



A-489-829
Administrative Review
POR: 7/1/2018-6/30/2019
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November 17, 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: Steel Concrete Reinforcing Bar
from the Republic of 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 steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey) covering the period of review (POR) July 1, 2018 through June 30, 2019.¹ The review covers seven companies. We preliminarily find that mandatory respondents, Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas) and Kaptan Demir Celik Endüstrisi ve Ticaret A.S. (Kaptan Demir) each made sales of the subject merchandise at prices below normal value. The estimated weighted-average dumping margins are shown in the “Preliminary Results of this Review” section of the accompanying *Federal Register* notice. We are conducting this administrative review in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213.

II. BACKGROUND

Commerce published the AD order on rebar from Turkey on July 14, 2017.² On July 1, 2020, Commerce notified interested parties of the opportunity to request an administrative review on orders, findings, or suspended investigations with anniversaries in July, including the *Order*.³ Pursuant to section 751(a)(1) the Act and 19 CFR 351.213(b), on July 30 and 31 2019, we

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 47242 (September 9, 2019) (*Initiation Notice*).

² See *Steel Concrete Reinforcing Bar from the Republic of Turkey and Japan: Amended Final Affirmative Antidumping Duty Determination for the Republic of Turkey and Antidumping Duty Orders*, 82 FR 32532 (July 14, 2017) (*Order*).

³ See *Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 84 FR 31295 (July 1, 2017).



received requests for an administrative review of the *Order* for eight companies: (1) Icdas; (2) Kaptan Demir; (3) Colakoglu Dis Ticaret A.S (Colakoglu); (4) Colakoglu Metalurji A.S. (Colakoglu Metalurji); (5) Diler Dis Ticaret A.S. (Diler); (6) Habas Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.S. (Habas); (7) Kaptan Metal Dis Ticaret ve Nakliyat A.S. (Kaptan Metal); and (8) Icdas Celik Enerji Tersane ve Ulasim.⁴

On September 9, 2019, in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice of initiation of the administrative review of the *Order*, that listed these eight companies.⁵ In the “Respondent Selection” section of the *Initiation Notice*, Commerce stated that, if necessary, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for entries of rebar from Turkey during the POR.⁶ On February 20, 2020, relying on CBP data, Commerce selected Icdas and Kaptan Demir as the mandatory respondents for this review.⁷ On February 21, Icdas submitted a letter stating that two of the company names listed in the Initiation Notice – Icdas Celik Enerji Tersane ve Ulasim and Icdas – are the same company. Based on this information, we preliminarily determine that these two company names refer to the same company, Icdas.⁸

Commerce issued its AD questionnaire to Kaptan Demir and Icdas on February 20, 2020. On March 6, 2020, Kaptan and Icdas filed a letter informing Commerce that inflation in Turkey was above 25 percent during the POR.⁹ Between March 24, 2020 and October 20, 2020, Kaptan Demir submitted timely responses to Commerce’s original and supplemental questionnaires.¹⁰ Between March 23, 2020 and October 9, 2019, Icdas submitted timely responses to Commerce’s original and supplemental questionnaires.¹¹

⁴ See Colakoglu Dis Ticaret and Colakoglu Metalurji’s Letter, “Steel Concrete Reinforcing Bar from the Republic of Turkey; Colakoglu’s Request for Antidumping Duty Administrative Review,” dated July 30, 2019; *see also* Petitioner’s Letter, “Steel Concrete Reinforcing Bar from the Republic of Turkey; Request for Administrative Review,” dated July 30, 2019; and Kaptan Demir’s and Kaptan Metal’s Letter, “Steel Concrete Reinforcing Bar from Turkey; Request for Antidumping Administrative Review,” dated July 31, 2019.

⁵ See *Initiation Notice*.

⁶ *Id.*

⁷ See Memorandum, “Respondent Selection for the Antidumping Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey; 2018-2019” dated February 20, 2020.

⁸ See Icdas’ Letter, “Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas’ Clarification Letter,” dated February 21, 2020.

⁹ See Kaptan’s and Icdas’ Letter, “Steel Concrete Reinforcing Bar from the Republic of Turkey: Notice of Inflation Rate Above 25 Percent,” dated March 6, 2020.

¹⁰ See Kaptan Demir’s March 24, 2020, Section A Questionnaire Response (Kaptan Demir’s March 24, 2020 AQR); *see also* Kaptan Demir’s April 15, 2020, Sections B-C Questionnaire Response (Kaptan Demir’s April 15, 2020 BCQR); Kaptan Demir’s April 21, 2020, Section D Questionnaire Response (Kaptan Demir’s April 21, 2020 DQR); Kaptan Demir’s First Supplemental A-D Questionnaire Response (Kaptan Demir’s August 10, 2020 SQR); and Kaptan Demir’s Second October 20, 2020 Supplemental A-D Questionnaire Response (Kaptan Demir’s October 20, 2020 SQR); and Kaptan Demir’s October 28, 2020 Supplemental A-D Questionnaire Response (Kaptan Demir’s October 28, 2020 SQR).

¹¹ See Icdas’ March 23, 2020 Section A Questionnaire Response (Icdas’ March 23, 2020 AQR); *see also* Icdas’ April 15, 2020 Sections B-C Questionnaire Response (Icdas’ April 15, 2020 BCQR); Icdas’ April 21, 2020, Section D Questionnaire Response (Icdas’ April 21, 2020 DQR); Icdas’ August 17, 2020 Supplemental Questionnaire Response (Icdas’ August 17, 2020 SQR); and Icdas’ October 9, 2020 2nd Supplemental Questionnaire Response (Icdas’ October, 2020 SQR).

On March 26, 2020, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), Commerce extended the time limit for issuing the preliminary results¹² to May 29, 2020,¹³ thereby extending the deadline for issuing the preliminary results of this administrative review to July 20, 2020. On July 19, 2020,¹⁴ pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213 (h)(2), Commerce again extended the time limit for issuing the preliminary results of this administrative review to September 18, 2020. Commerce again tolled all deadlines for preliminary and final results in administrative reviews by an additional 60 days.¹⁵ Therefore, the revised deadline for the preliminary results is November 17, 2020.

On April 8, 2020, June 12, 2020, and June 15, 2020, the Rebar Trade Action Coalition (the petitioner) filed comments concerning the respondents' March 6, 2020 letter regarding high inflation in Turkey and Icdas' and Kaptan Demir's questionnaire responses.¹⁶ On June 24 and June 29, 2020, Kaptan Demir and Icdas filed rebuttal comments.¹⁷

On September 10 and September 21, 2020, the petitioner filed comments concerning Kaptan Demir's questionnaire responses and Icdas' questionnaire responses.¹⁸ On September 17, 2020, Icdas submitted new factual information that Commerce rejected on September 28, 2020, because it was untimely filed.¹⁹ On September 29, 2020, Kaptan Demir filed comments regarding the petitioner's September 21, 2020, comments.²⁰ On October 29, 2020, the petitioner filed pre-preliminary comments.²¹ On November 6, 2020, Kaptan Demir filed rebuttal comments to the petitioner's pre-preliminary comments.²²

¹² See Memorandum, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated March 26, 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 Memorandum, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Extension of Deadline for Preliminary Results of Antidumping Administrative Review," dated June 19, 2020.

¹⁵ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

¹⁶ See Petitioner's Letters, "Steel Concrete Reinforcing Bar from Turkey: Comments on Icdas Section A Questionnaire Response," dated April 8, 2020; "Steel Concrete Reinforcing Bar from Turkey: Comments on High Inflation and Kaptan's Section A, B, C, and D Initial Questionnaire Responses," dated June 12, 2020; and "Steel Concrete Reinforcing Bar from Turkey: Comments on Icdas' Section B, C, and D Questionnaire Response," dated June 15, 2020.

¹⁷ See Kaptan Demir's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Kaptan's Response to RTAC's Comments on High Inflation and its Section A-D Questionnaire Responses", dated June 24, 2020; and Icdas's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Icdas's Response to RTAC's Comments on Icdas's B, C, & D Questionnaire Responses," dated June 29, 2020.

¹⁸ See Petitioner's Letters, "Steel Concrete Reinforcing Bar from Turkey: Comments on Icdas' Supplemental Sections A-D Questionnaire Response," dated September 10, 2020; and "Steel Concrete Reinforcing Bar from Turkey: Comments on Kaptan's Supplemental Sections A-D Questionnaire Response," dated September 21, 2020.

¹⁹ See Memorandum to the File "Steel Concrete Reinforcing Bar from the Republic of Turkey – Removal of Rejected Submission from the Record," dated September 28, 2020.

²⁰ See Kapan Demir's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Kaptan Demir Celik Endustrisive Ticaret A.S.'s Response to RTAC's Comments on Its Supplemental Sections A-D Questionnaire Response," dated September 29, 2020.

²¹ See Petitioner's Letter "Steel Concrete Reinforcing Bar from the Republic of Turkey: Pre-Preliminary Comments on Kaptan," dated October 29, 2020.

²² See Kaptan Demir's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Kaptan Demir Celik Endustrisive Ticaret A.S.'s Response to RTAC's Pre- Preliminary Comments," dated November 6, 2020.

III. SCOPE OF THE *ORDER*

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

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

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

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

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

IV. COMPANIES NOT SELECTED FOR INDIVIDUAL EXAMINATION

This review covers five companies that were not selected for individual examination: (1) Colakoglu; (2) Colakoglu Metalurji; (3) Diler (4) Habas; and (5) Kaptan Metal. With the exception of Habas, none of these five companies: (1) were the subject of a withdrawal of a request for review; (2) requested to participate as a mandatory respondent; or (3) submitted a claim of no shipments.

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

Accordingly, in this review, we have preliminarily assigned to four companies not individually examined in this review – (1) Colakoglu; (2) Colakoglu Metalurji; (3) Diler; and (4) Kaptan Metal – a margin of 17.30 percent, which is the weighted-average of the estimated weighted-average dumping margins calculated for Kaptan Demir and Icdas, using each company’s publicly-ranged values for the merchandise under consideration.²³

V. PRELIMINARY DETERMINATION OF NO SHIPMENTS

Among the companies for which Commerce initiated an administrative review, Habas reported that it made no shipments of subject merchandise to the United States during the POR.²⁴ To confirm this no shipment claim, Commerce performed a CBP data query to determine whether there were suspended entries of subject merchandise during the POR from Habas, and the CBP data confirmed Habas’ no-shipment claim.²⁵ Commerce further issued a no shipment inquiry to CBP requesting that it provide any information that contradicted the no shipment claims of these companies.²⁶ On October 13, 2020, CBP informed Commerce that its data indicated that Habas had no shipments during the POR.²⁷

Based on the certification of Habas claiming no shipments and the lack of record evidence contradicting their no shipment claims, we preliminarily determine that Habas had no shipments of subject merchandise during the POR. However, consistent with Commerce’s practice, it is not appropriate to rescind the review with respect to Habas; rather, it is appropriate to complete the review with respect to Habas and issue appropriate liquidation instructions to CBP based on the final results of the review.²⁸

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.

²³ See Memorandum, “Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey – Preliminary Results Calculation for the Rate Assigned to Companies Not Selected for Individual Examination,” dated November 17, 2020.

²⁴ Habas filed a letter notifying Commerce that it “had no sales, shipments or entries, directly or indirectly” of subject merchandise during the POR. See Letter, “Steel Concrete Reinforcing Bar from Turkey – Habas no shipment letter,” dated September 11, 2019.

²⁵ See Memorandum, “Administrative Review of the Antidumping Duty Order on Steel Concrete Reinforcing Bar from Turkey: Release of U.S. Customs Entry Data for Respondent Selection,” dated January 24, 2020.

²⁶ See Customs Message No. 0283401 “No shipments inquiry for steel concrete reinforcing bar from the Republic of Turkey produced and/or exported by Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (A-489-829),” dated October 9, 2020.

²⁷ See Memorandum, “No Shipment Inquiry with Respect to the Company Below During the Period 07/01/2018 through 06/30/2019,” dated October 13, 2020.

²⁸ 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).

A. Comparisons to Normal Value

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

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates a dumping margin by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEPs)) (the average-to-average or A-to-A method) unless Commerce determines that another method is appropriate in a particular situation. In a less-than-fair-value investigation, Commerce examines whether to compare weighted-average NVs with EPs (or CEPs) of individual sales (the average-to-transaction or A-to-T method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern Commerce's examination of this question in the context of administrative reviews, Commerce nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in a less-than-fair-value investigation.²⁹

In numerous investigations, Commerce applied a "differential pricing" analysis for determining whether application of A-to-T comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.³⁰ 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 A-to-A method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of prices for comparable merchandise that differs 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 A-to-A 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 or consolidated customer codes.

²⁹ See *Ball Bearings and Parts Thereof from France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011*, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

³⁰ See, e.g., *Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); see also *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EPs or CEPs and NVs for the individual dumping margins.

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

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

If both tests in the first stage (*i.e.*, the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the A-to-A method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative method, based on the results of the Cohen’s *d* and ratio tests described above, yields a meaningful difference in the weighted- average dumping margin as compared to that resulting from the use of the A-to-A

method only. If the difference between the two calculations is meaningful, then this demonstrates that the A- to-A method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: (1) there is a 25 percent relative change in the weighted-average dumping margin between the A-to-A method and the appropriate alternative method where both rates are above the *de minimis* threshold; or (2) the resulting weighted- average dumping margin moves across the *de minimis* threshold.

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

2. Results of the Differential Pricing Analysis

Kaptan Demir

Based on the results of the differential pricing analysis, Commerce preliminarily finds that 99.63 percent of the value of Kaptan Demir's U.S. sales pass the Cohen's *d* test,³¹ which confirms the 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 A-to-A comparison method and an alternative method using the A-to-T 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 Kaptan Demir.

Icdas

For Icdas, based on the results of the differential pricing analysis, Commerce preliminarily finds that 80.19 percent of the value of U.S. sales pass the Cohen's *d* test,³² which confirms the 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 A-to-A comparison method and an alternative method using the A-to-T 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 Icdas.

B. Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by Kaptan Demir and Icdas in Turkey during the POR that fit the description in the "Scope of the Order" section *supra* to be foreign like products for purposes of determining NV for comparison

³¹ See Memorandum, "Antidumping Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey, 2018-2019: Preliminary Results Analysis Memorandum for Kaptan Demir Celik Endüstrisi ve Ticaret A.S.," dated concurrently with this memorandum (Kaptan Demir's Preliminary Analysis Memorandum).

³² See Memorandum, "Antidumping Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey, 2018-2019: Preliminary Results Analysis Memorandum for Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.," dated concurrently with this memorandum (Icdas's Preliminary Analysis Memorandum).

to the subject merchandise sold in the United States. If contemporaneous home market sales were reported for merchandise which was identical to subject merchandise sold in the U.S. market, then we calculated NV based on the monthly weighted-average home market prices of all such sales.

Where there were no contemporaneous 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 and calculated NV based on the monthly weighted-average home market prices of all such sales. 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. These physical characteristics are as follows: type of steel, minimum specified yield strength, coating, martensitic, nominal diameter, and form.³³

Following our practice of measuring the change in producer price index in Turkey from the first month of the POR to the last month of the POR, we preliminarily find that Turkey's economy did not experience high inflation (*i.e.*, above 25 percent) during the POR.³⁴ We are placing on the record pertinent excerpts of an assessment of Turkey's statistics regime conducted by the International Monetary Fund and providing interested parties with an opportunity to comment.³⁵

C. Date of Sale

According to 19 CFR 351.401(i), Commerce will normally use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. 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 material terms of sale are established.³⁶ 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.³⁷

³³ See Icdas' April 15, 2020 Section C Questionnaire Response at C-10; and Kaptan Demir's April 15, 2020 Section C Questionnaire Response at C-12 through C-15.

³⁴ See, e.g., *Light-Walled Rectangular Pipe and Tube from Turkey: Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission, and Preliminary Determination of No Shipments; 2018-2019*, 85 FR 44861 (July 24, 2020).

³⁵ See Memorandum, "Excerpts of the International Monetary Fund Report," dated November 17, 2020. The September 2009 report is titled "Turkey: Report on the Observance of Standards and Codes-Data Module: Response by the Authorities, and Detailed Assessments Using the Data Quality Assessment Framework (DQAF)."

³⁶ 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)).

³⁷ 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.

Kaptan Demir

For U.S. sales, Kaptan Demir reported its date of sale as the earlier of date of shipment or date of invoice.³⁸ The information provided by Kaptan Demir indicates that the material terms of sale are subject to change up to the date of invoice or shipment.³⁹ Specifically, Kaptan Demir's amendments to contracts and changes in quantities that did not comport with the quantity tolerances demonstrate that written contracts did not prevent subsequent changes to material terms of sale.⁴⁰ Therefore, in accordance with our normal practice, in the absence of information indicating a different date of sale better reflects the date on which the material terms of sale are established, we are using invoice date as date of sale, except when the shipment date proceeds invoice date. This conforms to our long-standing practice of using as date of sale the earlier of the invoice date or the shipment date, if no other date is more appropriate as date of sale.⁴¹

For all home market sales, Kaptan Demir reported the invoice date as the date of sale.⁴² Therefore, in accordance with 19 CFR 351.401(i), in the absence of information indicating a different date of sale better reflects the date on which the material terms of sale are established, we are using invoice date as date of sale.

Icdas

In Icdas' March 23, 2020 AQR, Icdas reported "the earlier of date of the invoice or the date of shipment as the date of sale for the home market and the final contract/purchase order date for the U.S. market."⁴³ However, Icdas' questionnaire responses do not demonstrate that the material terms of sale were established by the contract date. Specifically, Icdas' amendments to contracts demonstrate that written purchase orders and written contracts did not prevent subsequent changes to material terms of sale.⁴⁴ Therefore, in accordance with our normal practice, in the absence of information indicating a different date of sale better reflects the date on which the material terms of sale are established, we are using invoice date as date of sale, except when the shipment date precedes invoice date. This conforms to our long-standing practice of using as date of sale the earlier of the invoice date or the shipment date, if no other date is more appropriate as date of sale.⁴⁵

³⁸ See Kaptan Demir's March 23, 2020 AQR at A-14.

³⁹ See Kaptan Demir's October 20, 2020 Second SQR at S2-5.

⁴⁰ See Kaptan Demir's October 20, 2020 Second SQR at S2-2; *see also* Kaptan Demir's March 23, 2020 at A-15 and Exhibit A-7.

⁴¹ *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 73 FR 55036 (September 24, 2008), and accompanying IDM at Comment 1; and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30664 (June 8, 1999), and accompanying IDM at Comment 5.

⁴² See Kaptan Demir's April 15, 2020 BCDQR at B-19.

⁴³ See Icdas' March 23, 2020 AQR at A-16.

⁴⁴ See Icdas' August 17, 2020 SQR at S1-9, Exhibit S1-8 and Exhibit S1-9.

⁴⁵ *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 73 FR 55036 (September 24, 2008), and accompanying IDM at Comment 1; and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30664 (June 8, 1999), and accompanying IDM at Comment 5.

For all home market sales, Icdas reported the date of sale as the date of the invoice, except for the instances where shipment date preceded the invoice date.⁴⁶ Therefore, in accordance with 19 CFR 351.401(i), in the absence of information indicating a different date of sale better reflects the date on which the material terms of sale are established, we are using invoice date as date of sale, except when the shipment date proceeds invoice date.

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

In March 2018, the President exercised his authority under Section 232 of the Trade Expansion Act of 1962, as amended,⁴⁷ and issued Proclamation 9705 that mandated, to address national security concerns, the imposition of a global tariff of 25 percent on imports of steel articles in order to reduce imports to a level that the Secretary assessed would enable domestic steel producers to use approximately 80 percent of existing domestic production capacity and thereby achieve long-term economic viability through increased production. In considering whether U.S. price should be adjusted for section 232 duties, we look to section 772 of the Act. In particular, section 772(c)(2)(A) of the Act directs Commerce to adjust EP and CEP for “the amount, if any, included in such price, attributable to any additional costs, charges, or expenses, and United States import duties . . .” Therefore, we find that the analysis here depends on whether section 232 duties constitute “United States import duties,” and whether the duties are “included in such price.”

The Court of Appeals for the Federal Circuit (CAFC) has previously considered whether certain types of duties constitute “United States import duties” for purposes of section 772(c)(2)(A) of the Act. In *Wheatland*, the CAFC sustained Commerce’s determination not to adjust U.S. price in antidumping proceedings for section 201 safeguard duties under that statutory provision.⁴⁸ Having acknowledged Commerce’s analysis of the legislative history to the Antidumping Act of 1921, which “referred to ‘United States import duties’ as normal customs duties and referred to antidumping duties as ‘special dumping duties’ and that ‘special dumping duties’ were distinguished and treated differently from normal customs duties,” the CAFC in *Wheatland* agreed that “Congress did not intend all duties to be considered ‘United States import duties.’”⁴⁹

The CAFC then found reasonable Commerce’s analysis that section 201 duties were more akin to antidumping duties than “ordinary customs duties.”⁵⁰ In comparing section 201 duties with antidumping duties, the CAFC found that: (1) “[l]ike antidumping duties, {section} 201 duties are remedial duties that provide relief from the adverse effects of imports;” (2) “[n]ormal customs duties, in contrast, have no remedial purpose;” (3) “antidumping and {section} 201 duties, unlike normal customs duties, are imposed based upon almost identical findings that the domestic industry is being injured or threatened with injury due to the imported merchandise;” and (4) “[section] 201 duties are like antidumping duties . . . because they provide only temporary relief from the injurious effects of imports,” whereas normal customs duties “have no

⁴⁶ See Icdas’ March 23, 2020 AQR at A-16.

⁴⁷ See 19 U.S.C. § 1862.

⁴⁸ See *Wheatland Tube Co. v. United States*, 495 F.3d 1355, 1363 (CAFC 2007) (*Wheatland*).

⁴⁹ *Id.* at 1361.

⁵⁰ *Id.* at 1362.

termination provision, and are permanent unless modified by Congress.”⁵¹ In sustaining Commerce’s decision regarding section 201 duties in *Wheatland*, the CAFC also held that “{t}o assess both a safeguard duty and an antidumping duty on the same imports without regard to the safeguard duty, would be to remedy substantially overlapping injuries twice.”⁵²

Section 232 duties are not akin to antidumping or 201 duties. Proclamation 9705 states that it “is necessary and appropriate to adjust imports of steel articles so that such imports will not threaten to impair the *national security* . . .”⁵³ The text of section 232 of the Trade Expansion Act of 1962 also clearly concerns itself with “the effects on the *national security* of imports of the article.”⁵⁴ The particular national security risk spelled out in proclamation 9705 is that the “industry will continue to decline, leaving the United States at risk of becoming reliant on foreign producers of steel to meet our national security needs—a situation that is fundamentally inconsistent with the safety and security of the American people.”⁵⁵ In other words, section 232 duties are focused on addressing national security prerogatives, separate and apart from any function performed by antidumping and 201 safeguard duties to remedy injury to a domestic industry.

Even more critical to this point is that the Presidential Proclamation states that section 232 duties are to be imposed in addition to other duties unless expressly provided for in the proclamations.⁵⁶ The Annex to Proclamation 9740 refers to section 232 duties as “ordinary” customs duties, and it also states that “{a}ll anti-dumping or countervailing duties, or other duties and charges applicable to such goods shall continue to be imposed, except as may be expressly provided herein.” Notably, there is no express exception in the HTSUS revision in the Annex. In other words, section 232 duties are intended to be treated as any other duties for purposes of the trade remedy laws. Had the President intended that AD duties would be reduced by the amount of section 232 duties imposed, the Presidential Proclamation would have expressed that intent.

⁵¹ *Id.* at 1362-63.

⁵² *Id.* at 1365.

⁵³ See Proclamation 9705, 83 FR at 11627 (emphasis added); Proclamation 9711 of March 22, 2018, 83 FR 13361, 13363 (March 28, 2018) (Proclamation 9711) (“In proclaiming this tariff, I recognized that our Nation has important security relationships with some countries whose exports of steel articles to the United States weaken our national economy and thereby threaten to impair the national security”); Proclamation 9740 of April 30, 2018, 83 FR 20683 (May 7, 2018) (Proclamation 9740) (similar); Proclamation 9759 of May 31, 2018, 83 FR 25857 (June 5, 2018) (Proclamation 9759) (similar); Proclamation 9772 of August 10, 2018, 83 FR 40429 (August 15, 2018) (Proclamation 9772) (similar); Proclamation 9777 of August 29, 2018, 83 FR 45025 (September 4, 2018) (Proclamation 9777) (similar).

⁵⁴ See section 232(b)(1)(A) of the Trade Expansion Act of 1962 (emphasis added); see also section 232(a) of the Trade Expansion Act of 1962 (explaining that “{n}o action shall be taken . . . to decrease or eliminate the duty or other import restrictions on any article if the President determines that such reduction or elimination would threaten to impair the national security”).

⁵⁵ See Proclamation 9705, 83 FR at 11627.

⁵⁶ See Proclamation 9705, 83 FR at 11627; Proclamation 9711, 83 FR at 13363; Proclamation 9740, 83 FR at 20685-87 (“All anti-dumping or countervailing duties, or other duties and charges applicable to such goods shall continue to be imposed, except as may be expressly provided herein.”); Proclamation 9759, 83 FR at 25857; Proclamation 9772, 83 FR at 40430-31; Proclamation 9777, 83 FR at 45025. The proclamations do not expressly provide that 232 duties receive different treatment.

We have determined that section 232 duties should be treated as “United States import duties” for purposes of section 772(c)(2)(A) of the Act - and thereby as “U.S. Customs duties,” which are deducted from U.S. price.

Kaptan and Icdas both reported paying section 232 duties on certain U.S. sales.⁵⁷ As indicated above, the second part of the analysis is whether the section 232 duties are “included in such price.” Icdas reported that Icdas is the importer of record, and the evidence provided by Icdas (including, inter alia, broker invoices and CBP Form 7501 Entry Summaries) indicates that Icdas paid the section 232 duties.⁵⁸ Kaptan Demir stated that it paid all of the section 232 duties where Kaptan Demir is the importer of record, and the evidence provided by Kaptan Demir (including broker invoices and CBP Form 7501 Entry Summaries) indicates that Kaptan Demir paid the section 232 duties.⁵⁹ Therefore, there is record evidence to demonstrate that the section 232 duties are “included in such price” and thus should be deducted from the U.S. price as a “U.S. Customs duty.” Accordingly, for purposes of these preliminary results, we reduced both Kaptan Demir’s and Icdas’ U.S. prices to account for section 232 duties, as U.S. Customs import duties.

E. Export Price

For all sales to the United States reported by Icdas and Kaptan Demir, we calculated export price (EP) in accordance with section 772(a) of the Act, because the subject merchandise was first sold by both companies 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.

For Kaptan Demir and Icdas, we calculated each company’s EP based on packed prices to unaffiliated purchasers in the United States.⁶⁰ We adjusted Kaptan Demir’s EP by adding an amount equal to the countervailing duty (CVD) rate attributed to export subsidies in the most recently completed administrative review of rebar from Turkey (0.19 percent *ad valorem*), in accordance with section 772(c)(1)(C) of the Act.⁶¹ We did not make such an adjustment for Icdas because the CVD rate attributed to export subsidies in for Icdas in the companion CVD administrative review is 0.00 *ad valorem*.⁶² Where applicable, we made deductions, consistent with section 772(c)(2)(A) of the Act, from the starting price for movement expenses: domestic inland freight, domestic brokerage and handling, domestic warehousing, international freight, international brokerage and handling, and U.S. duties and section 232 duties, other international movement expenses.⁶³

⁵⁷ See Kaptan Demir’s April 15, 2020 CQRS at C-34 and Exhibit C-22, Parts A and B; see also Icdas’ CQR at C-33 and Exhibit C-14 through Exhibit C-16.

⁵⁸ See Icdas’ CQR at C-33 and Exhibit C-14 through Exhibit C-16.

⁵⁹ See Kaptan Demir’s August 10 ABCDSQR at S1-10 and Exhibit S1-20;

⁶⁰ See Kaptan Demir’s April 15, 2020 CAQR at C-15 and Icdas’ April 15, 2020 CQR at C-15.

⁶¹ See *Steel Concrete Reinforcing Bar Final Results and Partial Rescission of Countervailing Duty Administrative Review*, 85 FR 42353 (June 14, 2020) (Rebar CVD 2017 Final Results), and accompanying IDM; see also Kaptan Demir’s Preliminary Analysis Memorandum.

⁶² See Rebar CVD 2017 Final Results accompanying IDM.

⁶³ See Kaptan Demir’s April 15, 2020 CQR at 26 through 34; and Icdas’ April 15, 2020 CQR at C-27 through C-41.

F. Duty Drawback

Kaptan Demir and Icdas each claimed a duty drawback adjustment to U.S. price.⁶⁴ Section 772(c)(1)(B) of the Act states that EP shall be increased by “the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States.” In determining whether a respondent is entitled to duty drawback, we look for a reasonable link between the duties imposed and those rebated or exempted. We do not require that the imported material be traced directly from importation through exportation. We traditionally use (and the United States Court of International Trade (CIT) sustained)⁶⁵ the following two-prong test:⁶⁶ first, that the import duty paid and the rebate payment are directly linked to, and dependent upon, one another (or the exemption from import duties is linked to the exportation of subject merchandise); and second, that there were sufficient imports of the imported raw material to account for the drawback received upon the exportation of the subject merchandise.⁶⁷

We preliminarily find that a duty drawback adjustment is warranted because the criteria described above are satisfied for the Turkish duty drawback program.⁶⁸ Accordingly, Commerce preliminarily will make a duty drawback adjustment using the duty neutral approach. Under this methodology, Commerce will make an upward adjustment to EP and CEP based on the amount of the duty imposed on the input and rebated or not collected upon the exportation of the subject merchandise by properly allocating the amount rebated or not collected to all production for the relevant period based on the cost of inputs during the POR.⁶⁹ This ensures that the amount added to both sides of the comparison of EP or CEP with NV is equitable, *i.e.*, duty neutral, meeting the purpose of the adjustment as affirmed in *Saha Thai*.⁷⁰ Based on the facts of this review,

⁶⁴ See Kaptan Demir’s April 15, 2020 CQR at C-35 through C-38 and Exhibits C-16 through Exhibits C-18; Icdas’ April 15, 2020 CQR at C-38 through C-41 and Exhibits C-18 through C-21; and Icdas’ April 21, 2020 DQR at D-29 and Exhibit D-19.

⁶⁵ See, e.g., *Saha Thai Steel Pipe (Public) Co. v. United States*, 635 F. 3d 1335, 1340-41 (Fed Cir. 2011) (*Saha Thai*).

⁶⁶ See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716, 61723 (October 19, 2006) (citing *Wheatland Tube Company v. United States*, 414 F. Supp. 2d 1271, 1287 (CIT 2006); *Allied Tube & Conduit Corp. v. United States*, 374 F. Supp. 2d 1257, 1261 (CIT 2005); *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1093 (CIT 2001); *Far East Machinery Co., Ltd v. United States*, 699 F. Supp. 309, 311 (CIT 1988); and *Carlisle Tire & Rubber Co. v. United States*, 657 F. Supp. 1287, 1289-90 (CIT 1987)).

⁶⁷ See, e.g., *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7513 (February 13, 2006), and accompanying IDM at Comment 2; see also *Certain Welded Carbon Steel Pipe and Tube from Turkey: Final Results of Antidumping Duty Administrative Review*, 70 FR 73447 (December 12, 2005), and accompanying IDM at Comment 7; and *Federal-Mogul Corp. v. United States*, 862 F. Supp. 384, 410 (CIT 1994).

⁶⁸ See Kaptan Demir’s April 15, 2020 CQR at 26 through 34; and Icdas’ April 15, 2020 CQR at C-27 through C-41.

⁶⁹ See Icdas’s Preliminary Analysis Memorandum; see also Kaptan Demir’s Preliminary Analysis Memorandum.

⁷⁰ The CAFC stated in the *Saha Thai* litigation that “it is clear that Commerce only added imputed import duty costs to COP in an amount appropriate to offset Saha’s actual import duty exemptions under the bonded warehouse program. This did not result in double counting because Commerce merely added the cost of import duties that Saha would have paid on the inputs in category C if Saha had sold the subject merchandise in Thailand rather than exporting it to the United States. Commerce thus calculated an appropriate average COP.” See *Saha Thai*, 635 F. 3d at 1344.

Commerce finds that the import duty costs, based on the consumption of imported inputs during the POR, including imputed duty costs for imported inputs, properly accounts for the amount of duties imposed, as required by section 772(c)(1)(B) of the Act.

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.⁷¹ Therefore, for Kaptan Demir, we made duty drawback adjustments for refunded duties pertaining only to those Inward Processing Certificates (IPC) for which Kaptan Demir provided evidence demonstrating that the Government of Turkey has determined are closed.⁷²

Although Icdas claimed a duty drawback adjustment for shipments that it made to the United States during the POR under certain IPCs, Icdas did not provide evidence demonstrating that any of the IPCs pertaining to the amounts of duty drawback claimed were closed by the Government of Turkey.⁷³ Accordingly, because Commerce's practice is to use closed IPCs only for purposes of calculating a duty drawback adjustment, for these preliminary results, we are not making a duty drawback adjustment for Icdas.

G. Normal Value

1. Home Market Viability

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we normally compare the volume of each respondent's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act.⁷⁴

Based on this comparison, we preliminarily determine that both Kaptan Demir's and Icdas' aggregate volume of home market sales of the foreign like product during the POR was greater than five percent of the aggregate volume of its U.S. sales of the subject merchandise during the POR and therefore each company had a viable home market during the POR.⁷⁵ Consequently, for both respondents, we based NV on home market sales to unaffiliated purchasers made in usual quantities in the ordinary course of trade.

⁷¹ 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.

⁷² See Kaptan Demir's Preliminary Analysis Memorandum.

⁷³ See Icdas' April 15, 2020 CQR at C-38 through C-41 and Exhibits C-18 through C-21.

⁷⁴ See Icdas' March 23, 2020 AQR at A-2 through A-4 and Exhibit 1; *see also* Kaptan Demir's March 23, 2020 AQR at A-1 through A-4 and Exhibit A-1.

⁷⁵ *Id.*

2. Calculation of NV Based on Comparison Market Prices

For both companies, we calculated NV based on packed, delivered or ex-works prices to unaffiliated customers in Turkey. We also included home market sales to affiliated parties that were made at arm's-length prices, and for sales to affiliated resellers that failed the arm's length test, we used the reported downstream sales of the affiliates.

For Icdas, 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 expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410. We also deducted indirect selling expenses.

For Kaptan Demir, 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 expenses), in accordance with section 773(a)(6)(c)(iii) of the Act and 19 CFR 351.410. We also deducted inventory carrying costs and indirect selling expenses.

When comparing U.S. sale prices with normal values based on home market sale prices of merchandise similar, but not identical, 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.⁷⁶

3. Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act to the extent practicable, Commerce determines NV based on sales in the comparison market at the same level of trade as the EP. Pursuant to 19 CFR 351.412(c)(1)(iii), the NV level of trade is based on the starting price of the sales in the comparison market or, when NV is based on constructed value (CV), the starting price of the sales from which we derive the adjustments to CV for selling expenses and profit. For EP sales, pursuant to 19 CFR 351.412(c)(1)(i), the U.S. level of trade is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer.

To determine whether comparison market sales are at a different level of trade than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.⁷⁷ If the comparison market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern

⁷⁶ See 19 CFR 351.411(b)

⁷⁷ See 19 CFR 351.412(c)(2).

of consistent price differences between the sales on which NV is based and the comparison market sales at the level of trade of the export transaction, we make a level of trade adjustment under section 773(a)(7)(A) of the Act.

Kaptan Demir

Kaptan Demir's questionnaire responses indicate that its sales in both the U.S. and home markets are at the same level of trade.⁷⁸ In addition, Kaptan Demir states that it "performs limited selling activities in support of its sales in the home market and in the U.S. {market}," an assertion confirmed by its chart comparing the selling functions in each market.⁷⁹ Specifically, in both the U.S. and home markets, Kaptan Demir broadly provides inspection and certification, payment, and delivery arrangement.⁸⁰ Therefore, we preliminarily determine that there is one level of trade for all sales in both the home market and the U.S. market and, consequently, no basis exists for a level-of-trade adjustment.

Icdas

Icdas reported in its questionnaire responses that there are two channels of distribution in the home market.⁸¹ According to Icdas, it usually performed the same selling functions for sales to all home market customers. Therefore, we preliminarily find that there were no significant differences in selling activities performed by Icdas to sell to its home market customers, we preliminarily determine that there is one LOT in the home market for Icdas.

With respect to the U.S. market, Icdas reported that it made sales through one channel of distribution, *i.e.* direct sales to unaffiliated customers.⁸² Icdas reported that it performed the same selling functions for sales to U.S. customers. Therefore, we preliminarily determine there is one LOT for the U.S. market for Icdas.

Finally, we compared the U.S. LOT to the home market LOT and found that the selling functions Icdas performed for its U.S. and home market customers are identical in all respects except for minor differences. Icdas' selling functions chart for its home market and U.S. sales indicates that the selling functions performed for sales in both markets do not vary significantly.⁸³ Therefore, we preliminarily determine that there is one level of trade for all sales in both the home market and the U.S. market and, consequently, no basis exists for a level-of-trade adjustment.

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

Commerce may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not

⁷⁸ See Kaptan Demir's April 15, 2020 BQR at B-18; and April 15, 2020 CQR at C-17.

⁷⁹ Kaptan Demir's selling functions chart is business proprietary in nature. See Kaptan Demir's March 23, 2020 AQR at A-12 and Exhibit A-6.

⁸⁰ See Kaptan Demir's March 23, 2020 AQR at 12-13.

⁸¹ See Icdas' April 15, 2020 BQR at B-20.

⁸² See Icdas' April 15, 2020 CQR at C-18.

⁸³ See Icdas' April 15, 2020 AQR at A-15.

affiliated with the exporter or producer, *i.e.*, sales were made at arm's-length prices.⁸⁴ Commerce excludes home market sales to affiliated customers that are not made at arm's-length prices from our margin analysis because Commerce considered them to be outside the ordinary course of trade.⁸⁵

During the POR, Kaptan Demir and Icdas each made sales of rebar in the home market to affiliated parties.⁸⁶ Consequently, we tested these sales to ensure that they were made at arm's-length prices, in accordance with 19 CFR 351.403(c). In addition to comparing sales at the same level of trade, the test adjusts affiliated and unaffiliated party prices for numerous differences relating to the sales. The adjustments account for, among other things, differences in packing expenses, movement expenses from the original place of shipment, discounts and rebates, and selling expenses that relate directly to the sale at issue. Although Commerce's questionnaire specifically requests information pertaining to a number of adjustments, it also allows for responding companies to claim additional adjustments for other expenses relating to the sales at issue. Thus, provided that a respondent has accurately reported its claimed differences in circumstances of sale, along with other expenses and price adjustments relating to the reported sales, the arm's-length test will account for such differences between sales to affiliates and non-affiliates. Pursuant to 19 CFR 351.403(c) and, in accordance with Commerce's practice, where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade, we preliminarily determined that the sales made to the affiliated party were at arm's length. Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade.⁸⁷ With respect to sales to affiliated resellers that failed the arm's-length test, we used the reported downstream sales of these affiliates in our calculations for the preliminary results.⁸⁸

I. Cost of Production Analysis

Section 773(b)(2)(A)(ii) of the Act requires Commerce to request CV and COP information from respondent companies in all antidumping duty proceedings.⁸⁹ Accordingly, Commerce requested this information from Kaptan Demir and Icdas.

1. Cost-Averaging Methodology

Commerce's normal practice is to calculate an annual weighted-average cost for the POR. However, we recognize that possible distortions may result if we use our normal annual-average

⁸⁴ See 19 CFR 351.403(c).

⁸⁵ See *China Steel Corp. v. United States*, 264 F. Supp. 2d 1339, 1367 (CIT 2003), *aff'd*, 306 F. Supp. 2d 1291 (CIT 2004) (citing *Light-Walled Rectangular Pipe and Tube from Mexico: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 55352, 55355 (September 7, 2011)).

⁸⁶ See Kaptan Demir's April 15, 2020 BCDQR at B-4 through B-5; and Icdas' March 23, 2020 AQR at A-12 through A-13.

⁸⁷ See section 771(15) of the Act; and 19 CFR 351.102(b).

⁸⁸ See Kaptan Demir's Preliminary Analysis Memorandum; and Icdas' Preliminary Analysis Memorandum.

⁸⁹ See *Trade Preferences Extension Act of 2015*, Pub. L. No. 114-27, 129 Stat. 362 (2015); *see also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

cost method during a time of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence by examining two primary criteria: (1) the change in the cost of manufacturing (COM) recognized by the respondent during the POR must be deemed significant; (2) the record evidence must indicate that sales during the shorter cost-averaging periods could be reasonably linked with the COP or CV during the same shorter cost-averaging periods.⁹⁰

2. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high- and low-quarter COM) for determining that the changes in COM are significant enough to warrant a departure from our standard annual-average cost approach.⁹¹ In the instant case, record evidence shows that Kaptan Demir and Icdas did not experience significant cost changes (*i.e.*, changes that exceeded 25 percent over the 12 month period) between the high and low quarterly COM during the POR.⁹²

3. Calculation of Cost of Production

We calculated the COP for Kaptan Demir and the COP for Icdas based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative (SG&A) expenses and interest expenses, in accordance with section 773(b)(3) of the Act.⁹³ We relied on the COP data submitted by Kaptan Demir and the COP data submitted on the record by Icdas. For Icdas, we made an adjustment to total cost of manufacturing to account for sale of non-prime merchandise.⁹⁴

4. Test of Comparison Market Sales Prices

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

⁹⁰ See *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (*SSSSC from Mexico*) and accompanying IDM at Comment 6 and *Stainless Steel Plate in Coils from Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) (*SSPC from Belgium*), and accompanying IDM at Comment 4.

⁹¹ See *SSPC from Belgium* IDM at Comment 4.

⁹² See Icdas' Preliminary Analysis Memorandum; and Kaptan Demir's Preliminary Analysis Memorandum.

⁹³ See Kaptan Demir's Preliminary Analysis Memorandum; and Icdas' Preliminary Analysis Memorandum.

⁹⁴ See Icdas' Preliminary Analysis Memorandum.

5. Results of the COP Test

Section 773(b)(1) of the Act provides that, where sales made at less than the COP “have been made within an extended period of time in substantial quantities” and “were not at prices which permit recovery of all costs within a reasonable period of time,” Commerce may disregard such sales when calculating NV. Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in “substantial quantities,” *i.e.*, where less than 20 percent of sales of a given product were made at prices less than the COP. We disregarded below-cost sales when they were made in substantial quantities, *i.e.*, where 20 percent or more of a respondent’s sales of a given product were at prices less than the COP and where “the weighted average per unit price of the sales . . . is less than the weighted average per unit cost of production for such sales.”⁹⁵ Finally, based on our comparison of prices to the weighted-average COPs, we considered whether the prices would permit the recovery of all costs within a reasonable period of time.⁹⁶

J. Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance web site at <http://enforcement.trade.gov/exchange/index.html>.

VII. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.



Agree



Disagree

11/17/2020

X



Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

⁹⁵ See section 773(b)(2)(C)(ii) of the Act.

⁹⁶ See section 773(b)(2)(D) of the Act.