

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 doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation, which is subject to sanction.

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

Dated: April 6, 2004.

**James J. Jochum,**  
*Assistant Secretary for Import Administration.*

#### Appendix

##### List of Comments and Issues in the Decision Memorandum

1. Date of Sale
2. Home Market Duty Drawback
3. Margin Adjustment for Export Subsidy
4. Slab Costs
5. Income Offsets to the General and Administrative Expenses
6. Financial Expense Offset

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-890]

#### Notice of Postponement of Preliminary Determination of Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China

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

**ACTION:** Notice of Postponement of Preliminary Determination of Antidumping Duty Investigation.

**EFFECTIVE DATE:** April 13, 2004.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bertrand or Robert Bolling, Import Administration, International Trade Administration, U.S. Department

of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-3207, (202) 482-3434, respectively.

**SUMMARY:** The Department of Commerce ("Department") is postponing the preliminary determination in the antidumping duty investigation of wooden bedroom furniture from the People's Republic of China ("PRC") from April 28, 2004, until no later than June 17, 2004. This postponement is made pursuant to section 733(c)(1)(A) of the Tariff Act of 1930, as amended ("the Act").

#### SUPPLEMENTARY INFORMATION:

##### Postponement of Preliminary Determination

On December 17, 2003, the Department published the initiation of the antidumping duty investigation of imports of wooden bedroom furniture from the PRC. See Initiation of Antidumping Duty Investigation: Wooden Bedroom Furniture from the People's Republic of China, 68 FR 70228 (December 17, 2003). The notice of initiation stated that we would make our preliminary determination for this antidumping duty investigation no later than 140 days after the date of issuance of the initiation.

On March 31, 2004, Petitioners<sup>1</sup> made a timely request pursuant to 19 CFR §351.205(e) for a fifty-day postponement of the preliminary determination, or until June 17, 2004. Petitioners requested postponement of the preliminary determination because it believes additional time is necessary to allow Petitioners to review the responses to the supplemental questionnaires and submit comments to the Department, and also to allow the Department time to analyze thoroughly the respondents' data and to seek additional information, if necessary.

For the reasons identified by the Petitioners, and because there are no compelling reasons to deny the request, we are postponing the preliminary determination under section 733(c)(1) of the Act. Therefore, the preliminary determination is now due no later than June 17, 2004. The deadline for the final determination will continue to be 75 days after the date of the preliminary determination.

<sup>1</sup> Petitioners are: American Furniture Manufacturers Committee for Legal Trade and its individual members; the Cabinet Makers, Millmen and Industrial Carpenters Local 721; UBC Southern Council of Industrial Workers Local Union 2305; United Steel Workers of America Local 193U; Carpenters Industrial Union Local 2093; and Teamsters, Chauffeurs, Warehousemen and Helpers Local 991.

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

Dated: April 6, 2004.

**James J. Jochum,**  
*Assistant Secretary for Import Administration.*

[FR Doc. 04-8374 Filed 4-12-04; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-489-812]

#### Light-Walled Rectangular Pipe and Tube from Turkey; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

**ACTION:** Notice of preliminary determination of sales at less than fair value and postponement of final determination.

**EFFECTIVE DATE:** April 13, 2004.

**FOR FURTHER INFORMATION CONTACT:** Paige Rivas (Goven) at (202) 482-0651; Timothy Finn or Drew Jackson (MMZ) at (202) 482-0065, and (202) 482-4406, respectively; and Mark Manning (Ozborsan) at (202) 482-5253, AD/CVD Enforcement Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that light-walled rectangular pipe and tube (LWRPT) from Turkey is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

##### Case History

On September 9, 2003, the Department received a petition for the imposition of antidumping duties on LWRPT from Mexico and Turkey, filed in proper form by California Steel and Tube, Hannibal Industries, Inc., Leavitt Tube Company, LLC, Maruichi American Corporation, Northwest Pipe Company, Searing Industries, Inc., Vest

Inc., and Western Tube and Conduit Corporation (collectively, the petitioners). See Letter from petitioners to Secretary Evans of the Department and Secretary Abbott of the U.S. International Trade Commission (ITC), "Petition for the Imposition of Antidumping Duties: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey," dated September 9, 2003 (Petition). The Department initiated the antidumping investigation of LWRPT from Turkey on September 29, 2003. See *Notice of Initiation of Antidumping Investigations: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, 68 FR 57667 (October 6, 2003) (*Initiation Notice*). Since the initiation of this investigation, the following events have occurred.

On October 14 and 15, 2003, the Department issued a shortened version of section A<sup>1</sup> of the antidumping questionnaire to eighteen pipe and tube producers in Turkey, in which each company was asked to provide the quantity and value of its shipments of subject merchandise to the United States during the period of investigation (POI). The Department received responses from these companies during the period October 24, 2003 through November 10, 2003.

On October 17, 2003, the Department issued to interested parties a set of proposed physical product characteristics that it intends to use to make its fair value comparisons. The Department received comments on its proposed physical product characteristics from MMZ Onur Boru Profil Uretim San. Ve. Tic. A.S. (MMZ) and Noksel Celik Boru Sanayi A.S. (Noksel) on October 28, 2003. The Department received rebuttal comments from the petitioners and Yucel Boru Ve Profil A.S. (Yucel Boru) on November 4, 2003.

On October 24, 2003, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of LWRPT from Mexico and Turkey that are alleged

<sup>1</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all of the company's home market sales of foreign like product or, if the home market is not viable, of sales of the foreign like product in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of the company's U.S. sales of subject merchandise. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

to be sold in the United States at LTFV. See *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, 68 FR 61829 (October 30, 2003).

On November 14, 2003, the Department selected Guven Boru Ve. Profil San. Ve. Tic. Ltd. Sti. (Guven), MMZ, Ozborsan Boru San. Ve. Tic. (Ozborsan) (collectively, respondents), as mandatory respondents in this investigation. See Memorandum from Mark Manning, Senior Import Compliance Specialist, to Thomas F. Futtner, Acting Office Director, "Selection of Respondents for the Antidumping Investigation of Light-Walled Rectangular (LWR) Pipe and Tube from Turkey," dated November 14, 2003, (Respondent Selection Memo).

On November 21, 2003, the Department issued sections A-E of its antidumping questionnaire to the respondents, which included the Department's final physical product characteristics to be used to make fair value comparisons. Section D of the questionnaire included special instructions on how to report costs of production in an economy experiencing high inflation.

We received responses to section A of the questionnaire from MMZ and Ozborsan on December 17, 2003, and from Guven on January 12, 2004. We received responses to sections B, C, and D of the questionnaire from MMZ and Ozborsan in January 2004, and from Guven in February 2004. We issued supplemental questionnaires, pertaining to sections A through D of the questionnaire, to the respondents from January through March 2004. Respondents replied to these supplemental questionnaires in February and March 2004. Ozborsan filed its response and supplemental responses to the Department's questionnaires on a joint basis with its sister company, Onur Metal (Onur).

On January 28, 2004, petitioners submitted a letter in support of the postponement of the preliminary determination. On February 5, 2004, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation by 50 days, from February 16, 2004, until April 6, 2004. See *Light-walled Pipe and Tube from Mexico and Turkey: Notice of Postponement of Preliminary Antidumping Duty Determinations*, 69 FR 5487 (February 5, 2004).

On February 19, 2004, the Department issued the antidumping duty questionnaire to Ozdemir Boru Profil San. Ve. Tic. Ltd. Sti. (Ozdemir) in order to examine its relationship with certain other Turkish respondents. The

Department requested that Ozdemir submit its response to section A of the questionnaire by March 12, 2004. On March 17, 2004, the Department notified Ozdemir that its response to section A of the questionnaire was past due and requested that Ozdemir notify the Department by March 22, 2004, if it had encountered unexpected difficulties in submitting its response. On March 18, 2004, Ozdemir sent a letter to the Department in which it requested a two week extension of the deadline for submitting its section A response. On March 22, 2004, Ozdemir provided an incomplete response to section A of the Department's questionnaire. Furthermore, Ozdemir did not provide a response to sections B, C, and D of the questionnaire, which were due on March 26, 2004, nor did it request an extension of this deadline.

#### Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On March 19, 2004, Ozborsan/Onur requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Ozborsan/Onur also included a request to extend the period for any provisional measures from a period of four months to not more than six months after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting parties account for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

### Period of Investigation

The POI is July 1, 2002, through June 30, 2003. See 19 CFR 351.204(b)(1).

### Scope Comments

In accordance with the preamble to the Department's regulations (see *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage of the scope of the investigation and encouraged all parties to submit comments on product coverage within 20 calendar days of publication of the *Initiation Notice* (see 68 FR 57668). As noted above, no comments were submitted to the record of this investigation. However, certain Mexican producers and the petitioners provided comments regarding the scope of these investigations. See the preliminary determination of the antidumping investigation on LWRPT from Mexico.

### Scope of Investigation

The merchandise covered by this investigation is LWRPT from Turkey, which are welded carbon-quality pipe and tube of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. These LWRPT have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, regardless of specification. LWRPT are currently classifiable under item number 7306.60.5000 of the Harmonized Tariff System of the United States (HTSUS). The HTSUS item number is provided for convenience and customs purposes only. The written product description of the scope is dispositive.

The term "carbon-quality" applies to products in which (i) iron predominates, by weight, over each of the other contained elements, (ii) the carbon content is 2 percent or less, by weight, and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium (also called columbium), or 0.15 percent of vanadium, or 0.15 percent of zirconium.

### Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate weight-

average individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can reasonably be examined. As guidance in selecting respondents, the petitioners provided a copy of the chapter on Turkish companies from the 14th edition of *Iron and Steel Works of the World*, published by Metal Bulletin Books, in addition to a list of Turkish steel tube manufacturers. See Petition at Exhibit 7B. U.S. Customs and Border Protection (CBP) import statistics identify eighteen exporters/producers of subject merchandise during the POI. However, due to limited resources, we determined that we could investigate only the three Turkish producers/exporters that accounted for the largest volume of exports to the United States during the POI. See Respondent Selection Memo. Therefore, we selected Guven, MMZ, and Ozborsan as mandatory respondents in this investigation.

### Collapsing

Section 771(33)(A) of the Act states that affiliated persons include, "{m}embers of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants." In addition, section 771(33)(F) of the Act states that, "two or more persons directly or indirectly controlling, controlled by, or under common control with, any person," shall be considered to be affiliated. Furthermore, under 19 CFR 351.401(f), we will treat "two or more affiliated producers as a single entity where those producers (1) Have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and (2) the Secretary concludes that there is significant potential for the manipulation of price or production" based on factors such as: (a) The level of common ownership; (b) the extent to which managerial employees or board members of one firm sit on the board of the other firm; and (c) whether operations are intertwined (e.g., through sharing of sales information,

involvement in production and pricing decisions, sharing facilities/employees, and/or significant transactions between the two affiliated producers).

Guven, Ozborsan, and Ozdemir are owned by three brothers, each of which owns the largest percentage of shares in his respective company. In addition, the brother who owns the largest percentage of shares of Ozborsan is also a significant shareholder of Ozborsan's sister company, Onur. The Department considers these three brothers to be "affiliated persons" pursuant to section 771(33)(A) of the Act. See *Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipes and Tubes from Thailand*, 62 FR 53808 (October 16, 1997).

Further, the Department considers Guven, Onur, Ozborsan, and Ozdemir to be affiliated according to section 771(33)(F) of the Act ("two or more persons directly or indirectly, controlled by, or under common control with, any person," shall be considered to be affiliated).

Section 771(33) of the Act states that "a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person." Although this section of the statute uses the singular phrase "any person," the Court of International Trade (CIT) has recognized that "the singular word 'person' can be interpreted to encompass a 'family' in order to carry out the intent of the statute." See *Ferro Union, Inv. v. United States*, 44 F. Supp. 2d at 1326 citing *St. Louis v. Missouri*, 263 U.S. 640, 657, 68 L. ED. 486, 44 S. Ct. 213 (1924), ("words importing the singular may {not} extend and be applied to several persons or things \* \* \* except where it is necessary to carry out the evident intent of the statute (emphasis added).") (*Ferro Union*). As the CIT noted in *Ferro Union*, "the intent of 19 U.S.C. 1677(33) was to identify control exercised through 'corporate or family groupings.' SAA {Statement of Administrative Action} at 838. By interpreting 'family' as a control person, Commerce was giving effect to this intent." See *Ferro Union*, 44 F. Supp. 2d at 1325; see also, 19 CFR 351.102(b) ("{i}n determining whether control over another person exists, within the meaning of section 771(33) of the Act, the Secretary will consider the following factors, among others: corporate or family groupings \* \* \*"). Additionally, in past cases involving control through corporate or family groupings, the Department has noted that the control factors of individual members of the group (e.g., stock ownership, management

positions, board membership) are considered in the aggregate. *See Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 5554, 5566 (February 4, 2000).

With respect to Ozborsan and Onur, the brother who owns Ozborsan is also a significant shareholder in Onur. Moreover, Ozborsan stated that Onur has the same management structure as Ozborsan (*see* Exhibit A-2 of Ozborsan's December 17, 2003, submission and Ozborsan/Onur's March 29, 2004, submission at 2). The management chart that Ozborsan provided in Exhibit A-2 indicates that the brother who owns the largest percent of shares in Ozborsan is also Ozborsan's "Head of Company." Thus, this person is both a significant shareholder in Onur and is also the "Head of Company" for Onur. Furthermore, the brother who owns the largest percentage of shares in Guven is also the President of Guven. The third brother, who owns the largest percentage of shares in Ozdemir, is also the founder and Managing Director of Ozdemir.

The brothers' leadership positions within these companies, as well as the fact that the brothers own the largest percentage of shares in their respective companies, puts these brothers in a position to directly or indirectly control Guven, Onur, Ozborsan, and Ozdemir, thus satisfying the requirements of affiliation under section 771(33)(F) of the Act. Based on the Department's practice of considering companies or corporate groups under family control to be affiliated under section 771(33)(A) and (F) of the Act, the Department considers Guven, Onur, Ozborsan, and Ozdemir to be affiliated. *See* Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, "Decision Memorandum: Whether to Collapse Certain Turkish Pipe and Tube Producers Into A Single Entity," dated April 6, 2004 (Collapsing Memorandum).

Regarding the first collapsing criterion listed in 19 CFR 351.401(f) (producers with production facilities for similar or identical products), the evidence on the record indicates that Guven, Onur, Ozborsan, and Ozdemir produce subject merchandise. Ozborsan stated that it produces subject merchandise at the same production facility as Onur. Production by Ozborsan and Onur is fully integrated; workers from both companies work on the same shifts to fulfill the same production orders—whether for the home market or for export. *See* Collapsing Memorandum at

5. On this basis, we find that Onur and Ozborsan satisfy the first criterion.

Guven and Ozborsan/Onur reported in their respective responses to section D of the questionnaire the use of an identical manufacturing process to produce subject merchandise. Both companies purchase hot-rolled and cold-rolled steel in coils; the coils are first slit, then formed, welded, and cut to length. *Id.* Furthermore, Guven and Ozborsan/Onur both produce subject merchandise in a wide variety of sizes and reported sales during the POI of nearly all of the same type of products (CONNUMs) in their U.S. and comparison-market databases.

Ozdemir, in its incomplete response to section A of the questionnaire, stated that it manufactures pipes and tubes using coils of hot-rolled and cold-rolled steel. Ozdemir also indicated that it produces both square and rectangular pipe and tube, with outside perimeters and wall thicknesses covering the full range of products included in the scope of this investigation. Since all four companies manufacture a wide variety of sizes of subject merchandise utilizing a similar production process, we conclude that Guven, Onur, Ozborsan, and Ozdemir would not require substantial retooling of their facilities in order to restructure manufacturing priorities.

In analyzing the second criterion, whether there exists significant potential for manipulation of price or production, we first consider the level of ownership. We note that the three brothers own the largest percentage of shares in Guven, Ozborsan, and Ozdemir, respectively, and one of the three brothers is a significant shareholder in Ozborsan's sister company, Onur. Based upon this family ownership, we find that there is common ownership of Guven, Ozborsan/Onur, and Ozdemir and that such ownership is one factor indicating a significant potential for the manipulation of price or production. *See* Collapsing Memorandum at 6.

Second, in addition to being the shareholders owning the largest percentage of shares, as indicated above, members of this family hold senior management positions within each company. One brother, who owns the largest percentage of shares in Ozborsan, is a member of Ozborsan's Board of Directors and is also the "Head of Company" for both Ozborsan and Onur. Another brother is the President of Guven and his son is the General Manager of Guven, whose responsibilities include "strategic/economic planning" and "procurement/sourcing." *See* Guven's response to the

Department's section A of the questionnaire, dated January 12, 2004, at page 5. Lastly, the third brother is the founder and Managing Director of Ozdemir. This brother has "full authorization \* \* \* to establish prices, selling and general expenses and production costs." *See* Ozdemir's response to the Department's section A of the questionnaire, dated March 22, 2004, at page 2. In addition, this person has "full control and is the decision-maker" at Ozdemir. *See* Collapsing Memorandum at 6. Due to the fact that key senior management positions in Guven, Ozborsan/Onur, and Ozdemir are held by members of this family, we conclude that these close management relationships are another factor indicating a significant potential for the manipulation of price or production between these companies.

Third, regarding the intertwining of operations, we have already indicated that Ozborsan and Onur share the same production facilities and management executives. Even though domestic sales are credited to Onur, and export sales are credited to Ozborsan, Onur's employees do not strictly work on products sold in Turkey, and Ozborsan's employees do not strictly work on products sold in export markets.

Furthermore, Ozborsan/Onur stated that, on occasion, it and one of the other companies have swapped hot-rolled and cold-rolled coils when size availability was an issue. *Id.* at 7. Additionally, Ozborsan/Onur stated that all three of the companies occasionally use each other's trucks for shipments to the port and for transporting raw materials from the port to the factory. According to Ozborsan/Onur, because these swaps were even exchanges (*i.e.*, the quantity swapped by each company was the same), there was no financial transaction to record, and Ozborsan/Onur kept no file documenting such exchanges.

The fact that Ozborsan/Onur does not record such transactions in its inventory records and freight ledger suggests that Ozborsan/Onur and the other company with which it exchanged coils consider each other's inventory and assets as a pool from which both can freely draw. In addition, although Ozborsan/Onur characterizes such swaps as occurring "in a few instances" and "occasionally," the fact that it did not quantify the volume of such transactions leaves open the question of how often such swaps occurred. Lastly, since Ozborsan/Onur and the other company own their own trucks, the fact that they shared these trucks with each other during the POI is evidence of shared facilities.

In addition, Guven reported that during the POI it had several transactions with one of the other two companies owned by the family. Specifically, Guven stated that it sold a significant quantity of subject and non-subject tubes, in addition to a significant quantity of hot-rolled coil, to this other company. Guven also purchased a significant quantity of tubes from this company during the POI. Lastly, Guven reported that it purchased a small amount of galvanized pipes from one of the other companies owned by the family. *Id.* at 8.

Based upon the intertwined operations described above, the Department concludes that these interactions indicate that there is a significant potential for the manipulation of price or production between these companies.

Based on these reasons, we find that Guven, Ozborsan/Onur, and Ozdemir are affiliated producers with similar or identical production facilities that would not require substantial retooling in order to restructure manufacturing priorities. We also find that there exists a significant potential for the manipulation of price or production. *See* Collapsing Memorandum. Therefore, we have collapsed Guven, Ozborsan/Onur, and Ozdemir, and are treating them as a single entity for purposes of the preliminary determination in this antidumping investigation.

#### Facts Available

For the reasons discussed below, we determine that the use of adverse facts available is appropriate for the preliminary determination with respect to Guven, Ozborsan/Onur, and Ozdemir.

##### A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the Department, fails to provide such information by the deadline or in the form or manner requested, significantly impedes a proceeding, or provides information which cannot be verified, the Department shall use, subject to section 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that if the Department determines that a response to a request for information does not comply with the Department's request, the Department shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act further states that the Department shall not decline to consider submitted

information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this case, Guven, Ozborsan/Onur, and Ozdemir have failed to provide pertinent information requested by the Department that is necessary to properly calculate antidumping margins for its preliminary determination. Specifically, Ozborsan/Onur failed to provide the following requested information, all of which is necessary to complete the Department's calculations: (1) Product-specific costs by CONNUM; (2) an explanation why the company was unable to determine the cost differences between products, or an explanation of why the company believes that the differences are insignificant enough that there is no cost difference between products; (3) a reconciliation of the total costs in the financial statements to the total costs reported to the Department; (4) separate cost files for Ozborsan and Onur which reconcile to each company's financial accounting system; (5) a reconciliation of the production quantities to the sales quantities; (6) depreciation expense based on the revaluated fixed asset values; and (7) calculation of general and administrative and financial expense ratios based on the fiscal year that most closely coincides with the period of investigation. In addition, Ozborsan/Onur stated that it "swapped" hot-rolled coils with one of the other companies. Ozborsan/Onur claims that no records are kept of such swaps, and Ozborsan/Onur was unable to quantify these transactions. As a result of Ozborsan/Onur's failure to provide the above requested information, the Department is unable to use the reported cost of manufacturing data to test home market sales to determine whether the sales prices can form the basis for the calculation of normal value (NV). Additionally, because of the noted omissions, the cost data cannot be used for difference in merchandise purposes or for calculating constructed value (CV).

With respect to Guven, the company failed to provide: (1) Any cost reconciliations; (2) product-specific costs and worksheets; (3) an explanation of its cost accounting system and how costs were allocated between subject and non-subject merchandise; (4) a

description of its production process; (5) detailed cost build-ups for the requested models sold in the third country and home markets; (6) an explanation of its cost response methodology; (7) an explanation as to whether the reported costs were based on world-wide production quantities and not on any specific market; (8) a reconciliation of the production quantities to the sales quantities; and (9) the requested general and administrative (G&A) and financial expense ratios based on the indexed monthly historical G&A and financial expenses and cost of goods sold for the fiscal year 2003. In addition, Guven did not report significant expense items for months for which production was reported. As a result of Guven's failure to provide the above requested information, the Department is unable to use the reported cost of manufacturing data to test home market sales to determine whether the sales prices can form the basis for NV. Additionally, because of the noted omissions, the cost data cannot be used for difference in merchandise purposes or for calculating CV. Additionally, we note that Guven did not respond to the Department's supplemental section D questionnaire by the established deadline.

With respect to Ozdemir, the company provided an incomplete section A response, and failed to provide a response to sections B, C, and D of the Department's questionnaire. Because Ozdemir withheld information requested by the Department, the Department will rely on the facts otherwise available in order to determine a margin for Ozdemir.

Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, we have based Guven, Ozborsan/Onur, and Ozdemir's dumping margin on facts available.

##### B. Application of Adverse Inferences for Facts Available

In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002). Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See*

*Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. No. 103–316, at 870 (1994) (SAA). Furthermore, “affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.” See *Antidumping Duties; Countervailing Duties*, 62 FR 27355 (May 19, 1997). Although the Department provided respondents with notice of the consequences of failure to adequately respond to the questions, in this case, Guven, Ozborsan/Onur, and Ozdemir have failed to timely provide complete and useable responses to the Department’s section D questionnaires. See the Department’s letters to Ozborsan/Onur, Guven, and Ozdemir on February 27, 2004, March 12, 2004, and March 17, 2004, respectively. The original questionnaire was issued on November 21, 2003, to which Ozborsan/Onur submitted its section D response on January 12, 2004 and Guven submitted its response on February 19, 2004. In order to address the deficiencies in Ozborsan/Onur’s response, the Department issued a supplemental section D questionnaire on February 27, 2004. Ozborsan/Onur’s response was received on March 16, 2004. On March 12, 2004, the Department issued the supplemental section D questionnaire to Guven. Guven failed to respond to the supplemental section D questionnaire by the established deadline of March 25, 2004. In these supplemental questionnaires we noted that in the previous submissions, Guven and Ozborsan/Onur failed to provide requested detailed cost of manufacturing information necessary for the Department to adequately analyze the response. Guven and Ozborsan/Onur’s failure to provide this critical information in a timely manner has rendered their entire submissions inadequate and unusable for the preliminary determination. In addition, as discussed above, Ozdemir did not provide a response to sections B, C, and D of the questionnaire, which was due on March 26, 2004. This constitutes a failure on the part of these companies to cooperate to the best of their abilities to comply with a request for information by the Department within the meaning of section 776 of the Act. Therefore, the Department has preliminarily determined that in selecting from among the facts otherwise available, an adverse inference is warranted. See, e.g., *Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985, 42986 (July 12,

2000) (the Department applied total adverse facts available (AFA) where respondent failed to respond to the antidumping questionnaires).

#### *C. Selection and Corroboration of Information Used as Facts Available*

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See also 19 CFR 351.308(c); SAA at 829–831. In this case, because we are unable to calculate margins based on Guven’s, Ozborsan/Onur’s, and Ozdemir’s own data and because an adverse inference is warranted, we have assigned to all three companies the highest margin from the proceeding, which is the highest margin alleged for Turkey in the petition, as recalculated in the initiation and described in detail below. See *Initiation Notice*.

As noted in the *Corroboration of Normal Value* section below, the calculation of CV in the petition contains an amount of zero for profit because the Turkish producer relied upon for the calculation of the financial ratios reported a loss in its financial statements. Although a publicly available amount for profit is not currently on the record of this investigation, we will consider adding profit to CV for the final determination in the event we are able to identify a publicly available amount for profit that is usable given the facts of this proceeding.

When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition), it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.

The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. The Department’s regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See 19 CFR 351.308(d); see also SAA at 870.

To assess the reliability of the petition margin for the purposes of this investigation, to the extent appropriate

information was available, we reviewed the adequacy and accuracy of the information in the petition and during our pre-initiation analysis for both this preliminary determination. See Office of AD/CVD Enforcement Initiation Checklist, at 11 (September 29, 2003) (Initiation Checklist). Also, as discussed below, we examined evidence supporting the calculations in the petition to determine the probative value of the margins in the petition for use as AFA for this preliminary determination. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and NV calculations on which the margins in the petition were based. See Memorandum from Paige Rivas, International Trade Analyst, to Tom Futtner, Acting Director, Office 4, Re: Corroboration of Data Contained in the Petition for Assigning Facts Available Rates, dated April 6, 2004 (Corroboration Memo).

#### 1. Corroboration of Export Price

The petitioners based EP on prices of LWRPT obtained from U.S. distributors of products that are identical in size to products manufactured and sold in Turkey. The petitioners calculated net U.S. price by deducting international freight and U.S. import duties for the U.S. price quotes. We compared the U.S. market price quotes with official U.S. import statistics and found the prices used by the petitioners to be reliable.

#### 2. Corroboration of Normal Value

With respect to the NV, the petitioners obtained, through foreign market research, two price quotes from resellers in Turkey for products manufactured by a major Turkish producer named in the Petition. The petitioners calculated net Turkish prices by deducting the average discount offered by the Turkish resellers from the price quotes.

The petitioners also provided information demonstrating reasonable grounds to believe or suspect that sales of LWRPT in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act.

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, and packing expenses. The petitioners calculated COP based on the experience of a U.S. LWRPT producer, adjusted for known differences between costs incurred to produce LWRPT products in the United States and Turkey using publicly

available data. To calculate SG&A and financial expenses, the petitioners relied upon amounts reported in the 2002 financial statements of Borusan Holding A.S., which is the parent company of Mannesman Boru, a major producer of the subject merchandise in Turkey.

Based upon a comparison of the price of the foreign like product to the calculated COP, we found reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department initiated a country-wide cost investigation. For initiation purposes and for the purposes of this preliminary determination, we corrected the petitioners' conversion from dollars per metric ton to dollars per hundred feet for the 55mm x 50mm x 3mm product. See Initiation Checklist at 11 and Attachment III.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners based NV on CV. The petitioners calculated CV using the same COM, SG&A and financial expense figures used to compute the COP. Consistent with section 773(e)(2) of the Act, the petitioners included in CV an amount for profit. For profit, the petitioners relied upon amounts reported in Borusan Holding A.S.'s 2002 financial statements. However, the profit amounted to zero because Borusan reported a loss in its financial statements.

For purposes of corroborating CV, we compared the cost data submitted in the petition to information submitted by MMZ. Specifically, we compared net CV for one CONNUM for MMZ to the CV used to calculate the highest margin in the petition. This CONNUM is identified in Exhibit C2 of MMZ's March 24, 2004, submission as containing production quantities that are comparable to the product with the highest margin in the petition. We found the CV used by the petitioners to be reliable.

Therefore, based on our efforts, described above, to corroborate information contained in the petition, and in accordance with section 776(c) of the Act, we consider the highest margin in the petition to be corroborated to the extent practicable for purposes of this preliminary determination.

Accordingly, in selecting AFA with respect to Guven, Ozborsan/Onur, and Ozdemir, we have applied the margin rate of 34.89 percent, which is the highest estimated dumping margin set forth in the notice of initiation. See *Initiation Notice*, 68 FR 57667.

### Product Comparisons

In accordance with section 771(16) of the Act, all products manufactured by the respondents in the home market and covered by the description contained in the *Scope of Investigation* section, above, and sold in the home market during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon seven criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product: steel type, galvanized coating, whether the merchandise was painted or primed, outside perimeter, wall thickness, shape, and finish. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

### Fair Value Comparisons

To determine whether sales of LWRPT from Turkey were made in the United States at LTFV, we compared the EP to the NV, as described in the *Export Price* and *Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs. We compared these to weighted-average home market prices in Turkey.

Based on our examination of Turkey's inflation indices, we determined that the Turkish economy was experiencing high inflation during the POI. "High inflation" is a term used to refer to a high rate of increase in price levels. Investigations covering exports from countries with highly inflationary economies require the use of special methodologies in comparing prices and calculating CV and COP. See Policy Bulletin No. 94.5, "Differences in Merchandise Calculations in Hyperinflationary Economies," dated March 25, 1994. Generally, the Department considers the annual inflation rate to be high if it is in excess of 25 percent. Based upon our examination of the consumer price and wholesale price indices, which indicate that Turkey experienced an inflation rate over 25 percent during the POI, we find Turkey's economy experienced high inflation. See 2002 and 2003 issues of the International Monetary Fund's *International Financial Statistics*.

Because Turkey's economy experienced high inflation during the POI, as is Department practice, we limited our comparisons to home market sales made during the same month in which the U.S. sale occurred.

This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening period between the U.S. and home market sales. See *Notice of Preliminary Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products From Turkey*, 67 FR 31264 (May 9, 2002); see also *Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products From Turkey*, 67 FR 62126 (October 3, 2002).

### Export Price

In calculating U.S. price, the Department used EP, as defined in section 772(a) of the Act, because the merchandise was sold, prior to importation, by MMZ to unaffiliated purchasers in the United States. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection 772(c) of the Act. We calculated EP based on the packed prices charged to unaffiliated customers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price, where applicable, for foreign movement expenses, including brokerage and handling and inland freight.

The Department interprets section 772(c)(1)(B) as requiring that any duty drawback be added to EP if two criteria are met: (1) import duties and rebates are directly linked to, and dependent upon, one another, and; (2) raw materials were imported in sufficient quantities to account for the duty drawback received on exports of the manufactured product. Since the normal criteria appear to have been met in this case, we made additions to the starting price for duty drawback in accordance with section 772(c)(1)(B) of the Act. However, we intend to further scrutinize the appropriateness of granting MMZ's requested duty drawback adjustment in light of the facts of this case in making our final determination in this investigation.

### Normal Value

#### A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or has sufficient aggregate

value, if quantity is inappropriate) and that there is no particular market situation in the home market that prevents a proper comparison with the EP transaction. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. Based on a comparison of aggregate quantity of home market sales and U.S. sales by MMZ, we determined that the quantity of foreign like product sold in Turkey permitted a proper comparison with the sales of subject merchandise because the quantity of sales in the home market was more than five percent of the quantity of sales to the U.S. market. Accordingly, for MMZ, we based NV on home market sales. In deriving NV, we made adjustments as detailed in the *Calculation of Normal Value Based on Constructed Value* section below.

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

MMZ reported that it sold LWRPT in the comparison market only to unaffiliated customers. Therefore, application of the arm's-length test is unnecessary.

#### *C. Cost of Production Analysis*

In the original petition, the petitioners alleged that sales of LWRPT in the home market were made at prices below the fully absorbed COP, and accordingly, requested that the Department conduct a country-wide sales-below-cost investigation. Based upon the comparison of the petition's adjusted prices and COP for the foreign like product, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of LWRPT in Turkey were made at prices below the COP. See *Initiation Notice*. As a result, the Department has conducted an investigation to determine whether MMZ made sales in the home market at prices below its COP during the POI within the meaning of section 773(b) of the Act. Our COP analysis is described below.

##### 1. Calculation of Cost of Production

We determined that the Turkish economy experienced significant inflation during the POI. 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 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 to an equivalent currency level using the Wholesale Price Index for Turkey 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 a weighted-average COP for MMZ based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market G&A expenses and interest expenses. We relied on the submitted COP data except in the specific instances noted below, where the submitted costs were not appropriately quantified or valued.

We made the following adjustments to MMZ's submitted COP data: (1) Increased the reported raw material cost to disallow the claimed offset for the sales of second quality merchandise; (2) increased the reported raw material costs to include the duty cost which was claimed as a duty drawback adjustment to U.S. price but which was not included in COM; (3) increased the reported raw material cost to reflect the higher of transfer price or market price as required by section 773(f)(2) of the Act; (4) increased fixed overhead to include the full depreciation expense on assets purchased in 2002; (5) increased G&A expenses to include accrual adjustments; and (6) revised the reported financial expense ratio to include total net foreign exchange gains and losses.

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

As required by section 773(b) of the Act, we compared MMZ's adjusted weighted-average COP to the comparison-market sales prices of the foreign like product, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the revised COP to the comparison-market prices, less any applicable movement charges, taxes, rebates, commissions, and other direct and indirect selling expenses.

##### 3. Results of the COP Test

We disregarded below-cost sales where (1) 20 percent or more of a respondent's sales of a given product during the POI were made at prices below the COP and thus such sales 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 comparisons of price to weighted-average COPs for the POI, we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act.

We found that for certain products, MMZ made home market sales at prices below the COP within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit the recovery of costs within a reasonable period of time. Therefore, we excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

#### *D. Calculation of Normal Value Based on Comparison-Market Prices*

We determined price-based NVs for MMZ as follows. Where applicable, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) attributed to billing adjustments and imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset). Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

#### *E. Calculation of Normal Value Based on Constructed Value*

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for those models of LWRPT for which we could not determine the NV based on comparison-market sales, either because there were no sales of a comparable product or all sales of the comparison products failed the COP test, we based NV on CV.

In accordance with sections 773(e)(1) and (e)(2)(A) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling expenses, G&A, interest, profit and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the "Calculation of Cost of Production" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we

based selling expenses, G&A, and profit on the amounts incurred and realized by MMZ, in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

*F. Level of Trade/Constructed Export Price Offset*

In accordance with section 773(a)(1)(B) of the Act, to the extent practical, the Department determined NV based on sales in the home market at the same level of trade (LOT) as the EP sales. The NV LOT is that of the starting-price sales in the home market. For EP sales, the U.S. LOT is also the level of the starting-price sale.

To determine whether NV sales are at a different LOT than the EP sales, we examined stages in the marketing process and selling activities along the chain of distribution between the producer and the unaffiliated customer. If the home market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the home market sales on which NV is based and the home market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In determining whether separate LOTs exist, we obtained information from MMZ about the marketing stages for the reported U.S. and home market sales, including a description of the selling activities performed by MMZ for each channel of distribution. In identifying LOTs for EP and home market sales, we considered the selling functions reflected in the starting price before any adjustments. See 19 CFR 351.412(c)(1)(i) and (iii). We expect that, if claimed LOTs are the same, the selling functions and activities of the seller at each level should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group should be dissimilar.

In its questionnaire responses, MMZ reported that during the POI, it sold the foreign like product in the home market through one channel of distribution and in the United States through two channels of distribution. We found that MMZ engaged in similar selling activities for all home market sales. However, we found that there are also no differences in the selling functions performed in the U.S. channels of distribution. Based on the similarity of the selling functions, we have determined that MMZ sold LWRPT at one LOT in the home market and one LOT in the U.S. market. We also found

that the selling activities performed by MMZ in the home market are similar to those performed in the U.S. market, with the exception that MMZ provided freight and delivery in the U.S. market but did not provide this service in the home market. Specifically, MMZ engaged in sales forecasting, strategic/economic planning, packing, order/input processing, and use of direct sales personnel in both markets. Therefore, we have preliminarily determined that the LOTs in the home and U.S. markets are the same LOT. Thus, a LOT adjustment is not required for comparison of U.S. sales to home market sales.

*G. Currency Conversions*

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.

**Verification**

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

**All Others Rate**

Section 735(c)(5)(A) of the Act provides for the use of an "all others" rate, which is applied to non-investigated firms. See SAA at 873. This section states that the all others rate shall generally be an amount equal to the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, we have preliminarily assigned to all other exporters of LWRPT from Turkey a margin that is based on the margin calculated for the mandatory respondent.

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, we are directing CBP to suspend liquidation of all entries of LWRPT from Turkey that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until

further notice. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Güven .....	34.89
MMZ .....	4.75
Ozborsan/Onur .....	34.89
Ozdemir .....	34.89
All Others .....	4.75

**Disclosure**

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

**International Trade Commission Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening 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 one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of 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. Further, the Department respectfully requests that all parties submitting written comments also provide the Department with an additional copy of the public version of any such comments on diskette.

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 or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in an investigation, the hearing normally will 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.

As noted above, the Department will make its final determination within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 6, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 04-8377 Filed 4-12-04; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-844]

#### Steel Concrete Reinforcing Bar From The Republic of Korea: Final Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On October 7, 2003, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on steel concrete reinforcing bar (rebar) from the Republic of Korea (Korea). The review covers rebar exported to the United States by Dongkuk Steel Mill Co., Ltd. (DSM) and Korea Iron and Steel Co., Ltd. (KISCO), which have been collapsed into a single entity for purposes of this administrative review, during the period from January 30, 2001, through August 31, 2002. After analyzing the comments received, we have made certain changes in the margin calculation. The final weighted-average dumping margin for the reviewed entity is listed below in the section entitled "Final Results of Review."

**EFFECTIVE DATE:** April 13, 2004.

**FOR FURTHER INFORMATION CONTACT:** Richard Johns or Mark Manning, AD/CVD Enforcement, Office IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2305 or (202) 482-5253, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 7, 2003, the Department published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on rebar from Korea. See *Steel Concrete Reinforcing Bar from The Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 57883 (October 7, 2003) (*Preliminary Results*). During the period October through December 2003, the Department received KISCO's responses to sections A-D of the Department's questionnaire, which was issued on September 15, 2003, as a result of the Department's decision to collapse DSM and KISCO. See Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, "Decision Memorandum: Whether to Collapse Dongkuk Steel Mill Co., Ltd., and Korea Iron and Steel Co., Ltd., Into a Single Entity," dated September 12, 2003. In January 2004, the Department conducted verification of the sales and cost of production (COP) information reported by the collapsed entity, DSM/KISCO.

In response to the Department's invitation to comment on the *Preliminary Results* of this review, DSM/KISCO filed a case brief on March 3, 2004. The petitioner<sup>1</sup> also filed a case brief on March 3, 2004. On March 10, 2004, DSM/KISCO and the petitioner filed rebuttal briefs.

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

##### Scope of the Review

The products covered by the antidumping duty order are all rebar sold in straight lengths, currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 7214.20.00 or any other tariff item number. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth bars) and rebar that has been further processed through

<sup>1</sup> The petitioner in this proceeding is the Rebar Trade Action Coalition and its individual members (collectively, the petitioner).

bending or coating. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

##### Period of Review

The period of review (POR) is from January 30, 2001 through August 31, 2002.

##### Verification

As provided in section 782(I) of the Act, we verified the information submitted by the respondent for use in our final results. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the DSM/KISCO.

##### Analysis of Comments Received

All issues raised in the case brief submitted by DSM/KISCO and the petitioner are contained in the "Issues and Decision Memorandum" from Holly A. Kuga, Acting Deputy Assistant Secretary, to James J. Jochum, Assistant Secretary for Import Administration (*Issues and Decision Memorandum*). The *Issues and Decision Memorandum* is dated concurrently with this notice and hereby adopted by this notice. A list of the issues which the parties have raised is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this administrative review in the *Issues and Decision Memorandum* which is on file in the Central Records Unit, room B-099 of the main Department of Commerce building. In addition, a complete version of the *Issues and Decision Memorandum* can be accessed directly on the Web at "<http://ia.ita.doc.gov>". The paper copy and electronic version of the *Issues and Decision Memorandum* are identical in content.

##### Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculation. These changes are discussed in the relevant sections of the *Issues and Decision Memorandum*. The Department issued the antidumping questionnaire to KISCO approximately two weeks before the fully extended deadline for the preliminary results. Therefore, KISCO's sales and costs of production data were not available for inclusion in the preliminary results. KISCO submitted its sales and COP data after the preliminary results, and we have included this information in our final results of review. Furthermore, we have corrected a programming error