accordingly, we determine that Borusan's U.S. sales and home market sales represent the same level of selling activities, and are, thus, at the same level of trade. Therefore, for the preliminary results, we find that a level of trade adjustment is not warranted for Borusan.

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

Commerce may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's-length prices.⁸³ During the POR, Borusan made some sales to affiliated parties in the home market.⁸⁴ To test whether their home market sales to affiliated parties were made at arm's-length prices, we compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all billing adjustments, discounts and rebates, movement charges, direct selling expenses, and packing expenses. In accordance with 19 CFR 351.403(c) and our practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that sales to the affiliated party were at arm's-length prices.⁸⁵ In our calculations of NV, we included sales to affiliated parties that were made at arm's-length prices and excluded sales that were not made at arm's-length prices. We did not rely on any downstream sales in the calculation of NV because Borusan's total volume of home market sales to affiliates amounted to less than five percent of the total volume of home market sales.⁸⁶

D. Cost of Production Analysis

In accordance with Section 773(b)(2)(A)(ii) of the Act, we request constructed value (CV) and COP information from respondent companies in all AD proceedings.⁸⁷ Accordingly, we requested this information from Borusan in this investigation.

⁸² See Borusan November 8, 2019 BDQR at C-27.

⁸³ See 19 CFR 351.403(c).

⁸⁴ See Borusan November 8, 2019 BDQR at B-4 and B-19.

⁸⁵ See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

⁸⁶ See Borusan's September 25, 2019 AQR at A-2.

⁸⁷ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793, 46794-95 (August 6, 2015).

A. Cost Averaging Methodology

Commerce's 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 methodology 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) whether the change in the cost of manufacturing (COM) recognized by the respondent during the POR is deemed significant; (2) 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.⁸⁸

B. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses.⁸⁹ As noted above, the Turkish economy experienced high inflation during the POR. In order to avoid the distortive effect of inflation on our comparison of NV and EP, we requested that Borusan submit POR production costs on a monthly basis. We calculated POR-average costs based on the respondent's reported monthly costs inflated to a common point in time, and then deflated that POR-average cost back to each month during the POR to account for Turkey's high inflation. To do this, we indexed the reported monthly costs during the POR to the final month of the POR using the Turkish Producer Price Index and calculated a POR-average COM. We then added G&A and financial expenses to COM, and restated the POR-average COM, G&A expense, and interest expense to the inflation level of each month during the POR to obtain the monthly COP. In doing so, we relied on the COP data submitted by Borusan.

C. Test of Comparison Market Sales Prices

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

D. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an

⁸⁸ See *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010), and accompanying Issues and Decision Memorandum at Comment 6; see also *Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008), and accompanying Issues and Decision Memorandum at Comment 4.

⁸⁹ See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

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

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

E. Calculation of Normal Value Based on Comparison Market Prices

For those comparison products for which there were sales at prices above the COP, we based NV on comparison market prices. We calculated NV based on the prices that Borusan reported for home market sales to unaffiliated customers that we determined were made within the ordinary course of trade. As explained above, we also included home market sales to affiliated parties that were made at arm's-length prices. For Borusan, we adjusted the starting price, where appropriate, for billing adjustments, discounts, and rebates, in accordance with 19 CFR 351.401(c). We also made deductions from NV, consistent with section 773(a)(6)(B)(ii) of the Act, for movement expenses. In addition, we made adjustments for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made these adjustments, where appropriate, by deducting direct selling expenses incurred on home market sales and adding U.S. direct selling expenses to NV. For Borusan, direct selling expenses consisted of 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.⁹⁰

When comparing U.S. sale prices with normal value based on comparison market sale prices of similar, but not identical, merchandise, we also made an adjustment for physical differences in merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the subject merchandise.⁹¹

⁹⁰ See Borusan Preliminary Analysis Memorandum.

⁹¹ See 19 CFR 351.411(b).

In the calculation of NV for Borusan, in accordance with section 771(15) of the Act, we have not removed home market sales of overruns because we determined that they were in the ordinary course of trade.⁹²

F. Calculation of Normal Value Based on Constructed Value

In accordance with 773(e) of the Act, we used CV as the basis for normal value for the U.S. sales for which we could not find comparison market sales of similar or identical merchandise. In accordance with section 773(e) of the Act, and where applicable, we calculated CV based on the sum of Borusan's cost of production, selling expenses, and profit. We also deducted the packing costs for the foreign like product and included U.S. packing costs. We calculated the COP component of CV as described above in the "Cost of Production Analysis" section of this memorandum. In accordance with section 773(e)(2)(A) of the Act, we based the adjustments for selling expenses and profit on the amounts incurred and realized by Borusan in connection with the production and sale of the foreign like product at the same level of trade as the U.S. sale, in the ordinary course of trade, for consumption in the comparison market.

VII. 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>.

VIII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒

Agree

☐

Disagree

7/16/2020

X 

Signed by: JEFFREY KESSLER
Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

⁹² See Memorandum, "2018–2019 Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey; Borusan Mannesmann Boru Sanayi ve Ticaret A.S.'s Home Market Sales of Overruns," dated concurrently with this memorandum.