

be filed within five days after the case brief is filed. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm, by telephone, the time, date, and place of the hearing 48 hours before the scheduled time.

Unless the time limit is extended, the Department will issue the final results of this new shipper review no later than 90 days after the signature date of the preliminary results. The final results will include the analysis of issues raised in the briefs.

#### Notification to Importers

This notice serves as a reminder to importers of their responsibility under §351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

With respect to Yancheng Fuda and Siyang, this notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with §351.305(a)(3) of the Department's regulations. 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 the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: August 26, 2004.

#### James J. Jochum,

Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-489-812]

#### Light-Walled Rectangular Pipe and Tube From Turkey: Notice of Final Determination of Sales at Less Than Fair Value

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

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

**EFFECTIVE DATE:** September 2, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Paige Rivas (Güven) at (202) 482-0651; Drew Jackson (MMZ) at (202) 482-4406; and Mark Manning (Ozborsan/Onur and Ozdemir) at (202) 482-5253; Office of AD/CVD Enforcement, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Final Determination

The Department of Commerce (the Department) has determined 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 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Final Determination of Investigation* section of this notice.

##### Case History

On April 13, 2004, the Department published the preliminary determination of sales at LTFV in the antidumping duty investigation of LWRPT from Turkey. See *Light-Walled Rectangular Pipe and Tube from Turkey; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 69 FR 19390 (April 13, 2004) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

The Department received a timely supplemental section D questionnaire response from MMZ Onur Boru Profil Uretim Sanayi Ve. Ticaret A.S. (MMZ) on April 15, 2004. On April 15 and April 19, 2004, the Department returned untimely filed supplemental section D questionnaire responses to Güven Boru Ve. Profil San. Ve. Ticaret Ltd. Sti. (Güven). We conducted a verification of the sales and cost questionnaire responses of MMZ from April 19, 2004,

through April 30, 2004. MMZ timely filed its supplemental section C questionnaire response on May 7, 2004. On June 22, 2004, the Department returned an untimely filed, and improperly served, supplemental section A questionnaire response to Ozdemir Boru Profil Sanayi Ve. Ticaret Ltd. Sti. (Ozdemir). We gave interested parties an opportunity to comment on our *Preliminary Determination* and our findings at verification. On July 7, 2004, the petitioners,<sup>1</sup> MMZ, and Ozborsan Boru Sanayi Ve. Ticaret and its affiliated sister company Onur Metal (collectively, Ozborsan/Onur) submitted case briefs. On July 12, 2004, these parties submitted rebuttal briefs. The Department did not receive a request for a public hearing; consequently, no public hearing was held.

##### Period of Investigation

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

##### 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

<sup>1</sup> The petitioners in this investigation are 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).

niobium (also called columbium), or 0.15 percent of vanadium, or 0.15 percent of zirconium.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Memorandum from Jeffrey A. May, Deputy Assistant Secretary Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, "Issues and Decision Memorandum," (*Decision Memorandum*) dated concurrently with this notice, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public 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 *Decision Memorandum* can be accessed directly on the Internet at: <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

#### Facts Available

In the *Preliminary Determination*, we based the dumping margin for the respondents Guven, Ozborsan/Onur, and Ozdemir on total adverse facts available (AFA) pursuant to sections 776(a) and 776(b) of the Act. The use of AFA was warranted in this investigation because Guven, Ozborsan/Onur, and Ozdemir failed to timely provide complete and useable responses to the Department's antidumping questionnaire and supplemental questionnaires. See *Preliminary Determination*, 69 FR at 19393-96. The failure to provide the requested information significantly impeded this proceeding because the Department cannot determine a margin without complete and accurate responses to our questionnaires. As AFA, we assigned Guven, Ozborsan/Onur, and Ozdemir the rate of 34.89 percent, the highest margin listed in the notice of initiation. See *Notice of Initiation of Antidumping Investigations: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, 68 FR 57667 (October 6, 2003). A complete explanation of the selection, corroboration, and application of AFA can be found in the *Preliminary Determination*. See *Preliminary Determination*, 69 FR at 19393-96. The Department received comments and rebuttal from Ozborsan/Onur and the petitioner regarding this issue. See

*Decision Memorandum* at Comment 11. Nothing has changed since the *Preliminary Determination* was issued that would affect the Department's selection and application of facts available. Accordingly, for the final determination, we continue to apply as AFA the rate of 34.89 percent to Guven, Ozborsan/Onur, and Ozdemir.

#### Verification

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

#### Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made certain adjustments to the margin calculations used in the *Preliminary Determination*. These adjustments are discussed in detail in the *Decision Memorandum* and are listed below:

##### 1. Duty Drawback Adjustment

The Department disregarded the amount of duty drawback reported by MMZ under the yield rate for coils established by the government of Turkey (GOT) and instead calculated the duty drawback using MMZ's own yield rate for steel coils. However, since MMZ does not separately track its consumption of zinc, the Department relied upon the yield rate established by the GOT for the duty drawback on zinc. See Memorandum to the File from Drew Jackson, International Trade Compliance Analyst, "Calculation Memorandum for the Final Determination," dated August 26, 2004 (Final Sales Calculation Memorandum).

##### 2. Reclassification of Certain Selling Expenses

Based on comments made by petitioners, we have reclassified the bank commissions and letter of credit fees as direct selling expenses, rather than indirect selling expenses, for the final determination. See Final Sales Calculation Memorandum.

##### 3. Revised Production Quantity for Non-Prime Products

Pursuant to a minor error reported on the first day of verification, we have revised the production quantity for non-prime products. See Final Sales Calculation Memorandum.

##### 4. Adjustment to MMZ's Raw Material Costs

Based on comments made by MMZ, we have made an adjustment to MMZ's raw material costs to account for an overstatement in these raw material costs discovered during verification. See Memorandum from Margaret M. Pusey, Case Accountant, to Neal M. Halper, "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination—MMZ Onur Boru Profil Uretim Sanayi ve Ticaret A.S.," dated August 26, 2004 (Final Cost Calculation Memorandum).

##### 5. Adjustment to MMZ's Calculated Financial Expenses

Based on comments made by MMZ, we have made an adjustment to MMZ's calculated financial expense. Specifically, we have granted an adjustment to allow the income on certain investments to offset financial expenses because this income was found to be interest on short-term bank accounts. See Final Cost Calculation Memorandum.

##### 6. Adjustment to MMZ's Calculated General and Administrative Expenses

Based upon verification findings, we have adjusted MMZ's calculated general and administrative expenses. See Final Cost Calculation Memorandum.

#### Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of LWRPT from Turkey that are entered, or withdrawn from warehouse, for consumption on or after April 13, 2004, the date of publication of the *Preliminary Determination* in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

#### Final Determination of Investigation

We determine that the following weighted-average dumping margins exist for the period July 1, 2002, through June 30, 2003:

Manufacturer/exporter	Weighted-average margin (percent)
Güven Boru Ve. Profil San. Ve. Ticaret Ltd. Sti/Ozborsan Boru Sanayi Ve. Ticaret and Onur Metal/Ozdemir Boru Profil Sanayi Ve. Ticaret Ltd. Sti .....	34.89
MMZ Onur Boru Profil Üretim Sanayi Ve. Ticaret A.S .....	6.12
All Others .....	6.12

### International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

### Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). 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 the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

August 26, 2004.

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

### Appendix—Issues in Decision Memorandum

#### Part I—MMZ

Comment 1: Whether the Department Should Deny MMZ's Duty Drawback Claim Because MMZ Did Not Use Imported Inputs to Produce Finished Merchandise Sold in the Home Market.

Comment 2: Whether the Department Should Add Duty Drawback to MMZ's Cost of Production and Constructed Value.

Comment 3: Whether the Department Should Classify Certain Bank Commissions and Letter of Credit Fees as Direct Selling Expenses Instead of Indirect Selling Expenses.

Comment 4: Whether the Department Should Classify Sales Made Through the U.S. Commissioned Selling Agent as CEP Transactions.

Comment 5: Whether the Department Should Collapse MMZ and Company A for Purposes of Calculating MMZ's Coil Cost.

Comment 6: Whether the Department Should Find that the Transfer Price Between Company A and MMZ Was Above the Market Price.

Comment 7: Whether the Upward Adjustment for Imported Coil Purchased Through Company A to the Price Paid to Home Market Suppliers in Effect Double-Counts the Duty-Drawback Adjustment to Cost of Production and Constructed Value.

Comment 8: Whether the Department Should Exclude Foreign Exchange Losses Incurred on Payables from MMZ's Computed Financial Expense.

Comment 9: Whether the Department Should Adjust MMZ's Reported Costs to Correct for the Overstatement in MMZ's Raw Material Cost Discovered During Verification.

#### Part II—Ozborsan/Onur, Güven, and Ozdemir

Comment 10: Whether the Department Erred in its Decision to Collapse Ozborsan/Onur, Güven, and Ozdemir Into a Single Entity.

Comment 11: Whether the Department Erred in Finding that Ozborsan/Onur Metal Failed to Provide Requested Information to the Department and in its Application of Total Adverse Facts Available.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-832]

### Light-Walled Rectangular Pipe and Tube From Mexico: Notice of Final Determination of Sales at Less Than Fair Value

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

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

**EFFECTIVE DATE:** September 2, 2004.

**FOR FURTHER INFORMATION CONTACT:** Magd Zolak (LM) at (202) 482-4162; Richard Johns (Galvak/Hylsa) at (202) 482-2305, Crystal Crittenden (Regiomontana) at (202) 482-0989, and Maisha Cryor (Prolamsa) at (202) 482-5831; Office of AD/CVD Enforcement, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

#### Final Determination

The Department of Commerce (the Department) has determined that light-walled rectangular pipe and tube (LWRPT) from Mexico 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 *Final Determination of Investigation* section of this notice.

#### Case History

On April 13, 2004, the Department published the preliminary determination of sales at LTFV in the antidumping duty investigation of LWRPT from Mexico. *See Light-Walled Rectangular Pipe and Tube from Mexico; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 69 FR 19400 (April 13, 2004) (*Preliminary Determination*). Since the *Preliminary Determination*, the following events have occurred.

The Department received a timely supplemental questionnaire response from Perfiles y Herrajes LM, S.A. de CV (LM) on April 6, 2004, and Regiomontana de Perfiles Y Tubos, S.A. de C.V. (Regiomontana) on April 8, 2004. The Department received a post preliminary determination submission from Galvak, S.A. de C.V. and Hylsa, S.A. de C.V. (Galvak/Hylsa) on April 12,