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Administrative Review
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July 20, 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 the
Antidumping Duty Administrative Review: Light-Walled
Rectangular Pipe and Tube from Turkey; 2018-2019

I. SUMMARY

In response to requests from interested parties, the Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on light-walled rectangular pipe and tube (LWRPT) from Turkey, covering the period of review (POR) May 1, 2018, through April 30, 2019. The administrative review covers eleven exporters of the subject merchandise, including one mandatory respondent, Noksel Celik Boru Sanayi A.S. (Noksel). Commerce preliminarily determines that sales of subject merchandise were made at prices below normal value (NV).

II. BACKGROUND

Commerce published the antidumping duty order on LWRPT from Turkey on May 30, 2008.¹ On May 1, 2019, Commerce notified interested parties of the opportunity to request an administrative review of orders, findings, or suspended investigations with anniversaries in May 2019, including the AD order on LWRPT from Turkey.² On May 31, 2019, Independence Tube Corporation and Southland Tube, domestic producers and interested parties under section 771(9)(C) of the Tariff Act of 1930, as amended (the Act) (collectively, Nucor), requested that Commerce conduct an administrative review of eleven companies: Agir Haddecilik A.S. (Agir), Cinar Boru Profil Sanayi ve Ticaret A.S., MTS Lojistik ve Tasimacilik Hizmetleri Ticaret A.S., Noksel, Ozdemir Boru Profil Sanayi ve Ticaret Ltd Sti, Toscelik Profil ve Sac Endustrisi A.S.,

¹ See *Notice of Antidumping Duty Order: Light-Walled Rectangular Pipe and Tube from Turkey*, 73 FR 31065 (May 30, 2008).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 84 FR 18479 (May 1, 2019).



Toscelik Metal Ticaret A.S., Tosyali Dis Ticaret A.S., Yucel Boru ve Profil Endustrisi A.S., Yucelboru Ihracat Ithalat ve Pazarlama A.S., and Cayirova Boru Sanayi ve Ticaret A.S.³ On July 15, 2020, Commerce published a notice initiating an AD administrative review of LWRPT from Turkey covering the eleven companies listed above for the POR.⁴

On July 30, 2019, Commerce selected Agir and Noksel as mandatory respondents.⁵ Commerce issued its AD questionnaire to Agir and Noksel in July 2019 and received responses to the questionnaire from these companies in September 2019.⁶ On August 13, 2019, Agir and Noksel informed Commerce that inflation in Turkey was above 25 percent during the POR.⁷ On October 15, 2019, Nucor timely withdrew their request for a review of four companies for which only they requested a review: Agir, Cinar Boru Profil Sanayi ve Ticaret A.S., MTS Lojistik ve Tasimacilik Hizmetleri Ticaret A.S., and Ozdemir Boru Profil Sanayi ve Ticaret Ltd Sti.⁸ From November 2019 through July 2020, Commerce issued supplemental questionnaires to, and received timely responses thereto, from Noksel.⁹ In September and December 2019, and June 2020, Nucor submitted comments on Noksel's submissions, including comments for consideration in these preliminary results of review.¹⁰ In March 2020, Commerce issued a high inflation Section D questionnaire to Noksel to which it responded in April 2020.¹¹

³ See Nucor's Letter, "Light-Walled Rectangular Pipe and Tube from Turkey: Request for Administrative Review," dated May 31, 2019.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 33739 (July 15, 2019).

⁵ See Commerce's Letters to Agir and Noksel dated July 30, 2019 (Initial Questionnaire).

⁶ *Id.*

⁷ See Agir and Noksel's Letter, "Light-Walled Rectangular Pipe And Tube from Turkey: Request for Extension," dated August 13, 2019.

⁸ See Nucor's Letter, "Light-Walled Rectangular Pipe and Tube from Turkey: Partial Withdrawal of Request for Administrative Review," dated October 15, 2019.

⁹ See Noksel's Letters, "Light-Walled Rectangular Pipe And Tube from Turkey: Noksel Section A Questionnaire Response," dated September 3, 2019, (AQR), "Light-Walled Rectangular Pipe And Tube from Turkey: Noksel Section B, C, and D Questionnaire Response," dated September 20, 2019, (BQR, CQR, and DQR, respectively), "Light-Walled Rectangular Pipe And Tube from Turkey: Noksel Supplemental Section A Questionnaire Response," dated November 29, 2019, (SAR), "Light-Walled Rectangular Pipe And Tube from Turkey: Noksel Supplemental Section B Questionnaire Response," dated January 3, 2019, (SBR), "Light-Walled Rectangular Pipe And Tube from Turkey: Noksel Supplemental Section C Questionnaire Response," dated January 7, 2019, (SCR), "Light-Walled Rectangular Pipe And Tube from Turkey: Noksel Supplemental Section D Questionnaire Response," dated January 28, 2019, (SDR), "Light-Walled Rectangular Pipe And Tube from Turkey: Noksel Supplemental 6 Questionnaire Response, dated June 18, 2020, "Light-Walled Rectangular Pipe And Tube from Turkey: Noksel Supplemental Sections A-B-C-D Questionnaire Response," dated, July 2, 2020, "Light-Walled Rectangular Pipe And Tube from Turkey: Noksel Supplemental Section D Questionnaire Response," dated, July 7, 2020.

¹⁰ See Nucor's Letters, "Light-Walled Rectangular Pipe and Tube from Turkey: Opposition to Noksel's Untimely Request to Modify Cost Reporting Period," dated September 27, 2019, "Light-Walled Rectangular Pipe and Tube From Turkey: Opposition to Noksel's Untimely Request for Extension, and Request to Reject Noksel's Untimely Section A Supplemental Questionnaire Response," dated December 11, 2019, "Light-Walled Rectangular Pipe and Tube from Turkey: Nucor Tubular's Pre-Preliminary Comments," dated June 15, 2020, "Light-Walled Rectangular Pipe and Tube from Turkey: Deficiency Comments on Noksel's Questionnaire Responses," dated June 15, 2020.

¹¹ See Commerce's Letters, "Light-walled Rectangular Pipe and Tube from Turkey: High Inflation Cost of Production and Constructed Value Questionnaire," dated March 12, 2020; *see also* "Light-Walled Rectangular Pipe And Tube from Turkey: Noksel High Inflation Cost of Production and Constructed Value Questionnaire Response, dated April 2, 2020.

On January 6, 2020, Commerce extended the deadline for issuing the preliminary results of this review from January 31, 2020 to May 29, 2020.¹² On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for these preliminary results until July 20, 2020.¹³

III. SCOPE OF THE ORDER

The merchandise subject to this order is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm. The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and CBP's customs purposes, our written description of the scope of the order is dispositive.

IV. PARTIAL RESCISSION OF REVIEW

Because all of the review requests were timely withdrawn for the following companies, we are rescinding our review, in part, for these companies: Agir, Cinar Boru Profil Sanayi ve Ticaret A.S., MTS Lojistik ve Tasimacilik Hizmetleri Ticaret A.S., and Ozdemir Boru Profil Sanayi ve Ticaret Ltd Sti.

V. PRELIMINARY DETERMINATION OF NO SHIPMENTS

Among the companies still under review, six companies reported that they made no shipments of subject merchandise to the United States during the POR. These six companies are: (1) Çayirova Boru Sanayi ve Ticaret A.S.; (2) Yücel Boru ve Profil Endüstrisi A.S.; (3) Yücelboru Ihracat İthalat ve Pazarlama A.S.; (4) Tosçelik Profil ve Sac Endüstrisi A.S.; (5) Tosyalı Dis Ticaret A.S.; and (6) Toscelik Metal Ticaret A.S.¹⁴ To confirm these no shipment claims, Commerce performed a CBP data query to determine whether there were suspended entries of subject merchandise during the POR from these companies. Commerce further issued a no-

¹² See Memorandum, "Light-Walled Rectangular Pipe and Tube from Turkey: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated January 6, 2020.

¹³ 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.

¹⁴ See Çayirova Boru Sanayi ve Ticaret A.Ş., Yücel Boru ve Profil Endüstrisi A.Ş., and Yücelboru Ihracat İthalat ve Pazarlama A.Ş.'s Letter, "Light-walled rectangular pipe from Turkey; Yucel no shipments letter," dated August 10, 2019; and Tosçelik Profil ve Sac Endüstrisi A.S., Tosyalı Dis Ticaret A.S., and Toscelik Metal Ticaret A.Ş.'s Letter, "Light-walled rectangular pipe from Turkey; Yucel no shipments letter," dated August 10, 2019.

shipment inquiry to CBP requesting that it provide any information that contradicted the no-shipment claims of these companies.¹⁵

Based on the certifications of the companies claiming no shipments and the lack of record evidence contradicting their no shipment claims, we preliminarily determine that the following companies had no entries of subject merchandise during the POR: (1) Çayirova Boru Sanayi ve Ticaret A.S.; (2) Yücel Boru ve Profil Endüstrisi A.S.; (3) Yücelboru Ihracat İthalat ve Pazarlama A.S.; (4) Tosçelik Profil ve Sac Endüstrisi A.S.; (5) Tosyalı Dis Ticaret A.S.; and (6) Tosçelik Metal Ticaret A.S.

However, consistent with Commerce's practice, it is not appropriate to rescind the review with respect to these companies but, rather, it is appropriate to complete the review with respect to these six companies and issue appropriate liquidation instructions to CBP based on the final results of the review.¹⁶

VI. DISCUSSION OF THE METHODOLOGY

We are conducting this administrative review of the order in accordance with section 751(a) of the Act, and 19 CFR 351.213.

A. 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 Noksel's sales of the subject merchandise from Turkey to the United States were made at less than NV, Commerce compared the export price (EP) to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates a weighted-average dumping margin by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEPs)) (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In a less-than-fair-value investigation, Commerce examines whether to compare weighted-average NVs with the export prices (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 an administrative review, Commerce nevertheless finds that the issue arising under

¹⁵ See Memorandum, "Light-Walled Rectangular Pipe and Tube from Turkey: Data Query and No Shipment Inquiry," dated July 10, 2020.

¹⁶ See, *e.g.*, *Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 32090, 32091 (June 5, 2015), unchanged in *Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014*, 80 FR 76674 (December 10, 2015).

19 CFR 351.414(c)(1) in an administrative review is, in fact, analogous to the issue in a less-than-fair-value investigation.¹⁷

In recent investigations, Commerce applied a “differential pricing” analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.¹⁸ 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 prices for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchaser, region, and time period to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code (*i.e.*, zip code or state 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 POR based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

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

¹⁷ 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 (IDM) at Comment 1; see also *Apex Frozen Foods Private Ltd. v. United States*, 37 F. Supp. 3d 1286 (CIT 2014).

¹⁸ See, e.g., *Xanthan Gum from the People’s Republic of China: Final Determination of Sales at Less Than Fair*, 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).

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 for 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 for 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.

2. Results of the Differential Pricing Analysis

Based on the results of the differential pricing analysis, Commerce preliminarily finds that 71.36 percent of the value of Noksel's U.S. sales pass the Cohen's *d* test,¹⁹ which confirms the

¹⁹ See Memorandum, "2018 – 2019 Antidumping Duty Administrative Review of Light-Walled Rectangular Pipe and Tube from Turkey: Preliminary Results Analysis Memorandum for Noksel Celik Boru Sanayi A.S.," dated concurrently with this memorandum (Noksel Preliminary Analysis Memorandum).

existence of a pattern of prices that differ significantly among purchasers, regions or time periods. Further, Commerce finds that there is not a meaningful difference in the weighted-average dumping margins calculated using the average-to-average comparison method and an alternative method using the average-to-transaction comparison method applied to all U.S. sales. Accordingly, Commerce preliminarily determines to apply the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Noksel.

B. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by Noksel 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. We compared Noksel’s U.S. sale prices to normal values based on the sale prices of identical merchandise in the home market.

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. To identify identical or similar merchandise, we matched the subject merchandise and the foreign like product based on the physical characteristics reported by the respondent. In the order of importance, these physical characteristics are as follows: steel input type, metallic coating, paint, nominal perimeter, nominal wall thickness, and shape.²⁰

Because Turkey’s economy experienced high inflation (*i.e.*, above 25 percent) during the POR, we compared U.S. sale prices with normal values based on either home market sale prices or deflated COPs for the same month. This methodology minimizes the extent to which the comparisons of EP with NV are overstated or understated due solely to inflation.²¹

C. Date of Sale

Section 351.401(i) of Commerce’s regulations states that Commerce normally will consider invoice date, as recorded in the exporter or producer’s records kept in the ordinary course of business, to be the date of sale. However, the regulations permit Commerce to use a date other than the date of the invoice as the date of sale if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.²² Commerce has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.²³

²⁰ See, *e.g.*, Initial Questionnaire; see also BQR and CQR.

²¹ See *Light-Walled Rectangular Pipe and Tube From Turkey: Notice of Final Determination of Sales at Less Than Fair Value*, 69 FR 53675 (September 2, 2004), and accompanying IDM at Comment 8.

²² See 19 CFR 351.401(i); see also *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

²³ See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying IDM at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying IDM at Comment 2.

Noksel reported the earlier of the invoice date or shipment date as the date of sale for its home market sales and U.S. market sales.²⁴ Noksel indicated that the material terms of its home market sales and U.S. market sales are finalized and shipments are made at the issuance of the invoice.²⁵ We have used the earlier of the invoice date or shipment date as the date of sale.²⁶

D. Export Price

For all sales to the United States reported by Noksel, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was first sold by the Noksel outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation, and because CEP methodology, as defined by section 772(b) of the Act, was not otherwise warranted.

We calculated EP for Noksel based on packed prices to unaffiliated purchasers in the United States. Where applicable, we made deductions from the starting price for movement expenses, which included, foreign inland freight, foreign brokerage and handling expenses, exporter association fees, and U.S. movement expenses such as U.S. duties and Section 232 duties, in accordance with section 772(c)(2)(A) of the Act.²⁷

E. Duty Drawback

Section 772(c)(1)(B) of the Act states that the price used to establish EP shall be increased by “the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.” In determining whether 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 this adjustment to be made to U.S. price.²⁸ The first prong of the test is that the import duty and its rebate or exemption be directly linked to, and dependent upon, one another (or the exemption from import duties is linked to exportation); the second prong is that the company must demonstrate that there were sufficient imports of the imported raw materials to account for the duty drawback or exemption granted for the export of the manufactured product.²⁹

²⁴ See Noksel SBR at SB-3; and Noksel SCR at SC-2.

²⁵ See BQR at B-20 and CQR at C-16.

²⁶ See, e.g., *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Preliminary Results of Antidumping Duty Administrative Review*; 2013-2014, 80 FR 60627 (October 7, 2015), and accompanying Preliminary Decision Memorandum at 9, unchanged in *Narrow Woven Ribbons with Woven Selvedge from Taiwan; Final Results of Antidumping Duty Administrative Review*; 2013-2014, 81 FR 22578 (April 18, 2016).

²⁷ See Noksel Preliminary Analysis Memorandum.

²⁸ See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61723 (October 19, 2006); see also *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F. 3d 1335, 1340-41 (Fed. Cir. 2011).

²⁹ *Id.*; *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 7513 (February 13, 2006), and accompanying IDM at Comment 2.

Commerce's current practice with regard to the Turkish inward processing regime (IPR) (which is the official mechanism for applying for exemption from import duties) is to use only closed inward processing certificates (IPCs) (*i.e.*, import certificates to which the company was no longer permitted by the Government of Turkey to add import or export information) for purposes of calculating a duty drawback adjustment.³⁰ While Noksel claimed a duty drawback adjustment for shipments that it made to the United States during the POR under a certain IPC, Noksel stated that the IPC used in its calculation is not closed.³¹ Thus, Noksel did not base its duty drawback adjustment on a closed IPC. Furthermore, although Noksel claimed that certain IPCs were related to exports of subject merchandise to the United States during the POR, Noksel did not support this claim with record evidence.³² Accordingly, because Commerce only uses closed IPCs for purposes of calculating a duty drawback adjustment, and Noksel has not based its claim for a duty drawback adjustment on a closed IPC, for these preliminary results, we are not making a duty drawback adjustment for Noksel.

F. Normal Value

1. Home Market Viability

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

We have determined that Noksel's aggregate volume of home market sales of the foreign like product during the POI was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise during the POR.³³ Therefore, we have used home market sales as the basis for NV in accordance with section 773(a)(1)(B) of the Act.

2. Calculation of NV Based on Comparison Market Prices

We calculated NV based on packed, delivered or ex-works prices to unaffiliated customers in Turkey. We made adjustments, where appropriate, from the starting price for billing adjustments and late payments in accordance with 19 CFR 351.401(c). We also made deductions from the starting price for movement expenses, including inland freight and insurance under section 773(a)(6)(B)(ii) of the Act. We adjusted for differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and for circumstances of sale (*i.e.*, imputed credit

³⁰ See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 81 FR 47355 (July 21, 2016), and accompanying IDM at Comment 4.

³¹ See Noksel CQR at Field 39.0 and Exhibits C-15 through 17.

³² *Id.*

³³ See AQR at Exhibit A-1.

expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410. When comparing U.S. sale prices with normal values based on home market sale prices of merchandise similar to that sold in the U.S. market, we adjusted for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.³⁴

3. 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 levels of trade if they are made at different marketing stages (or their equivalent).³⁵ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.³⁶ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i), when comparing U.S. price with normal value, Commerce will try to make a comparison where the U.S. price and normal value are at the same LOT. When Commerce is unable to the normal value of the foreign like product at the same LOT as the U.S. sale price, Commerce may compare the U.S. sale price to a normal value at a different LOT. In comparing U.S. sale prices to normal value at a different LOT, where available data make it possible, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act.

Noksel reported a single channel of distribution in the home market.³⁷ The channel consists of direct sales of self-produced products from the factory to home market customers.³⁸ For this reason, Noksel reported a single LOT for the home market. Because all of the same selling activities were performed for the customer(s) in this channel, we determined that the single home market channel of distribution constitutes a single LOT.

Noksel also reported that it made U.S. sales through a single channel of distribution.³⁹ Because all of the same selling activities were performed for the customer(s) in this channel, we determined that the single U.S. market channel of distribution constitutes a single LOT.

Further, we determined that the selling activities performed in the one U.S. LOT are essentially the same as those performed in the one home market LOT. Specifically, most of the selling activities performed by Noksel in the U.S. and home markets were the same and were performed at approximately the same level of intensity.⁴⁰ As a result, we find that there are no significant differences between the selling activities performed in the U.S. and home market LOTs.

³⁴ See 19 CFR 351.411(b).

³⁵ See 19 CFR 351.412(c)(2).

³⁶ *Id.*; see also *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*), and accompanying IDM at Comment 7.

³⁷ See AQR at A-12.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

Therefore, we preliminarily find that, during the POR, Noksel sold the subject merchandise and the foreign like product at the same LOT, and we made no LOT adjustment under section 773(a)(7)(A) of the Act.

G. Cost of Production Analysis

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the cost of production (COP) based on the sum of the costs of materials and fabrication for the foreign like product, *i.e.*, the cost of manufacture (COM), plus amounts for general and administrative (G&A) expenses and financial expenses.⁴¹ The Turkish economy experienced high inflation during the POR. In order to avoid the distortive effect of inflation, we requested that Noksel submit COM data on a monthly basis during the POR. 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 Noksel.

2. Test of Comparison Market Sales Prices

On a product-specific and month-specific basis, pursuant to section 773(b) of the Act, we compared the 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, movement charges, actual direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's home market sales of a given product are at prices less than 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 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

⁴¹ See "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses.

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.

Where we found that more than 20 percent of Noksel's home market sales for a given product were made at prices less than the monthly, inflated/deflated COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time based on the POR-average COP, we found these home market sales to be outside of the ordinary course of trade, and used the remaining sales, if any, as the basis for determining NV and CV profit and selling expenses, in accordance with section 773(b)(1) of the Act.

H. Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A 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>.

VII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results of review.

☒

Agree

☐

Disagree

7/20/2020

X 

Signed by: JEFFREY KESSLER