

Preliminary Results of Review

As a result of our review, we preliminarily find the following weighted-average dumping margin exists for the period May 1, 2009, through April 30, 2010:

Manufacturer/exporter	Weighted average margin (percentage)
Noksel	0.00%

Disclosure and Public Hearing

The Department will disclose calculations performed within five days of the date of publication of this notice in accordance with section 351.224(b) of the Department's regulations. An interested party may request a hearing within thirty days of publication. See section 351.310(c) of the Department's regulations. Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to section 351.310(d) of the Department's regulations. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

Comments

Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 35 days after the date of publication of this notice. See 19 CFR 351.309(d). Parties who submit arguments in this proceeding are requested to submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Upon

completion of this administrative review, pursuant to section 351.212(b) of the Department's regulations, the Department will calculate an assessment rate on all appropriate entries. Noksel has reported entered values for all of its sales of subject merchandise to the United States during the POR. Therefore, in accordance with section 351.212(b)(1) of the Department's regulations, we will calculate importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales of that importer. These rates will be assessed uniformly on all entries the respective importers made during the POR. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. The Department intends to issue appropriate assessment instructions directly to CBP fifteen days after publication of the final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company involved in the transaction. *Id.*

Cash Deposit Requirements

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of light-walled rectangular pipe and tube 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 by section 751(a)(1) of the Act: (1) The cash deposit rate for Noksel will be the rate established in the final results of review; (2) 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 (3) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the all-others rate of

27.04 percent *ad valorem* from the LTFV investigation. See *Notice of Antidumping Duty Order: Light-Walled Rectangular Pipe and Tube From Turkey*, 73 FR 31065 (May 30, 2008). These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) 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 the antidumping duties.

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

Dated: May 31, 2011.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011-14172 Filed 6-7-11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-501]

Certain Welded Carbon Steel Pipe and Tube From Turkey; Notice of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: In response to a request by interested parties, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain welded carbon steel pipe and tube ("welded pipe and tube") from Turkey. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 75 FR 37759 (June 30, 2010) ("*Review Initiation*").¹ This review covers the Borusan Group² (collectively

¹ Tubeco Pipe and Steel Corporation was mistakenly listed as a company for which the Department received a request for review.

² The Borusan Group includes Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Birlesik Boru Fabrikalari San ve Tic., Borusan Istikbal Ticaret T.A.S., Borusan Holding A.S., Borusan Gemlik Boru Tesisleri A.S., Borusan

“Borusan”) and Toscelik.³ We preliminarily determine that Borusan and Toscelik made sales below normal value (“NV”). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties based on the difference between the export price (“EP”) and the NV. The preliminary results are listed below in the section titled “Preliminary Results of Review.”

DATES: *Effective Date:* June 8, 2011.

FOR FURTHER INFORMATION CONTACT:

Dennis McClure or Victoria Cho, at (202) 482-5973 or (202) 482-5075, respectively; AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1986, the Department published in the **Federal Register** the antidumping duty order on welded pipe and tube from Turkey. *See Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products From Turkey*, 51 FR 17784 (May 15, 1986) (“*Antidumping Duty Order*”). On May 3, 2010, the Department published a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 75 FR 23236 (May 3, 2010). On May 28, 2010, in accordance with 19 CFR 351.213(b)(2), Borusan and Toscelik requested reviews. On June 1, 2010, in accordance with 19 CFR 351.213(b)(1), domestic interested party U.S. Steel requested reviews of Borusan and Toscelik.

On June 30, 2010, the Department published a notice of initiation of administrative review of the antidumping duty order on welded pipe and tube from Turkey, covering the period of review (“POR”) of May 1, 2009, through April 30, 2010. *See Review Initiation*.

On July 13, 2010, the Department sent antidumping duty administrative review questionnaires to Borusan and Toscelik.⁴ We received Borusan’s and

Toscelik’s Sections A–D questionnaire response in September 2010. We issued supplemental section A, B, C, and D questionnaires, to which Borusan and Toscelik responded during November and December, 2010, and February 2011.

On January 19, 2011, the Department extended the time period for issuing the preliminary results of the administrative review from January 31, 2011, to May 31, 2011. *See Certain Welded Carbon Steel Pipe and Tube from Turkey: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 3083 (January 19, 2011).

Period of Review

The POR covered by this review is May 1, 2009, through April 30, 2010.

Scope of the Order

The products covered by this order include circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, or galvanized, painted), or end finish (plain end, beveled end, threaded and coupled). Those pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included in the scope of this order, except for line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55,

(cost of further manufacturing or assembly performed in the United States).

7306.30.50.85, and 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Product Comparisons

We compared the EP to the NV, as described in the *Export Price* and *Normal Value* sections of this notice. In accordance with section 771(16) of the Tariff Act of 1930, as amended (“the Act”), we first attempted to match contemporaneous sales of products sold in the United States and comparison market that were identical with respect to the following characteristics: (1) Grade; (2) nominal pipe size; (3) wall thickness; (4) surface finish; and (5) end finish. When there were no sales of identical merchandise in the home market to compare with U.S. sales, we compared U.S. sales with the most similar merchandise based on the characteristics listed above in order of priority listed.

Export Price

Because Borusan and Toscelik sold subject merchandise directly to the first unaffiliated purchaser in the United States prior to importation, and constructed export price (“CEP”) methodology was not otherwise warranted based on the record facts of this review, in accordance with section 772(a) of the Act, we used EP as the basis for all of Borusan and Toscelik’s sales.

We calculated EP using, as the starting price, the packed, delivered price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made the following deductions from the starting price (gross unit price), where appropriate: foreign inland freight from the mill to port, foreign brokerage and handling, and international freight.

In addition, Borusan reported an amount for duty drawback which represents the amount of duties on imported raw materials associated with a particular shipment of subject merchandise to the United States that is exempted upon export. Borusan requested that we add the amount to the starting price. *See* page C–35 of Borusan’s September 3, 2010, original response. To determine if a duty drawback adjustment is warranted, the Department has employed a two-prong test which determines whether: (1) The rebate and import duties are dependent upon one another, or in the context of an exemption from import duties, if the exemption is linked to the exportation of the subject merchandise; and (2) the respondent has demonstrated that there

Ihracat Ithalat ve Dagitim A.S., and Borusan Ithicat ve Dagitim A.S.

³ Toscelik Profil ve Sac Endustrisi A.S., Toscelik Metal Ticaret A.S., and Tasyali Dis Ticaret A.S. (collectively “Toscelik”).

⁴ The questionnaire consists of sections A (general information), B (sales in the home market or to third countries), C (sales to the United States), D (cost of production/constructed value), and E

are sufficient imports of the raw material to account for the duty drawback on the exports of the subject merchandise. *See Allied Tube & Conduit Corp. v. United States*, 29 C.I.T. 502, 506 (Ct. Int'l Trade 2005). *See also Certain Steel Concrete Reinforcing Bars From Turkey; Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review and Notice of Intent to Revoke in Part*, 72 FR 25253, 25256 (May 4, 2007), unchanged in *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination To Revoke in Part*, 72 FR 62630 (November 6, 2007).

After analyzing the facts on the record of this case, we find that Borusan has adequately demonstrated that import duties for raw materials and rebates granted on exports are linked under the Government of Turkey's duty drawback scheme. *See Borusan's* September 3, 2010, Section C response at 35–38. Additionally, Borusan has provided evidence that its imports of hot-rolled coil are sufficient to account for the duty drawback claimed on the export of subject merchandise. *See id.* Therefore, consistent with our determination in the 2007–2008 administrative review, we are granting Borusan a duty drawback adjustment for purposes of the preliminary results. *See Certain Welded Carbon Steel Pipe and Tube from Turkey: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 6368 (February 9, 2009), unchanged in *Certain Welded Carbon Steel Pipe and Tube From Turkey: Notice of Final Results of Antidumping Duty Administrative Review*, 74 FR 22883 (May 15, 2009) (“2007–08 Administrative Review”).

Normal Value

A. Selection of Comparison Market

To determine whether there was a sufficient volume of sales in the comparison market, *i.e.*, Turkey, to serve as a viable basis for calculating NV, we compared Borusan's and Toscelik's home market sales volumes of the foreign like product to their U.S. sales volume of the subject merchandise, in accordance with section 773(a)(1) of the Act. For each company, the aggregate home market sales volume of the foreign like product was greater than five percent of the U.S. sales volume of the subject merchandise. Therefore, we determine that the home market was viable for comparison purposes for Borusan and Toscelik.

B. Affiliated Party Transactions and Arm's Length Test

We included in our analysis Borusan's and Toscelik's home market sales to affiliated customers only where we determined that such sales were made at arm's-length prices, *i.e.*, at prices comparable to prices at which Borusan and Toscelik sold identical merchandise to their unaffiliated customers. Borusan's and Toscelik's sales to affiliates constituted less than five percent of overall home market sales. To test whether the sales to affiliates were made at arm's-length prices, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. Where the prices to that affiliated party were, on average, within a range of 98 to 102 percent of the prices of comparable merchandise sold to unaffiliated parties, we determined that the sales made to the affiliated party were at arm's-length. *See Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative: Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta From Italy*, 71 FR 45017, 45020 (August 8, 2006) (unchanged in *Notice of Final Results of the Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta From Italy*, 72 FR 7011 (February 14, 2007)); 19 CFR 351.403(c). *See also* Memorandum from Dennis McClure to The File, “Analysis Memorandum for Toscelik Profil ve Sac Endustrisi A.S.” (“Toscelik Sales Calculation Memo”) and Memorandum from Victoria Cho to The File, “Analysis Memorandum for the Borusan Group” (“Borusan Sales Calculation Memo”) dated May 31, 2011. Conversely, where we found that the sales to an affiliated party did not pass the arm's-length test, then all sales to that affiliated party have been excluded from the NV calculation. *See id.* *See also Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

C. Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act, at 829–831 (*see* H.R. Doc. No. 316, 103d Cong., 2d Sess. 829–831 (1994)), to the extent practicable, the Department calculates NV based on sales at the same level of trade (“LOT”) as U.S. sales, either EP or CEP. When the Department is unable to find sale(s) in the comparison market at the same

LOT as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at different LOTs. The NV LOT is that of the starting price sales in the home market. To determine whether home market sales are at a different LOT than U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See Honey From Argentina: Preliminary Results of Antidumping Duty Administrative Review and Intent to Revoke Order in Part*, 73 FR 79802, 79805 (December 30, 2008) (“Honey from Argentina”). If the comparison market sales are at a different LOT and the differences affect 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 a LOT adjustment under section 773(a)(7)(A) of the Act. *See Honey from Argentina*, 73 FR at 79805.

In implementing these principles, we examined information from Borusan and Toscelik regarding the marketing stages involved in the reported home market and EP sales, including a description of the selling functions performed by Borusan and Toscelik for the channels of distribution in the home market and U.S. market. *See Borusan's* September 3, 2010, Section A response and Toscelik's September 3, 2010, Section A response. We analyzed the selling functions, as noted below, by grouping them into the following selling function activities: sales process and marketing support, freight and delivery, inventory maintenance, and quality assurance/warranty service.

For home market sales, we found that Borusan's mill direct sales comprised one LOT. Furthermore, Borusan provided similar selling functions to each type of customer (*i.e.* trading companies/distributors and industrial end-users/construction companies), with the exception of rebates grouped into the sales process and marketing category which were given to trading companies/distributors. *See pages A–17–18 and Exhibit A–6 of Borusan's* September 3, 2010, response.

We found that Borusan's U.S. sales were also made at only one LOT. Borusan reports one channel of distribution, and sales are negotiated on an order-by-order basis with an unaffiliated trading company. *See page A–20–22 of Borusan's* September 3, 2010, response.

We then compared Borusan's home market LOT and with the U.S. LOT. We note the selling functions do not differ for the activities falling under inventory

maintenance (*i.e.*, forward inventory maintenance and sales from warehouse), quality assurance/warranty service (*i.e.*, provide warranty service), and freight and delivery (*i.e.*, act as agent or coordinate production/delivery for customer with mill and coordinate freight and delivery arrangement). Furthermore, we note that the selling functions grouped under sales process and marketing, such as customer advice/product information, discounts, advertising, and rebates only differ somewhat between the home market LOT and U.S. LOT. *See* page A-17-23 of Borusan's September 3, 2010, response. Therefore, we determined that Borusan's single LOT in the U.S. market is comparable with the LOT in the home market and did not find it necessary to make a LOT adjustment.

In the home market, Toscelik reported that they sold through one channel of distribution: Ex works. Toscelik also reported that they sold to one customer category, distributors. Toscelik reported the following selling activities in the home market: (1) Packing, (2) Order Input/Processing, (3) Direct Sales Personnel, (4) Sales/Marketing Support, and (5) Warranty Service. *See* Toscelik's section A-D antidumping questionnaire response ("Toscelik QR response"), dated September 3, 2010, at Exhibit 6. We found Toscelik's home market sales constitute one level of trade.

In the U.S. market, Toscelik made direct sales on an EP basis through one channel of distribution to unaffiliated trading companies. Toscelik identified the following selling activities in the U.S. market: (1) Packing, (2) Order Input/Processing, (3) Direct Sales Personnel, and (4) Sales/Marketing Support. *Id.* We found that Toscelik's sales to the United States were made to one LOT. Further, we find only minor differences between the sole home market LOT and that of Toscelik's U.S. LOT. Accordingly, we preliminarily determine that Toscelik's home market LOT and U.S. LOT are comparable, and that a LOT adjustment is not appropriate for Toscelik in this case.

D. Cost-Averaging Methodology

The Department's normal practice is to calculate an annual weighted-average cost for the POR. *See Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (December 13, 2000), and accompanying Issues and Decision Memorandum at Comment 18, and *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada*, 71 FR 3822 (January 24, 2006), and accompanying

Issues and Decision Memorandum at Comment 5 (explaining the Department's practice of computing a single weighted-average cost for the entire period). However, we recognize that possible distortions may result if we use our normal annual-average cost method during a period 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 using two primary factors: (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 averaging periods could be reasonably linked with the cost of production ("COP") or constructed value ("CV") during the same shorter averaging periods. *See Stainless Steel Sheet and Strip in Coils From Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) ("*SSSS from Mexico*"), and accompanying Issues and Decision Memorandum 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 Issues and Decision Memorandum at Comment 4.

1. 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. *See SSPC from Belgium* at Comment 4. In the instant case, record evidence shows that both Borusan and Toscelik experienced significant changes (*i.e.*, changes that exceeded 25 percent) between the high and low quarterly COM during the POR for the highest sales volume welded pipe and tube products. *See* Memorandum from Laurens van Houten to Neal M. Halper, Director of Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Borusan Mannesmann Boru Sanayi ve Ticaret A.S." ("Borusan Cost Calculation Memo") and Memorandum from Laurens van Houten to Neal M. Halper, Director of Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Toscelik Profil ve Sac Endustrisi S.A.," ("Toscelik Cost Calculation Memo") dated May 31, 2011. This change in COM is

attributable primarily to the price volatility for hot-rolled carbon steel coil used in the manufacture of welded pipe and tube. *See id.* We found that prices for hot-rolled carbon steel coil changed significantly throughout the POR and, as a result, directly affected the cost of the material inputs consumed by Borusan and Toscelik. *See id.*

2. Linkage Between Cost and Sales Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR. *See SSSS from Mexico* at Comment 6 and *SSPC from Belgium* at Comment 4. Absent a surcharge or other pricing mechanism, the Department may alternatively look for evidence of a clear pattern that changes in selling prices reasonably correlate to changes in unit costs. *See SSPC from Belgium* at Comment 4. To determine whether a reasonable correlation existed between the sales prices and their underlying costs during the POR, for each respondent, we compared weighted-average quarterly prices to the corresponding quarterly COM for the control numbers ("CONNUMs") with the highest volume of sales in the comparison market and the United States. Our comparison revealed that sales and costs for a majority of the selected CONNUMs for Borusan showed reasonable correlation. *See* Borusan's Cost Calculation Memo. After reviewing this information and determining that changes in selling prices reasonably correlate to changes in unit costs, we preliminarily determine that there is linkage between Borusan's changing costs and sales prices during the POR. *See id.* *See also SSSS from Mexico* at Comment 6 and *SSPC from Belgium* at Comment 4. Because we have found significant cost changes in COM as well as reasonable linkage between costs and sales prices, we have preliminarily determined that a quarterly costing approach is appropriate for Borusan.

For Toscelik, however, our analysis revealed that the quarterly average sales prices and costs did not show reasonable correlation. *See* Toscelik's Cost Calculation Memo. Although we have found significant cost changes in COM, we have not found reasonable linkage between costs and sales prices. Therefore, for Toscelik, we have used our normal annual average cost methodology for the preliminary results.

E. Cost of Production Analysis

The Department disregarded sales below the COP in the last completed

review in which Borusan and Toscelik participated. *See* 2007–08 *Administrative Review and Notice of Preliminary Results of Antidumping Duty New Shipper Review: Certain Welded Carbon Steel Pipe and Tube from Turkey*, 71 FR 26043 (May 3, 2006), unchanged in *Notice of Final Results of Antidumping Duty New Shipper Review: Certain Welded Carbon Steel Pipe and Tube From Turkey*, 71 FR 43444, (August 1, 2006). Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Borusan and Toscelik made sales of the subject merchandise in their comparison market at prices below the COP in the current review period. Thus, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Borusan and Toscelik.

1. Calculation of Cost of Production

Before making any comparisons to NV, we conducted a sales below cost analysis of Borusan and Toscelik pursuant to section 773(b) of the Act, to determine whether Borusan's and Toscelik's comparison market sales were made at prices below the COP. We compared sales of the foreign like product in the home market with model-specific COP figures. In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication employed in producing the foreign like product, plus amounts for SG&A expenses, financial expenses and all costs incidental to placing the foreign like product in packed condition and ready for shipment.

In our sales-below-cost analysis, we relied on the COP information provided by Borusan and Toscelik in their questionnaire responses except in the case of Toscelik, where we have calculated an annual weighted average material cost for each control number and we calculated the net financial expense ratio based on the December 31, 2009, consolidated financial statements of Tosyali Holdings A.S. *See* Toscelik's Cost Calculation Memo.

2. Test of Comparison Market Prices

In determining whether to disregard Borusan's and Toscelik's home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. As noted in section 773(b)(2)(D)

of the Act, prices are considered to provide for recovery of costs if such prices are above the weighted average per-unit COP for the period of investigation or review. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, direct and indirect selling expenses, and packing expenses. *See* Toscelik Sales Calculation Memo and Borusan Sales Calculation Memo.

As discussed above, we have determined it appropriate to rely on our alternative quarterly cost calculation approach for Borusan in this review. In light of the Court's decisions in *SeAH Steel Corp. v. United States*, 704 F. Supp. 2d 1353 (Ct. Int'l Trade 2010), and *SeAH Steel Corporation v. United States*, 2011 Ct. Int'l. Trade LEXIS 32, Slip. Op. 2011–33 (Ct. Int'l. Trade March 29, 2011) ("*SeAH Second Remand*"), we have used a new approach to testing for cost recovery when using our alternative quarterly cost methodology. Under this new approach, we calculated a CONNUM-specific weighted-average annual price using only those sales that failed the cost test, and compared the resulting weighted average price to the weighted-average annual cost per CONNUM. If the weighted-average annual price per CONNUM is above the weighted-average annual cost per CONNUM then we have restored all of the below-cost sales of that CONNUM to the normal value pool of sales available for comparison with U.S. sales. The Department believes this alternative complies with the statutory mandate at section 773(b)(2)(D) of the Act to use a weighted-average cost for the period. It also conforms with the Statement of Administrative Action H.R. Doc. No. 103–316, vol. 1, p. 832 (1994) which clarifies that "the determination of cost recovery is based on an analysis of actual weighted-average prices and cost during the period of investigation or review * * *" We invite interested parties to comment on this methodology in their case and rebuttal briefs.

In prior cases, we used an indexation methodology when calculating quarterly costs for both the sales-below-cost test and the cost recovery test. *See* SSSS *from Mexico and SSPC from Belgium*. Specifically, we indexed the quarterly average material costs reported for each CONNUM to the end of the POR, calculated a weighted-average cost for each CONNUM, and then indexed the weighted-average cost back to each quarter of the POR. In light of the *SeAH Second Remand*, which precluded the use of indexing in the cost recovery test,

we have not used an indexing methodology when calculating quarterly costs for purposes of the cost recovery test in this review.

For the sales-below-cost test we have used the quarterly costs as recorded in Borusan's normal books and records and reported to the Department. We have not applied an indexation adjustment to Borusan's reported quarterly average cost because there is no indication that such costs, which are based on their normal books and records, unreasonably reflect the cost to produce such merchandise.

3. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of 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 less than the COP we disregarded the below-cost sales because: (1) They were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of POR prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our cost test for Toscelik revealed that, for home market sales of certain models, less than 20 percent of the sales of those models were made at prices below the COP. Therefore, we retained all such sales in our analysis and included them in determining NV. Our cost test for Toscelik also indicated that for home market sales of other models, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below cost sales from our analysis and used the remaining above-cost sales to determine NV. *See* Toscelik Sales Calculation Memo.

F. Calculation of NV Based on Comparison Market Prices

For Borusan and Toscelik, for those comparison products for which there were sales at prices above the COP, we based NV on home market prices. In these preliminary results, we were able to match all U.S. sales to contemporaneous sales, made in the

ordinary course of trade, with sales of either an identical or a similar foreign like product, based on matching characteristics. We calculated NV based on ex works or delivered prices to unaffiliated customers, or prices to affiliated customers which were determined to be at arm's length (*see* discussion above regarding these sales). We made adjustments, where appropriate, from the starting price for billing adjustments, discounts, rebates, and inland freight. Additionally, we added interest revenue. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs.

In accordance with section 773(a)(6)(C)(iii) of the Act, we adjusted for differences in the circumstances of sale. These circumstances included differences in imputed credit expenses⁵ and other direct selling expenses, such as the expense related to bank charges and factoring. We also made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) 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 the Turkish lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Business Information Services.

Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from a benchmark rate by 2.25 percent. The benchmark rate is defined as the rolling average of the rates for the past 40 business days. When we determine that a fluctuation existed, we generally utilize the benchmark rate instead of the daily rate, in accordance with established practice. We did not find that a fluctuation existed during the POR in this case and therefore, used the daily exchange rate.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the

following margin exists for the period May 1, 2008, through April 30, 2009:

Manufacturer/exporter	Weighted-average margin (percent)
Borusan	5.26
Toscelik	4.74

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 37 days after the date of publication of this notice. Parties who submit arguments are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on a diskette. Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). If requested, a hearing will be held 44 days after the publication of this notice, or the first workday thereafter. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from publication of this notice.

Assessment

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries, pursuant to section 751(a)(1)(B) of the Act and 19 CFR 351.212(b). The Department calculated importer-specific duty assessment rates on the basis of the ratio of the total antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of

subject merchandise during the period of review produced by companies included in these preliminary results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit rates will be effective upon publication of the final results of this administrative review for all shipments of welded pipe and tube from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the companies listed above will be the rates established in the final results of this review; (2) for previously reviewed or 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, a prior 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) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation conducted by the Department, the cash deposit rate will be 14.74 percent, the "All Others" rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping and/or countervailing 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 and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

⁵ We recalculated credit expense for all sales where payment date occurred before the shipment date and zero was reported as the imputed credit expense. In addition, we recalculated credit for sales with a missing payment date using May 31, 2011, the date of the preliminary results. *See* Toscelik Sales Calculation Memo.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 31, 2011.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import
Administration.

[FR Doc. 2011-14032 Filed 6-7-11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-008]

Preliminary Results of Antidumping Duty Administrative Review: Circular Welded Carbon Steel Pipes and Tubes From Taiwan

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes from Taiwan for the period of review (POR) of May 1, 2009, to April 30, 2010. We preliminarily determine that sales of subject merchandise by Yieh Phui Enterprise Co., Ltd. (Yieh Phui) have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on appropriate entries. Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the publication of this notice.

DATES: *Effective Date:* June 8, 2011.

FOR FURTHER INFORMATION CONTACT:
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0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 1984, the Department published in the **Federal Register** an antidumping duty order on circular welded carbon steel pipes and tubes from Taiwan. *See Certain Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Antidumping Duty Order*, 49 FR 19369 (May 7, 1984) (*Antidumping Duty Order*). On May 3, 2009, the Department issued a notice of opportunity to request an administrative

review of this order for the POR. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 75 FR 23236, 23237 (May 3, 2010). On June 1, 2010, a domestic producer, U.S. Steel Corporation (petitioner), requested an administrative review of Yieh Phui Enterprise Co., Ltd. (Yieh Phui) and Yieh Hsing Enterprise Co., Ltd. (Yieh Hsing). Yieh Phui requested an administrative review of itself on June 1, 2010. On June 30, 2010, the Department published the notice of initiation of this antidumping duty administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 75 FR 37759 (June 30, 2010). The Department issued its original questionnaire to Yieh Phui and Yieh Hsing on July 1, 2010.

On November 18, 2010, the Department published a notice rescinding the review with respect to Yieh Hsing, following petitioner's withdrawal of its request for an administrative review of that company. *See Circular Welded Carbon Steel Pipes and Tubes From Taiwan: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 70723 (November 18, 2010).

Yieh Phui submitted a response to Section A of the Department's questionnaire on July 29, 2010, and a response to Sections B, C, and D of the Department's questionnaire on August 23, 2010. In response to the Department's September 1, 2010, supplemental questionnaire pertaining to Yieh Phui's Section A response, Yieh Phui submitted a response on September 29, 2010. In response to the Department's September 13, 2010, supplemental questionnaire pertaining to Yieh Phui's Section D response, Yieh Phui submitted a response on October 15, 2010. In response to the Department's October 14, 2010, supplemental questionnaire covering Sections A-C, Yieh Phui submitted a response on November 9, 2010. In response to the Department's December 10, 2010, supplemental questionnaire covering Sections A-D, Yieh Phui submitted a response on January 7, 2011. In response to the Department's January 24, 2011 supplemental questionnaire, Yieh Phui submitted a response on February 14, 2011. On March 25, 2011, the petitioner submitted comments and recommendations for the Department to consider in reaching its preliminary results. On April 20, 2011, Yieh Phui provided a response to the petitioner's

March 25, 2011 comments and recommendations.

On January 20, 2011, the Department extended the deadline for completion of the preliminary results by 120 days, to May 31, 2011. *See Circular Welded Pipes and Tubes from Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 3612 (January 20, 2011).

Scope of the Order

The merchandise covered by this order is certain circular welded carbon steel pipes and tubes from Taiwan, which are defined as: Welded carbon steel pipes and tubes, of circular cross section, with walls not thinner than 0.065 inch, and 0.375 inch or more but not over 4.5 inches in outside diameter, currently classified under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7306.30.5025, 7306.30.5032, 7306.30.5040, and 7306.30.5055. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to this order is dispositive.

Comparisons to Normal Value

To determine whether sales of certain circular welded carbon steel pipes and tubes to the United States were made at less than NV, we compared the export price (EP) to the NV, as described in the "Export Price" and "Normal Value" sections of this notice.

Pursuant to sections 773(a)(1)(B)(i) and 777A(d)(2) of the Act, for Yieh Phui, we compared the EPs of individual transactions, as applicable, to the weighted-average NV of the foreign like product in the appropriate corresponding calendar month where there were sales made in the ordinary course of trade, as discussed in the "Cost of Production Analysis" section below.

Export Price

For the price to the United States, we used export price (EP), as defined in section 772(a) of the Tariff Act of 1930, as amended (the Act). Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the producer or exporter outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under section 772(c) of the Act (*see discussion immediately below*). We calculated an EP for Yieh Phui's U.S. sales because they were made directly to the first unaffiliated purchaser in the United States prior to importation and