

this investigation as well as all other producers/exporters.

We will make a final determination concerning critical circumstances when we make our final determination of sales at LTFV in this investigation.

#### Verification

As provided in section 782(i) of the Act, we intend to verify all information

relied upon in making our final determination.

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication

of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin for all entries of RBAO from the PRC. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

| Manufacturer/Exporter        | Weighted-average margin (in percent) |
|------------------------------|--------------------------------------|
| Zibo Jinyu Abrasive Co. .... | 218.93                               |
| PRC-wide .....               | 218.93                               |

The PRC-wide rate applies to all entries of the subject merchandise except for entries from the exporter/producer that is identified individually above.

#### Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

#### Public Comment

Case briefs for this investigation must be submitted no later than seven days after the date of the verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. See 19 CFR 351.309.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the

deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. See 19 CFR 351.310.

We will make our final determination by 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: April 29, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-489-807]

#### Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke in Part

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to a request by the petitioner and one producer/exporter of the subject merchandise, the Department of Commerce is conducting

an administrative review of the antidumping duty order on certain steel concrete reinforcing bars from Turkey. This review covers three manufacturers/exporters of the subject merchandise to the United States. This is the fifth period of review, covering April 1, 2001, through March 31, 2002.

We have preliminarily determined that sales have been made below the normal value by only two of the respondents in this proceeding, Colakoglu Metalurji A.S. and Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. In addition, we have preliminarily determined to rescind the review with respect to Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik Sanayi ve Ticaret A.S./Diler Dis Ticaret A.S. and Ekinciler Demir Celik A.S. because these companies had no shipments of subject merchandise during the period of review. If these preliminary results are adopted in the final results of this review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

Finally, we have preliminarily determined not to revoke the antidumping duty order with respect to ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S.

We invite interested parties to comment on these preliminary results. Parties who wish to submit comments in this proceeding are requested to submit with each argument: (1) a statement of the issue; and (2) a brief summary of the argument.

**EFFECTIVE DATE:** May 6, 2003.

**FOR FURTHER INFORMATION CONTACT:** Irina Itkin or Elizabeth Eastwood, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482-0656 or (202) 482-3874, respectively.

## SUPPLEMENTARY INFORMATION:

**Background**

On April 2, 2002, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey (67 FR 15527).

In accordance with 19 CFR 351.213(b)(2), on April 30, 2002, the Department received a request from ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S. (ICDAS) to conduct an administrative review of the antidumping duty order on rebar from Turkey. As part of this request, ICDAS also requested that the Department revoke the dumping order with regard to it, in accordance with 19 CFR 351.222(b). In accordance with 19 CFR 351.213(b)(1), on April 30, 2002, the Department also received a request for an administrative review from the petitioner, Gerdau AmeriSteel Corporation,<sup>1</sup> for the following five producers/exporters of rebar: Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret (collectively "Colakoglu"); Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Ticaret A.S., and Diler Dis Ticaret A.S. (collectively "Diler"); Ekinciler Demir Celik A.S. (Ekinciler); Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas); and ICDAS.

In May 2002, the Department initiated an administrative review for Colakoglu, Diler, Ekinciler, Habas, and ICDAS and we issued questionnaires to them. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 67 FR 36148 (May 23, 2002).

On May 13, 2002, Diler and Ekinciler informed the Department that they had no shipments of subject merchandise to the United States during the period of review (POR). We reviewed Customs Service data and confirmed that there were no entries of subject merchandise from either company. Consequently, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are preliminarily rescinding our review for Diler and Ekinciler. For further discussion, see the "Partial Rescission of Review" section of this notice, below.

On July 25, 2002, Habas requested that the Department modify its reporting requirement with respect to home market sales, in light of the fact that

Habas only made U.S. sales in certain months of the POR. In August 2002, we granted this request and shortened Habas' reporting period to April 1 through September 30, 2001. For further discussion, see the memorandum to Louis Apple from Irina Itkin entitled "Request by Habas Sinai ve Tibbi Gazlar Istihsal Endustri A.S. for a Shortened Reporting Period in the 2001–2002 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey," dated August 14, 2002.

In July and August 2002, we received responses to sections A through C of the questionnaire (i.e., the sections regarding sales to the home market and the United States) and Section D of the questionnaire (i.e., the section regarding cost of production (COP) and constructed value (CV)) from Colakoglu, Habas, and ICDAS.

In August, September, and October 2002, we issued supplemental questionnaires to these companies. We received responses to these questionnaires in September, October, November, and December 2002.

On September 29, 2002, the Department postponed the preliminary results of this review until no later than April 30, 2003. See *Certain Steel Concrete Reinforcing Bars From Turkey; Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review*, 67 FR 61595 (Oct. 1, 2002).

We verified the sales information submitted by Colakoglu, Habas, and ICDAS in October and November 2002. In December 2002 and January 2003, we requested and received revised databases from Colakoglu and ICDAS (home market sales only) incorporating our findings at verification.

In February, March, and April 2003, we issued additional supplemental questionnaires regarding the submitted COP data to Colakoglu, Habas, and ICDAS. We received responses to these questionnaires in March and April 2003.

**Scope of the Review**

The product covered by this review is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) under item numbers 7213.10.000 and 7214.20.000. The HTSUS subheadings are provided for convenience and

customs purposes. The written description of the scope of this proceeding is dispositive.

**Period of Review**

The POR is April 1, 2001, through March 31, 2002.

**Partial Rescission of Review**

As noted above, Diler and Ekinciler informed the Department that they had no shipments of subject merchandise to the United States during the POR. We have confirmed this with the Customs Service. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are preliminarily rescinding our review with respect to Diler and Ekinciler. See, e.g., *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Partial Rescission of Antidumping Administrative Review*, 67 FR 66110, 66111 (Oct. 30, 2002) (*2000–2001 Rebar Review*).

**Notice of Intent Not To Revoke in Part**

On April 30, 2002, ICDAS submitted a letter to the Department requesting revocation of the antidumping duty order with respect to its sales of the subject merchandise, pursuant to 19 CFR 351.222(b).

The Department "may revoke, in whole or in part" an antidumping duty order upon completion of a review under section 751 of the Tariff Act of 1930, as amended (the Act). While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. 19 CFR 351.222(b)(2) notes that the Secretary may revoke an antidumping duty order in part if the Secretary concludes, inter alia, that one or more exporters or producers covered by the order have sold the subject merchandise in commercial quantities at not less than normal value (NV) for a period of at least three consecutive years. See *Notice of Final Results of the Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order: Brass Sheet and Strip from the Netherlands*, 65 FR 742, 743 (Jan. 6, 2000).

ICDAS's request was accompanied by a certification that it had not sold the subject merchandise at not less than NV during the current POR and will not sell the merchandise at less than NV in the future. ICDAS further certified that it sold the subject merchandise to the United States in commercial quantities for a period of at least three consecutive years. The company also agreed to

<sup>1</sup> Effective October 23, 2002, the petitioner, AmeriSteel Corporation combined its operations with the company Co-Steel Inc. under the name Gerdau AmeriSteel Corporation.

immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to the revocation, ICDAS sold the subject merchandise at less than NV.

In this administrative review, we preliminarily find that ICDAS, in fact, did not sell the subject merchandise in commercial quantities in each of the three consecutive years forming the basis of the request. As such, we preliminarily find that ICDAS does not qualify for revocation. For further discussion see the memorandum to Louis Apple from the Team entitled "Request by ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S. for Revocation in the 2001–2002 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey," dated April 30, 2003.

#### Verification

As provided in section 782(i)(3)(a) of the Act, we verified sales information provided by all the respondents. We used standard verification procedures, including examination of relevant sales and financial records. Our verification results are outlined in the company-specific verification reports placed in the case file in the Central Records Unit, main Commerce building, room B-099.

#### Comparisons to Normal Value

To determine whether sales of rebar from Turkey were made in the United States at less than NV, we compared the export price (EP) to the NV. Because Turkey's economy experienced significant inflation during the POR, as is Department practice, we limited our comparisons to home market sales made during the same month in which the U.S. sale occurred and did not apply our "90/60" contemporaneity rule (*see, e.g., Certain Porcelain on Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 42496, 42503 (Aug. 7, 1997)). This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening time period between the U.S. and home market sales.

When making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of the Review" section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise

in the home market made in the ordinary course of trade (i.e., sales within the same month which passed the cost test), we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in sections B and C of our antidumping questionnaire, or CV, as appropriate.

#### Product Comparisons

In accordance with section 771(16) of the Act, we first attempted to compare products produced by the same company and sold in the U.S. and home markets that were identical with respect to the following characteristics: form, grade, size, and ASTM specification. Where there were no home market sales of foreign like product that were identical in these respects to the merchandise sold in the United States, we compared U.S. products with the most similar merchandise sold in the home market based on the characteristics listed above, in that order of priority. Where we were unable to match U.S. sales to home market sales of foreign like product, we based NV on CV.

#### Export Price

For all U.S. sales made by Colakoglu, Habas, and ICDAS, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price methodology was not otherwise warranted based on the facts of record. We adjusted the reported data based on our findings at verification. For further discussion, see the April 30, 2003, memoranda to the file entitled "Calculations Performed for Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. for the Preliminary Results in the 2001–2002 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey," (Habas Sales Calculation Memorandum) and "Calculations Performed for ICDAS Celik Enerji Tersane ve Ulasim Sanayi A.S. (ICDAS) for the Preliminary Results in the 2001–2002 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey," (ICDAS Sales Calculation Memorandum).

#### A. Colakoglu

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for inspection fees, lashing and loading expenses, demurrage expenses, overage premium expenses, crane charges (offset by freight commission revenue,

wharfage revenue, despatch revenue, demurrage commission revenue, agency fee revenue, attendance fee revenue, and other freight-related revenue), and ocean freight expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

#### B. Habas

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for foreign inland freight expenses, surveying expenses, brokerage and handling expenses, ocean freight expenses, and marine insurance expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

#### C. ICDAS

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions for foreign inland freight expenses, freight commission expenses, surveying expenses, brokerage and handling fees, loading expenses, demurrage expenses (offset by despatch revenue), overage premium expenses, ocean freight expenses, marine insurance expenses, and U.S. customs duties, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

#### Normal Value

##### A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that each respondent had a viable home market during the POR. Consequently, we based NV on home market sales.

For each respondent, in accordance with our practice, we excluded home market sales of non-prime merchandise made during the POR from our preliminary analysis based on the limited quantity of such sales in the home market and the fact that no such sales were made to the United States during the POR. (*See, e.g., Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length*

*Carbon Steel Plate from Korea*, 58 FR 37176, 37180 (July 9, 1993); *Certain Steel Concrete Reinforcing Bars From Turkey; Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 21634, 21636 (May 1, 2002) (unchanged by the final results) (*Rebar 2000–2001 Review Prelim*); *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review*, 66 FR 56274 (Nov. 7, 2001) and accompanying decision memorandum at *Comment 1*.) We made adjustments to Habas' reported data based on our findings at verification. See the Habas Sales Calculation Memorandum.

#### B. Affiliated Party Transactions and Arm's Length Test

Colakoglu, Habas, and ICDAS made sales of rebar to affiliated parties in the home market during the POR. Consequently, we tested these sales to ensure that they were made at "arm's length" prices, in accordance with 19 CFR 351.403(c). To conduct this test, we compared the unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing expenses. Where prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties at the same level of trade (LOT), we determined that these sales were made at arm's length (see *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27295, 27355 (May 19, 1997)). In accordance with the Department's practice,<sup>2</sup> we only included in our margin analysis those sales to affiliated parties that were made at arm's length.

#### C. Cost of Production Analysis

Pursuant to section 773(b)(2)(A)(ii) of the Act, for Colakoglu, Habas, and ICDAS there were reasonable grounds to believe or suspect that these respondents had made home market sales at prices below their COPs in this review because the Department had disregarded sales that failed the cost test for these companies in the most recently completed segment of this proceeding in which these companies participated (i.e., the 2000–2001 administrative review for Colakoglu and Habas and the

1999–2000 administrative review for ICDAS). As a result, the Department initiated an investigation to determine whether these companies had made home market sales during the POR at prices below their COPs. See 2000–2001 Rebar Review, 67 FR at 66111. See also, *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review*, 66 FR 56274, 56275 (Nov. 7, 2001).

#### 1. Calculation of COP

As noted above, we determined that the Turkish economy experienced significant inflation during the POR. Therefore, in order to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that each respondent submit the product-specific cost of manufacturing (COM) incurred during each month of the reporting period. We calculated a period-average COM for each product after indexing the reported monthly costs during the reporting period to an equivalent currency level using the Turkish Wholesale Price Index from the *International Financial Statistics* published by the International Monetary Fund. We then restated the period-average COMs in the currency values of each respective month.

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the respondents' cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A), interest expenses, and home market packing costs. See the "Test of Comparison Market Sales Prices" section below for treatment of home market selling expenses.

In calculating COP, the Department recently implemented a change in practice regarding the treatment of foreign exchange gains or losses. See *Certain Preserved Mushrooms from India; Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 11045 (Mar. 7, 2003) (*Mushrooms from India*). The Department's previous practice was to have respondents identify the source of all foreign exchange gains and losses (e.g., debt, accounts receivable, accounts payable, cash deposits) at both a consolidated and unconsolidated corporate level. At the consolidated level, the current portion of foreign exchange gains and losses generated by debt or cash deposits were included in the interest expense rate computation. At the unconsolidated producer level, foreign exchange gains and losses on accounts payable were either included in the G&A rate computation, or under

certain circumstances, in the cost of manufacturing. Gains and losses on accounts receivable at both the consolidated and unconsolidated producer levels were excluded from the COP and CV calculations. In addition, for Turkish high inflation cases, at the unconsolidated level, we excluded exchange gains and losses on raw material purchases due to the fact that our replacement cost methodology already accounted for the effect of high inflation on raw material purchases.

Under the Department's new methodology, instead of splitting apart the foreign exchange gains and losses as reported in an entity's financial statements, we will now normally include in the interest expense computation all foreign exchange gains and losses. In doing so, we will no longer include a portion of foreign exchange gains and losses from two different financial statements (i.e., consolidated and unconsolidated producer). Instead, we will only include the foreign exchange gains and losses reported in the financial statement of the same entity used to compute each respondent's net interest expense rate. This new approach recognizes that the key measure is not necessarily what generated the exchange gain or loss, but rather how well the entity as a whole was able to manage its foreign currency exposure in any currency. As such, with the exception of the unusual circumstances related to exchange gains and losses generated by purchased raw materials in Turkish high inflation cases, for these preliminary results, we included all other foreign exchange gains or losses in the interest expense rate computation.

We have followed in this preliminary determination the new policy announced in *Mushrooms from India*, but we have made some modifications to account for the fact that Turkey experienced high inflation during the POR. We note that in the instant case, with regard to foreign exchange gains and losses related to purchased raw materials, we have continued to exclude such amounts at the unconsolidated level due to the fact that these amounts have been accounted for through the Department's replacement cost methodology. In certain fact-specific situations, such as this case where high inflation in Turkey exists and constant currency financial statements are not prepared, it may be necessary for the Department to deviate slightly from its new general practice regarding the treatment of foreign exchange gains or losses. As noted in *Mushrooms from India*, we will address exceptions on a case-by-case basis.

<sup>2</sup> We note that the Department recently adopted a new arm's length test whereby sales to affiliates will be determined to be at arm's length if the prices are, on average, within a range of 98 percent to 102 percent of prices to unaffiliated customers. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (Nov. 15, 2002). The Department's new arm's length test is only applicable to investigations and reviews initiated on or after November 23, 2002, which is subsequent to the initiation of this review.

As this is a change in practice, we invite the parties to the proceeding to comment on this issue.

We relied on the COP information the respondents provided in their questionnaire responses, except for the following adjustments:

#### A. Colakoglu

1. Colakoglu has claimed a proprietary item as a by-product offset to its electricity production costs. Although we have treated this item as a by-product in past segments of this proceeding, we have reconsidered this position for purposes of the preliminary results. Therefore, we have reclassified this item as a co-product. Due to the proprietary nature of this information, we are unable to discuss it here.

For further discussion, see the Preliminary Calculation Memorandum from Nancy Decker to Neal Halper entitled "Cost of Production and Constructed Value Adjustments for the Preliminary Results," dated April 30, 2003.

#### B. Habas

1. We revised the G&A rate calculation to exclude dividend income.

2. We revised the financial expense rate calculation to include all foreign exchange gains and losses, with the exception of foreign exchange gains and losses on raw material purchases. See the policy change discussed above.

For further discussion, see the memorandum from Heidi Schriefer to Neal Halper entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination," dated April 30, 2003.

#### C. ICDAS

1. We revised the reported total COM related to ICDAS's claim for an adjustment for start-up costs. Specifically, we revised the start-up adjustment to reflect an earlier end to the start-up period. In addition, we decreased the time period used to amortize costs related to the difference between the actual costs and the cost of production calculated for the start-up costs.

2. We reclassified the foreign exchange gains earned by ICDAS on home market sales made in foreign currency from G&A expense to financial expense. In addition, we revised the financial expense rate calculation to include all foreign exchange gains and losses, with the exception of foreign exchange gains and losses on raw material purchases. See the policy change discussed above.

For further discussion, see the memorandum from Sheikh M. Hannan

to Neal Halper entitled "Cost of Production and Constructed Value Adjustments for the Preliminary Results," dated April 30, 2003.

#### 2. Test of Home Market Sales Prices

We compared the weighted-average COP figures to home market prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to home market prices, less any applicable movement charges, selling expenses, and packing expenses.

Regarding the indirect selling expense ratios calculated for certain of ICDAS's affiliated resellers, we note that the ratios provided at verification contain errors. See the memorandum from Irina Itkin and Elizabeth Eastwood to Louis Apple entitled "Verification of the Sales Questionnaire Responses of Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. in the Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars (Rebar) from Turkey," dated December 12, 2002, at page 18.

Consequently, because we requested in the verification outline that ICDAS provide an accurate calculation of these expenses based on its financial data and ICDAS did not do so in the time allotted for verification, we have based the indirect selling expenses for certain downstream sales on facts available, in accordance with section 776(a)(2)(D) of the Act. That provision requires the use of facts available when an interested party provides information that cannot be verified. Furthermore, section 776(b) of the Act provides that in selecting from the facts available, the Department may use an inference adverse to the interested party if that party has failed to cooperate to the best of its ability. As noted in the ICDAS Sales Calculation Memorandum, ICDAS had the ability to provide accurate selling expense information to the Department but failed to do so. Accordingly, we find that ICDAS failed to cooperate by not acting to the best of its ability, in accordance with section 776(b) of the Act, and thus we find that an adverse inference is appropriate. As adverse facts available, we have based the indirect selling expenses for certain downstream sales on the highest indirect selling expense ratio reported for ICDAS or any of its affiliates. For further discussion, see the ICDAS Sales Calculation Memorandum.

In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: 1) in substantial quantities within an extended period of time; and 2) at prices which permitted

the recovery of all costs within a reasonable period of time. See sections 773(b)(2)(B), (C), and (D) of the Act.

#### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product were at prices below the COP, we found that sales of that model were made in "substantial quantities" within an extended period of time (as defined in section 773(b)(2)(B) of the Act), in accordance with section 773(b)(2)(C)(i) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we disregarded these below-cost sales for each of the three respondents and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. For those U.S. sales of rebar for which there were no comparable home market sales in the ordinary course of trade, we compared EP to CV in accordance with section 773(a)(4) of the Act.

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, selling, general, and administrative expenses (SG&A), profit, and U.S. packing costs. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

#### D. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as EP. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, SG&A, and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to the unaffiliated U.S. customer.

To determine whether NV sales are at a different LOT 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. If the comparison-market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

All respondents claimed that they made home market sales at only one LOT. We analyzed the information on the record for each company and found that two of these respondents, Colakoglu and Habas, performed essentially the same marketing functions in selling to all of their home market and U.S. customers, regardless of customer category (e.g., end user, distributor). Therefore, we determine that these sales are at the same LOT. We further determine that no LOT adjustment is warranted for these respondents.

Regarding ICDAS, however, we found that this company performs additional selling functions on certain home market sales. Specifically, we found that ICDAS performs an additional layer of selling functions on its sales through affiliated distributors which are not performed on its sales to unaffiliated customers. Because these additional selling functions are significant, we find that ICDAS's sales through affiliated distributors are at a different LOT than its direct sales to unaffiliated parties. We further find that the LOT for U.S. sales is the same as the home market LOT for ICDAS's direct sales to unaffiliated parties because the selling functions performed by ICDAS are essentially the same in both markets. Consequently, we compared ICDAS's EP sales to sales at the same LOT in the home market (i.e., ICDAS's direct home market sales), where possible. Where we could not compare EP sales to home market sales of the most similar product at the same LOT, we made an LOT adjustment in accordance with section 773(a)(7)(A) of the Act. For further discussion, see the memorandum entitled "Concurrence Memorandum," dated April 30, 2003.

#### E. Calculation of Normal Value

##### 1. Colakoglu

We based NV on the starting prices to home market customers. For those home market sales which were negotiated in U.S. dollars, we used the U.S.-dollar price, rather than the Turkish lira (TL) price adjusted for *kur farki* (i.e., an adjustment to the TL invoice price to account for the difference between the

estimated and actual TL value on the date of payment), because the only price agreed upon was a U.S.-dollar price, and this price remained unchanged; the buyer merely paid the TL-equivalent amount at the time of payment. This treatment is consistent with our treatment of these transactions in the most recently completed segment of this proceeding. See *Rebar 2000–2001 Review Prelim*, 67 FR at 21637 (unchanged in the final results). Where appropriate, we made deductions from the starting price for foreign inland freight expenses, in accordance with section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses (offset by interest revenue), bank charges, and exporter association fees.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

Where appropriate, we made adjustments to NV to account for differences in 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 costs of manufacturing for the foreign like product and subject merchandise, using POR-average costs as adjusted for inflation for each month of the POR, as described above.

##### 2. Habas

We based NV on the starting prices to home market customers. Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses and exporter association fees.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

Where appropriate, we made adjustments to NV to account for differences in 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 costs of manufacturing for the foreign like product and subject merchandise, using period-average costs as adjusted for inflation for each month of the reporting period, as described above.

##### 3. ICDAS

We based NV on the starting prices to home market customers. For those home market sales which were negotiated in U.S. dollars, we used the U.S.-dollar

price, rather than the TL price adjusted for *kur farki*, because the only price agreed upon was a U.S.-dollar price, and this price remained unchanged. For further discussion, see above.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made circumstance-of-sale adjustments for credit expenses, exporter association fees, and bank charges. Regarding the home market credit expenses reported for certain of ICDAS's downstream sales, ICDAS based the credit period for these transactions on the average age of each affiliate's accounts receivable (rather than transaction-specific periods); however, we found at verification that payments for individual transactions could reasonably be tied to the corresponding invoices. See the memorandum from Irina Itkin and Elizabeth Eastwood to Louis Apple entitled "Verification of the Sales Questionnaire Responses of the Affiliated Resellers of Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. in the Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey," dated December 6, 2002, at page 4.

Consequently, because we requested that ICDAS report these expenses on a transaction-specific basis and it did not do so, we have based the amount of credit expenses for the sales in question on facts available, in accordance with section 776(a)(2)(D) of the Act. That provision requires the use of facts available when an interested party provides information that cannot be verified. Furthermore, section 776(b) of the Act provides that in selecting from the facts available, the Department may use an inference that is adverse to the interested party if that party has failed to cooperate to the best of its ability. Because ICDAS had the ability to provide accurate transaction-specific information to the Department but failed to do so, we find that ICDAS failed to cooperate by not acting to the best of its ability, in accordance with section 776(b) of the Act, and thus we find that an adverse inference is appropriate. As adverse facts available, we have disallowed home market credit expenses for these transactions. For further discussion, see the ICDAS Sales Calculation Memorandum.

We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6) of the Act.

Where appropriate, we made adjustments to NV to account for differences in 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 costs of manufacturing for the foreign like product and subject merchandise, using POR-average costs as adjusted for inflation for each month of the POR, as described above.

Finally, we made an LOT adjustment under section 773(a)(7)(A) of the Act and 19 CFR 351.412, where appropriate.

For CV-to-EP comparisons, we made an adjustment, where appropriate, for

differences in credit expenses, in accordance with 773(a)(6)(C)(iii) and 773(a)(8) of the Act.

#### Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for Turkish Lira.

Therefore, we made currency

conversions based on exchange rates from the Dow Jones News/Retrieval Service.

#### Preliminary Results of the Review

We preliminarily determine that the following margins exist for the respondents during the period April 1, 2001, through March 31, 2002:

| Manufacturer/Producer/Exporter                            | Margin Percentage |
|-----------------------------------------------------------|-------------------|
| Colakoglu Metalurji A.S. ....                             | 1.75              |
| Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. .... | 2.42              |
| ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S. ....    | 0.34              |

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Interested parties may request a hearing within 30 days of publication. Any hearing, if requested, will be held two days after the date rebuttal briefs are filed. Pursuant to 19 CFR 351.309, interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will issue the final results of the administrative review, including the results of its analysis of issues raised in any such written comments, within 120 days of publication of these preliminary results.

Upon completion of the administrative review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), for Habas and ICDAS, for those sales with a reported entered value, we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

Regarding all of Colakoglu's sales and certain of ICDAS's sales, for assessment purposes, we do not have the information to calculate entered value because these companies were not the importers of record for the subject merchandise. Accordingly, we have calculated importer-specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance

with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific *ad valorem* ratios based on the EPs. Pursuant to 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (i.e., less than 0.50 percent). The Department will issue appraisal instructions directly to the Customs Service.

Further, the following deposit requirements will be effective for all shipments of rebar from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(c) of the Act: 1) the cash deposit rates for the reviewed companies will be the rates established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106, the cash deposit will be zero; 2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, or the less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of

antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 30, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

*Docket Number: 03-017. Applicant: University of California, San Diego,*