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Investigation
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September 23, 2020

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

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

RE: Decision Memorandum for the Preliminary Determination in the
Less-Than-Fair Value Investigation of Prestressed Concrete Steel
Wire Strand from the Republic of Turkey

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that imports of prestressed concrete steel wire strand (PC strand) from the Republic of Turkey (Turkey) are being, or are likely to be, sold in the United States at less than fair value (LFTV) as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The preliminary estimated dumping margins are shown in the “Preliminary Determinations” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On April 16, 2020, Commerce received an antidumping duty (AD) petition covering imports of PC strand from Turkey filed on behalf of Insteel Wire Products Company, Sumiden Wire Products Corporation, and Wire Mesh Corporation (collectively, the petitioners).¹ Commerce initiated these investigations on May 6, 2020.²

In the *Initiation Notice*, Commerce notified the public that in the event Commerce determined that the number of companies subject to this investigation is large and it cannot individually examine each company based upon Commerce’s resources, Commerce intended to select

¹ See Petitioners’ Letter, “Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates - Petition for the Imposition of Antidumping and Countervailing Duties,” dated April 16, 2020 (the Petition).

² See *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, the Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, the Republic of Turkey, Ukraine, and the United Arab Emirates: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 28605 (May 13, 2020) (*Initiation Notice*).



respondents based on United States Customs and Border Protection (CBP) data for U.S. imports of PC strand from Turkey during the period of investigation (POI) under the appropriate Harmonized Tariff Schedule of the United States subheadings listed in the scope of the investigation.³

On May 4, 2020, Commerce released the CBP entry data for Turkey to all interested parties under an administrative protective order and requested comments regarding the data and respondent selection.⁴ In May 2020, the petitioners filed initial comments regarding the CBP data and selection of respondents in this investigation.⁵

Also in the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of these investigations, as well as the appropriate physical characteristics of PC strand to be reported in response to Commerce's AD questionnaire.⁶ In June 2020, the petitioners and several respondents in the companion PC strand investigations from various countries submitted comments to Commerce regarding the physical characteristics of the subject merchandise to be used for reporting purposes.⁷

On June 8, 2020, the United States International Trade Commission (ITC) determined that there is a reasonable indication that imports of PC strand from Turkey are materially injuring the United States industry.⁸

³ *Id.* at 28609.

⁴ See Memorandum, "Petition for the Imposition of Antidumping Duties on Imports of Prestressed Concrete Steel Wire Strand from Turkey: Release of Customs Data from U.S. Customs and Border Protection," May 4, 2020.

⁵ See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Turkey – Petitioners' Respondent Selection Comments," dated May 14, 2020.

⁶ See *Initiation Notice*, 85 FR at 28606.

⁷ See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates - Petitioners' Comments on the Important Product Characteristics and Product Matching Hierarchy," dated June 2, 2020; CB Trafalati Acciai S.p.A.'s Letter, "Prestressed Concrete Steel Wire Strand from Italy: Scope and Product Characteristic Comments," dated June 2, 2020; PJSC PA Stalkanat-Silur's Letter, "Prestressed Concrete Steel Wire Strand from Argentina. Colombia. Egypt, Indonesia, Italy, Malaysia. Netherlands, Saudi Arabia. South Africa, Spain, Taiwan. Tunisia. Turkey, Ukraine, and United Arab Emirates. Comments on Product Characteristics and Product Matching Hierarchy," dated June 2, 2020; Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates – Petitioners' Rebuttal Comments on the Important Product Characteristics and Product Matching Hierarchy," dated June 12, 2020; and Global Special Steel Products S.A.U. (dba, TYCSA)'s Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates: Rebuttal Comments on Product Characteristics and Product-Matching Hierarchy," dated June 12, 2020.

⁸ See Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates: Investigation Nos. 701-TA-646 and 731-TA-1502-1516 (Preliminary) (June 2019); and *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates*, 85 FR 34648 (June 5, 2020).

On June 9, 2020, and June 18, 2020, respectively, Commerce selected for individual examination Güney Celik Hasir ve Demir (Güney Celik)⁹ and Celik Halat ve Tel Sanayi A.S. (Celik Halat),¹⁰ as the largest exporters by volume of PC strand from Turkey. On June 10, 2020, and June 19, 2020, respectively, Commerce issued the AD questionnaire to Güney Celik¹¹ and Celik Halat.¹² On July 1, 2020, Güney Celik failed to file its complete response to section A of the questionnaire by the established deadline for this response; as a result, we rejected this filing and removed it from the record.¹³

On July 17, 2020, Celik Halat submitted a timely response to section A of the questionnaire.¹⁴ On July 24, 2020, we issued a supplemental section A questionnaire to Celik Halat, to which Celik Halat timely responded on August 7, 2020.¹⁵ On August 10, 2020, Celik Halat failed to file its complete response to sections B and C of the questionnaire by the established deadline for the response to these sections; as a result, we rejected this filing and removed it from the record.¹⁶ On August 13, 2020, Celik Halat submitted a timely response to section D of the questionnaire.¹⁷

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

III. PERIOD OF INVESTIGATION

The POI is April 1, 2019 through March 31, 2020. This period corresponds to the four most recent fiscal quarters prior to the month in which the petition was filed (*i.e.*, April 2020).¹⁸

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is PC strand from Turkey. For a full description of the scope of this investigation, *see* the accompanying preliminary determination *Federal Register* notice of the investigations of PC strand from Argentina, Colombia, Egypt, the Netherlands, Saudi Arabia, Turkey and the United Arab Emirates, at Appendix I.

⁹ See Memorandum, “Less-Than-Fair-Value Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Respondent Selection,” dated June 9, 2020 (June 9 RSM). We initially selected Güney Celik and Hasçelik as the mandatory respondents for individual examination. However, Hasçelik and the petitioners identified an error in the June 9 RSM. See Hasçelik’s Letter, “Prestressed Concrete Steel Wire Strand from Turkey: Comments on Respondent Selection,” dated June 12, 2020; and Petitioners’ Letter, “Prestressed Concrete Steel Wire Strand from Turkey – Petitioners’ Comments on the Department’s Respondent Selection Memorandum,” dated June 15, 2020. Therefore, on June 15, 2020, we advised Hasçelik that we were reevaluating our selection of Hasçelik as a respondent. See Commerce’s Letter, “Antidumping Duty Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Suspension of Questionnaire Response,” dated June 15, 2020.

¹⁰ See “Less-Than-Fair-Value Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Respondent Selection,” dated June 18, 2020.

¹¹ See Commerce’s Letter, “Antidumping Duty Questionnaire,” dated June 10, 2020.

¹² See Commerce’s Letter, “Antidumping Duty Questionnaire,” dated June 19, 2020.

¹³ See Commerce’s Letter dated July 8, 2020 (Güney Celik Rejection Letter).

¹⁴ See Celik Halat’s July 17, 2020 Section A Questionnaire Response.

¹⁵ See Celik Halat’s August 7, 2020 Supplemental Section A Response.

¹⁶ See Commerce’s Letter dated August 19, 2020 (Celik Halat Rejection Letter).

¹⁷ See Celik Halat’s August 13, 2020 Section D Questionnaire Response.

¹⁸ See 19 CFR 351.204(b)(1).

V. APPLICATION OF FACTS AVAILABLE AND USE OF ADVERSE INFERENCE AND CALCULATION OF ALL-OTHERS RATE

A. Application of Facts Available

Sections 776(a)(1) and 776(a)(2)(A)-(D) of the Act provide that, if necessary information is not available on the record, or if an interested party: (1) withholds information requested by Commerce; (2) fails to provide such information by the deadlines for submission of the information, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (3) significantly impedes a proceeding; or (4) provides such information but the information cannot be verified as provided in section 782(i) of the Act, Commerce shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act states that Commerce shall consider the ability of an interested party to provide information upon a prompt notification by that party that it is unable to submit the information in the form and manner required, and that party also provides a full explanation for the difficulty and suggests an alternative form in which the party is able to provide the information. Section 782(e) of the Act states further that Commerce shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Finally, where Commerce determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that Commerce will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, Commerce may disregard all or part of the original and subsequent responses, as appropriate.

Güney Celik

As noted above, on June 10, 2020, we issued the AD questionnaire to Güney Celik. On July 1, 2020, Güney Celik submitted its response to section A of the questionnaire; however, this response was untimely because it was not filed in its entirety by 5:00 p.m. Eastern Time (ET) on the due date, as required by 19 CFR 351.303(b)(1).¹⁹ Thus, on July 8, 2020, we rejected Güney Celik's untimely submission.²⁰ On July 16, 2020, Güney Celik requested that we reconsider our decision to reject its response to section A of the questionnaire.²¹ In response, on July 16, 2020,

¹⁹ See Güney Celik Rejection Letter.

²⁰ *Id.*

²¹ See Güney Celik's Letter, "Prestressed Concrete Steel Wire Strand from Turkey: Time Extension Request," dated July 16, 2020.

we issued a letter reiterating our decision to reject Güney Celik's untimely submission.²² Güney Celik did not respond to any portions of sections B, C, and D of the questionnaire by the established deadline of July 27, 2020.²³

As a result, we find that necessary information is not available on the record, that Güney Celik failed to provide information by the applicable deadlines and in the form and manner requested, in accordance with sections 776(a)(1) and (2)(B) of the Act. Because there is no information on the record from Güney Celik to be used in this investigation as the basis for calculating an accurate dumping margin we find that section 782(e) of the Act does not apply.

Therefore, we preliminarily determine that the application of facts available (FA) is warranted, pursuant to sections 776(a)(1) and (2)(B) of the Act.

Celik Halat

As noted above, on June 19, 2020, Commerce issued the AD questionnaire to Celik Halat. Celik Halat timely submitted its responses to sections A and D of the questionnaire, and Commerce's supplemental section A questionnaire. Celik Halat's response to sections B, C, and D of the AD questionnaire was initially due to Commerce on July 17, 2020. On July 22, 2020, Celik Halat requested an extension of the deadline to submit its response to sections B and C of the AD questionnaire, which Commerce granted, in part, thereby extending the deadline for the response to these sections to August 10, 2020. On August 10, 2020, Celik Halat submitted its response to sections B and C of the questionnaire; however, this response was untimely because it was not filed in its entirety by 5:00 p.m. ET on the due date, as required by 19 CFR 351.303(b)(1).²⁴ Thus, on August 19, 2020, we rejected Celik Halat's untimely submission. On August 24, 2020, Celik Halat requested that we reconsider our decision to reject its response to sections B and C of the questionnaire, arguing that its difficulties in complying with document format requirements for ACCESS (Commerce's electronic records system), including that the files contain searchable text constitutes an extraordinary circumstance for which Commerce could exercise its discretion to extend the deadline and accept the document under 19 CFR 351.302(c).²⁵ On August 27, 2020, we issued a letter reiterating our decision to reject Celik Halat's untimely submission, stating that Celik Halat's ACCESS document formatting issue did not qualify as an extraordinary circumstance within the meaning of 19 CFR 351.302(c) meriting acceptance of its untimely extension request and untimely response.²⁶

²² See Commerce's Letter dated July 16, 2020. As part of this letter, Commerce granted Güney Celik's request, in part, for additional time to submit sections B through D of the questionnaire until July 27, 2020.

²³ *Id.* This letter included an extension of the deadline to submit these sections of the questionnaire until July 27, 2020.

²⁴ See Celik Halat Rejection Letter. Commerce established the deadline for submitting sections B and C of the questionnaire in its letter to Celik Halat dated July 23, 2020 (July 23 Letter), granting, in part, Celik Halat's request for additional time to respond to sections B and C of the questionnaire until August 10, 2020.

²⁵ See Celik Halat's Letter, "Pre-Stressed Concrete Steel Wire Strand from Turkey: Request for Reconsideration of the Department's Rejection of the Sections B&C Antidumping Questionnaire Response of Celik Halat," dated August 24, 2020 (Celik Halat Reconsideration Request).

²⁶ See Commerce's Letter dated August 27, 2020 (Celik Halat Reconsideration Letter).

As stated in Commerce's *Final Rule* regarding electronic filing procedures:

To implement electronic filing procedures, {Commerce} is amending the regulation so that {Commerce} will consider a document to be officially received by {Commerce} only when it is filed electronically in its entirety using {} ACCESS, in accordance with 19 CFR 351.303(b)(2)(i), or, where applicable, filed manually in the APO/Dockets Unit in accordance with 19 CFR 351.303(b)(2)(ii).²⁷

We reminded Celik Halat of this rule in the cover letter of the AD questionnaire, where we stated:

We remind you that, beginning August 5, 2011, with certain, limited exceptions, all submissions for all proceedings must be filed electronically using Enforcement and Compliance's ACCESS. An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time (ET) on the date indicated on the cover page of the enclosed questionnaire.²⁸

The cover letter to Commerce's June 19, 2020, questionnaire for Celik Halat also stated:

If you are unable to respond completely to every question in the attached questionnaire by the established deadline, or are unable to provide all requested supporting documentation by the same date, you must notify the official in charge and submit a request for an extension of the deadline for all or part of the questionnaire response ... If Commerce does not receive either the requested information or a written extension request before 5 p.m. ET on the established deadline, we may conclude that your company has decided not to cooperate in this proceeding. Commerce will not accept any requested information submitted after the deadline. As required by section 351.302(d) of our regulations, we will reject such submissions as untimely.

Commerce reiterated this information in the General Instructions of the AD questionnaire²⁹ and its letters responding to Celik Halat's requests for extensions of the deadline to submit the response to sections B and C of the questionnaire:

Pursuant to 19 CFR 351.302(d), any information filed after {the deadline} will be considered untimely filed and will be rejected. In such case, we may rely on the facts available, as required by section 776 of the Tariff Act of 1930, as amended, in our preliminary determination.³⁰

²⁷ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) (*Final Rule*).

²⁸ See Initial Questionnaire at 2.

²⁹ *Id.*

³⁰ See July 23 Letter; and Commerce's Letter dated August 4, 2020.

We also notified Celik Halat of the information and resources available for properly filing documents on time. The AD questionnaire cover letter specifically identified these resources, including the “Handbook on Electronic Filing Procedures” (Handbook). The Handbook provides information on properly formatting documents for ACCESS, including the following:

All documents must be submitted as searchable PDFs. ... {Commerce} requires all submitted documents to be searchable ... Failure to convert a PDF into a text searchable document will result in the rejection of your submission.³¹

In addition, the Handbook emphasizes that Commerce “will consider the document timely filed electronically only if it is received in its entirety by ACCESS by the time and date specified.”³²

Celik Halat did not contact Commerce prior to the established deadline regarding its technical document filing difficulties to request assistance or guidance on filing, or an extension of the deadline to submit its response to sections B and C of the questionnaire. Consequently, Celik Halat failed to submit its sections B and C response completely by 5:00 p.m. ET on the established deadline of August 10, 2020.³³

Thus, Celik Halat was provided with Commerce’s filing instructions and received notice of Commerce’s practice to reject an untimely submission from ACCESS, which may result in the application of FA under section 776(a) of the Act. Additionally, Celik Halat did not contact Commerce or request an extension on the day it encountered filing difficulties. As a result, we find that necessary information is not available on the record, and that Celik Halat failed to provide necessary information by the applicable deadlines and in the form and manner requested. Therefore, we preliminarily determine that the application of FA is warranted, pursuant to sections 776(a)(1) and (2)(B) of the Act.

B. Use of Adverse Inference

Section 776(b) of the Act provides that, if Commerce finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, Commerce may use an inference adverse to the interests of that party in selecting from the facts otherwise available.³⁴ In doing so, Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the

³¹ See Handbook at 12. The Handbook is available on the ACCESS home page at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

³² *Id.* at 16 (emphasis in original).

³³ The portion of the sections B and C questionnaire response Celik Halat filed after the deadline consisted of the entire home market sales database. See Celik Halat Rejection Letter at Attachment 1; and Celik Halat Reconsideration Request at 3 – 5. Commerce is unable to calculate the dumping margin for Celik Halat absent this information.

³⁴ See 19 CFR 351.308(a); *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002).

request for information.³⁵ In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA) explains that Commerce may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”³⁶ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference in selecting from the facts available.³⁷ It is Commerce’s practice to consider, in employing adverse facts available (AFA), the extent to which a party may benefit from its own lack of cooperation.³⁸

Güney Celik

Güney Celik failed to submit section A of Commerce’s questionnaire in a timely manner. Güney Celik also failed to respond to sections B through D of Commerce’s questionnaire. Because Güney Celik failed to submit its section A questionnaire response in a timely manner and failed to respond at all to sections B through D of the questionnaire, Güney Celik has failed to act to the best of its ability to comply with Commerce’s requests for information, precluding Commerce from performing the necessary analysis to calculate a weighted-average dumping margin based on Güney Celik’s own data, as is otherwise required by the Act. Accordingly, Commerce preliminarily finds that Güney Celik failed to cooperate to the best of its ability to comply with a request for information by Commerce within the meaning of section 776(b)(1) of the Act. Based on the above, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), Commerce preliminarily determines to use an adverse inference when selecting from among the facts otherwise available in assigning a dumping margin to Güney Celik.³⁹

Celik Halat

Under 19 CFR 351.302(c), an “extraordinary circumstance” is defined as an “unexpected event” that “could not have been prevented if reasonable measures had been taken” and “precludes a party or its representative from timely filing an extension request through all reasonable means.” Celik Halat stated that its untimely submission was due to difficulties in complying with

³⁵ See section 776(b)(1)(B) of the Act.

³⁶ See, SAA, H.R. Doc. 103-316, Vol. 1 (1994) at 870; and *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

³⁷ See, e.g., *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon Steel*); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); and *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

³⁸ See, e.g., *Steel Threaded Rod from Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 78 FR 79670 (December 31, 2013), and accompanying Issues and Decision Memorandum (IDM) at 4, unchanged in *Steel Threaded Rod from Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances*, 79 FR 14476 (March 14, 2014).

³⁹ See, e.g., *Non-Oriented Electrical Steel from Germany, Japan, and Sweden: Preliminary Determinations of Sales at Less Than Fair Value, and Preliminary Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 29423 (May 22, 2014), and accompanying Preliminary Decision Memorandum at pages 7-11, unchanged in *Non-Oriented Electrical Steel from Germany, Japan, the People’s Republic of China, and Sweden: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determinations of Critical Circumstances, in Part*, 79 FR 61609 (October 14, 2014); *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR at 42985, 42986 (July 12, 2000) (where Commerce applied total AFA when the respondent failed to respond to the AD questionnaire).

Commerce's ACCESS document format requirements and that such difficulties should qualify as an extraordinary circumstance under 19 CFR 351.302(c).⁴⁰ As explained above and in the Celik Halat Reconsideration Letter, Celik Halat's reported rationale for the late submission of its response to sections B and C of the questionnaire does not qualify as an extraordinary circumstance under 19 CFR 351.302(c).

Furthermore, as explained above, Celik Halat was notified of Commerce's ACCESS filing instructions and practice to reject untimely-filed ACCESS submissions. Additionally, Celik Halat did not contact Commerce or request an extension on the day it encountered filing difficulties. Further, by the time that Celik Halat submitted its responses to sections B and C of the questionnaire, Celik Halat had successfully filed its responses to section A of the questionnaire and the supplemental A questionnaire in the ACCESS system, demonstrating its knowledge of and proficiency in the ACCESS system.⁴¹

Because Celik Halat failed to submit all portions of its response to sections B and C of the questionnaire by the established deadline, we find that Celik Halat failed to cooperate to the best of its ability to comply with Commerce's request for information within the meaning of section 776(b)(1) of the Act. Based on the above, in accordance with section 776(b) of the Act and 19 CFR 351.308(a), Commerce preliminarily determines to use an adverse inference when selecting from among the facts otherwise available.

C. Preliminary Dumping Margin Based on Adverse Facts Available

Section 776(b) of the Act states that Commerce, when employing an adverse inference, may rely upon information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.⁴² In selecting a rate based on AFA, Commerce selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁴³ Commerce's practice is to select, as an AFA rate, the higher of: (1) the highest dumping margin alleged in the petition; or (2) the highest calculated rate of any respondent in the investigation.⁴⁴

Commerce did not calculate a dumping margin for either respondent in this investigation and the only dumping margin alleged for the subject merchandise in the Petition is 53.65 percent.⁴⁵ Thus, consistent with our practice, we have selected the only dumping margin alleged in the Petition as the AFA rate applicable to Güney Celik and Celik Halat in this investigation.⁴⁶

⁴⁰ See Celik Halat Reconsideration Request.

⁴¹ See Celik Halat's July 17, 2020 Section A Questionnaire Response; and Celik Halat's August 7, 2020 Supplemental Section A Response.

⁴² See 19 CFR 351.308(c).

⁴³ See SAA at 870.

⁴⁴ See *Welded Stainless Pressure Pipe from Thailand: Final Determination of Sales at Less Than Fair Value*, 79 FR 31093 (May 30, 2014), and accompanying IDM at Comment 3.

⁴⁵ See *Initiation Notice*; and AD Investigation Initiation Checklist: *Prestressed Concrete Steel Wire Strand from Turkey*, (May 6, 2020) (Initiation Checklist).

⁴⁶ See *Certain Polyethylene Terephthalate Resin from India: Final Determination of Sales at Less Than Fair Value*

D. Corroboration of Secondary Information

When using facts otherwise available, section 776(c) of the Act provides that, where Commerce relies on secondary information (such as the petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.⁴⁷ The SAA clarifies that “corroborate” means that Commerce will satisfy itself that the secondary information to be used has probative value,⁴⁸ although under the Trade Preferences Extension Act of 2015 (TPEA), Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.⁴⁹ To corroborate secondary information, Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used, although under the TPEA, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.⁵⁰ Finally, under the new section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an antidumping duty order when applying an adverse inference, including the highest of such margins.⁵¹

Thus, because the AFA rate applied to the mandatory respondents Güney Celik and Celik Halat is derived from the Petition and, consequently, is based upon secondary information, Commerce must corroborate the rate to the extent practicable.

We determined that the petition margin of 53.65 percent is reliable where, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis.⁵² As set forth below, for purposes of this preliminary determination, we find that the Petition margin of 53.65 percent is reliable.

Specifically, we examined evidence supporting the calculations in the Petition to determine the probative value of the dumping margins alleged in the Petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis, we also examined the key

and Final Affirmative Determination of Critical Circumstances, 81 FR 13327 (March 14, 2016), and accompanying IDM at Comment 14 (*PET Resin from India Final Determination*).

⁴⁷ See SAA at 870.

⁴⁸ *Id.*; and 19 CFR 351.308(d).

⁴⁹ See section 776(c)(2) of the Act; TPEA, Section 502(2).

⁵⁰ See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

⁵¹ See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

⁵² See Initiation Checklist.

elements of the export price (EP) and normal value (NV) calculations, and the alleged dumping margin.⁵³ During our pre-initiation analysis, we also examined information from various independent sources provided in the Petition that corroborates key elements of the EP and NV calculations used in the Petition to derive the alleged dumping margin.⁵⁴

Based on our examination of the information, as discussed in detail in the Initiation Checklist, we consider the petitioners' EP and NV calculations to be reliable. We obtained no other information that calls into question the validity of either the sources of information or the information supporting the EP and NV calculations provided in the Petition. Therefore, because we confirmed the accuracy and validity of the information underlying the derivation of the dumping margin alleged in the Petition by examining source documents and affidavits, as well as publicly available information, we preliminarily determine that the dumping margin alleged in the Petition of 53.65 percent is reliable for the purpose of this investigation.

In making a determination as to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal to determine whether there are circumstances that would render a rate not relevant. In accordance with new section 776(d)(3) of the Act, when selecting an AFA margin, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an "alleged commercial reality" of the interested party. Because there are no other participating cooperative respondents in this investigation, we relied upon the dumping margin alleged in the Petition, which is the only information regarding the PC strand industry in Turkey reasonably at Commerce's disposal on the record of this investigation. Furthermore, as noted in *GOES from China*, in which the sole mandatory respondent also received AFA, "there was no need to review any additional documentation outside of what was submitted in the Petition considering such sources of information fulfill our requirements for corroboration of secondary information."⁵⁵

Accordingly, Commerce preliminarily determines that the only dumping margin alleged in the Petition has probative value and has corroborated the AFA rate of 53.65 percent to the extent practicable within the meaning of section 776(c) of the Act by demonstrating that the rate: (1) was determined to be reliable in the pre-initiation stage of this investigation (and we have no additional information indicating otherwise); and (2) is relevant.⁵⁶

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See *Grain-Oriented Electrical Steel from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 59226 (October 1, 2014) (*GOES from China*), and accompanying IDM at Comment 2; and *KYD, Inc. v. United States*, 607 F.3d 760, 765 (Fed. Cir. 2010) (agreeing with Commerce that price quotes and third-party affidavits used in the petition to calculate estimated margins were independent information not requiring additional corroboration and stating that "{t}he relevant inquiry focuses on the nature of the information, not on whether the source of the information was referenced in or included with the petition").

⁵⁶ See section 776(c) of the Act and 19 CFR 351.308(c) and (d); *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 35652, 35653 (June 24, 2008), and accompanying IDM at Comment 1; and Initiation Checklist.

E. All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated “all-others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis*, or determined entirely under section 776 of the Act, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

As stated above, Güney Celik and Celik Halat are the mandatory respondents in this investigation, and their estimated dumping margins are determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, Commerce’s practice under these circumstances has been to assign, as the “all-others” rate, a simple average of the petition rates.⁵⁷ However, because the Petition here contained only one estimated dumping margin pertaining to PC strand from Turkey, there are no additional dumping margins pertaining to PC strand from Turkey available to include in the “all-others” rate. Consequently, and consistent with our practice, we assigned the dumping margin alleged in the Petition of 53.65 percent as the “all-others” rate applicable to entities not individually examined in this investigation.⁵⁸

VI. CRITICAL CIRCUMSTANCES ALLEGATION

On September 2, 2020, the petitioners timely filed a critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of the PC strand from Turkey.⁵⁹

In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, Commerce must issue a preliminary finding of whether there is a reasonable basis to believe or suspect that critical circumstances exist by no later than the date of the preliminary determination. Section 733(e)(1) of the Act provides that Commerce, upon receipt of a timely filed allegation of critical circumstances, will preliminarily determine that critical circumstances exist in AD investigations if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

⁵⁷ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 38986 (July 8, 2008), and accompanying IDM at Comment 2.

⁵⁸ See Initiation Checklist.

⁵⁹ See Petitioners’ Letter, “Prestressed Concrete Steel Wire Strand from Taiwan and Turkey – Petitioners’ Allegation of Critical Circumstances,” dated September 2, 2020 (Critical Circumstances Allegation).

Section 351.206(h)(2) of Commerce's regulations provides that, generally, imports must increase by at least 15 percent during the "relatively short period" to be considered "massive" and section 351.206(i) defines a "relatively short period" as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed)⁶⁰ and ending at least three months later.⁶¹ Commerce's regulations also provide, however, that, if Commerce finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from that earlier time.⁶²

In their allegation, the petitioners contend that, based on the dumping margin alleged in the Petition, importers knew, or should have known, that the merchandise under consideration was being sold at LTFV.⁶³ The petitioners also contend that, based on the preliminary determination of injury by the ITC, there is a reasonable basis to impute importers' knowledge that material injury is likely by reason of such imports.⁶⁴ Finally, the petitioners contend that, based on publicly-available import data, imports of PC strand from Turkey were massive during the relevant time period.⁶⁵

A. Critical Circumstances Analysis

History of Dumping and Material Injury/Knowledge of Sales Below Fair Value and Material Injury

To determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, Commerce generally considers current or previous AD orders on the subject merchandise from the country in question in the United States and current orders imposed by other countries with regard to imports of the same merchandise.⁶⁶ In this case, the current investigation marks the first instance that Commerce has examined whether sales of the subject merchandise have been made at LTFV in the United States. Accordingly, Commerce previously has not imposed an AD order on the subject merchandise from Turkey. Moreover, Commerce is not aware of an AD order on PC strand from Turkey in another country. Therefore, Commerce finds no history of injurious dumping of the subject merchandise pursuant to section 733(e)(1)(A)(i) of the Act.

To determine whether importers knew or should have known that exporters were selling the subject merchandise at LTFV, pursuant section 733(e)(1)(A)(ii) of the Act, we typically consider

⁶⁰ See 19 CFR 351.102(b)(40) (providing that a proceeding begins on the date of the filing of a petition).

⁶¹ See 19 CFR 351.206(h)(2) and (i).

⁶² See 19 CFR 351.206(i).

⁶³ See Critical Circumstances Allegation at 4-5.

⁶⁴ *Id.* at 6.

⁶⁵ *Id.* at 8.

⁶⁶ See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China*, 73 FR 31970, 31972-73 (June 5, 2008); and *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 2049, 2052-53 (January 14, 2009).

the magnitude of dumping margins, including margins alleged in the petition.⁶⁷ Commerce has found margins of 15 percent or more (for constructed export price or CEP) to 25 percent or more (for export price or EP) to be sufficient for this purpose.⁶⁸ Commerce initiated this AD investigation based on an estimated dumping margin of 53.65 percent, which is above the 15 to 25 percent threshold. Therefore, on that basis, we preliminarily conclude that importers knew or should have known that exporters in Turkey were selling subject merchandise at LTFV, satisfying the criteria under section 733(e)(1)(A)(ii) of the Act.

To determine whether importers knew or should have known that there was likely to be material injury caused by reason of such imports pursuant to section 733(e)(1)(A)(ii) of the Act, Commerce normally will look to the preliminary injury determination of the ITC.⁶⁹ If the ITC finds a reasonable indication of material injury (rather than the threat of injury) to the relevant U.S. industry, Commerce will normally determine that a reasonable basis exists to impute to importers sufficient knowledge of injury by such imports. The ITC found that there is a “reasonable indication” of material injury to the domestic industry because of the imported subject merchandise.⁷⁰ Therefore, the ITC’s preliminary injury determination in this investigation is sufficient to impute knowledge of the likelihood of material injury to importers. Thus, we preliminarily determine that importers knew, or should have known, that there was likely to be material injury caused by reason of such imports, pursuant to section 733(e)(1)(A)(ii) of the Act.

⁶⁷ See, e.g., *Antidumping and Countervailing Duty Investigations of Corrosion-Resistant Steel Products from India, Italy, the People’s Republic of China, the Republic of Korea, and Taiwan: Preliminary Determinations of Critical Circumstances*, 80 FR 68504 (November 5, 2015) (*CORE Critical Circumstances Prelim*); *Certain Corrosion-Resistant Steel Products from India: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 81 FR 35329 (June 2, 2016) (*CORE India Final*); *Certain Corrosion-Resistant Steel Products from Italy: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35320 (June 2, 2016) (*CORE Italy Final*); *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35303 (June 2, 2016) (*CORE Korea Final*); *Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35316 (June 2, 2016) (*CORE China Final*); *Certain Corrosion-Resistant Steel Products from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35313 (June 2, 2016) (*CORE Taiwan Final*); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35308 (June 2, 2016) (*China CVD Final*); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Taiwan: Final Negative Countervailing Duty Determination*, 81 FR 35299 (June 2, 2016) (*CORE Taiwan CVD Final*); *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from Italy: Final Affirmative Determination and Final Affirmative Critical Circumstances, in Part*, 81 FR 35326 (June 2, 2016) (*CORE Italy CVD Final*); and *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35310 (June 2, 2016) (*CORE Korea CVD Final*).

⁶⁸ *Id.*

⁶⁹ See, e.g., *Certain Potassium Phosphate Salts from the People’s Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation*, 75 FR 24572, 24573 (May 5, 2010), unchanged in *Certain Potassium Phosphate Salts from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry*, 75 FR 30377 (June 1, 2010).

⁷⁰ See USITC, Investigation Nos. 701-TA-646 and 731-TA-1502-1516 (Preliminary), *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates*.

Massive Imports

In determining whether imports of subject merchandise from Turkey were “massive” over a relatively short period, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(h), Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the “base period”) to a comparable period of at least three months following the filing of the petition (*i.e.*, the “comparison period”). Imports will normally be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period. Commerce normally considers the comparison period to begin on the date that the proceeding began (*i.e.*, the date the petition was filed) and to end at least three months later.⁷¹ Furthermore, Commerce may consider the comparison period to begin at an earlier time if it finds that importers, exporters, or foreign producers had a reason to believe that proceedings were likely before the petition was filed.⁷² In addition, Commerce expands the periods as more data are available.

In this investigation, the petitioners have made no allegation that importers, exporters, or foreign producers had a reason to believe that the proceeding was likely before it began, nor is there any record evidence to support such a finding. Therefore, we have relied on the largest possible periods by comparing the period February 2020 through April 2020 (*i.e.*, the base period), with the period May 2020 through July 2020 (*i.e.*, the comparison period), to determine whether imports of subject merchandise were massive.

We requested and obtained monthly quantity and value data from Celik Halat.⁷³ After examining this data, we preliminarily find that the volume of Celik Halat’s U.S. imports increased by at least 15 percent from the base to the comparison period.⁷⁴ Therefore, we preliminarily find Celik Halat’s imports to be massive, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(h).

To determine massive imports for all other companies in this investigation, we subtracted Celik Halat’s reported shipments from the import data provided by the petitioners, consistent with our practice.⁷⁵ These data demonstrate that imports for all other companies also increased by more than 15 percent over imports in the base period.⁷⁶ Accordingly, we preliminarily find that all other companies have massive imports of subject merchandise over a relatively short period, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(h).

⁷¹ See 19 CFR 351.206(i).

⁷² *Id.*

⁷³ See Commerce’s Letter, “Less-Than-Fair-Value Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Request for Additional Information,” dated September 2, 2020; and Celik Halat’s Letter, “Prestressed Concrete Steel Wire Strand from Turkey: Initial Critical Circumstances Response of Celik Halat ve Tel Sanayi A.S.” dated September 4, 2020.

⁷⁴ See Memorandum, “Preliminary Determination Critical Circumstances Analysis,” dated September 23, 2020 (Critical Circumstances Memorandum).

⁷⁵ See, e.g., *CORE Critical Circumstances Prelim* and *CORE India Final*, *CORE Italy Final*, *CORE Korea Final*, *CORE China Final*, *CORE Taiwan Final*, *CORE China CVD Final*, *CORE Taiwan CVD Final*, *CORE Italy CVD Final*, and *CORE Korea CVD Final*.

⁷⁶ See Critical Circumstances Memorandum.

We did not request monthly quantity and value data from Güney Celik because, unlike Celik Halat, it made no attempt to file all sections of its questionnaire response by the applicable deadlines. Therefore, we find that adverse inferences are warranted for Güney Celik with respect to our analysis of its imports during the base and comparison periods. Accordingly, we preliminarily find, on the basis of AFA, that Güney Celik had massive imports of subject merchandise over a relatively short period, pursuant to section 733(e)(1)(B) of the Act and 19 CFR 351.206(h).

Consequently, we preliminarily find that critical circumstances exist for Celik Halat, Güney Celik, and all other companies covered by this investigation.

B. Final Critical Circumstances Determination

We will issue our final determination concerning critical circumstances when we issue our final LTFV determination. All interested parties will have the opportunity to address this preliminary determination regarding critical circumstances in their case briefs.

VII. CONCLUSION

We recommend applying the above methodology for this preliminary determination.



Agree

Disagree

9/23/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance