DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–815]

Light–Walled Rectangular Pipe and Tube from Turkey; Notice of Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to requests from Toscelik Profil ve Sac Endustrisi A.S., and Tosyali Dis Ticaret A.S., ("collectively, Toscelik") the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on light–walled rectangular pipe and tube from Turkey. Atlas Tube, Inc. and Searing Industries, Inc. are petitioners in this case. The review covers exports of the subject merchandise to the United States produced and exported by Toscelik. The period of review ("POR") is January 30, 2008, through April 30, 2009.

We preliminarily find that Toscelik did not make sales at less than normal value ("NV") during the POR. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") not to assess antidumping duties on entries made by Toscelik and to set the cash deposit rate for Toscelik to zero.

EFFECTIVE DATE: June 15, 2010.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1121 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on light–walled rectangular ripe and tube from Turkey on May 30, 2008. *See Notice of Antidumping Duty Order: Light–Walled Rectangular Pipe and Tube from Turkey*, 73 FR 31065 (May 30, 2008). On May 1, 2009, the Department published the notice of opportunity to request an administrative review of light–walled rectangular pipe and tube from Turkey for the period January 30, 2008, through April 30, 2009. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 74 FR 20278 (May 1, 2009).

On May 29, 2009, Toscelik requested an administrative review for this period. On June 24, 2009, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 30052 (June 24, 2009). On June 25, 2009, Toscelik made an entry of appearance in the proceeding.

On July 21, 2009, Toscelik sent a letter to the Department requesting that the reporting period for home market sales be limited to the period May 1, 2008 to April 30, 2009. This is consistent with our past practice in other cases in which respondents request limited reporting period because they made sales of subject merchandise in only a small part of the POR. *See, e.g., Certain Hot–Rolled Carbon Steel Flat Products From India: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018 (January 12, 2006) (unchanged in Final Results, 71 FR 40694) and *Certain Hot–Rolled Flat–Rolled Carbon Quality Steel Products from Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 17406 (April 6, 2005) (unchanged in Final Results, 70 FR 58683). On July 31, 2009, the Department sent Toscelik a letter indicating our consent to limiting the reporting period for home market sales to the period of May 1, 2008 through June 30, 2009, based on the timing of its U.S. sales during the POR. Toscelik had requested that we limit the reporting period to May 1, 2008 through April 30, 2009, however we did not shorten the end of the reporting period because in our margin calculations, U.S. sales made in March and April 2009, could potentially match to home market sales made in May or June, 2009. On August 4, 2009, Atlas Tube, Inc. and Searing Industries, Inc. ("Petitioners") made an entry of appearance in this proceeding.

On July 20, 2009, the Department issued its antidumping questionnaire to Toscelik. Toscelik submitted its response to section A of the Department's antidumping questionnaire on August 3, 2008 ("Toscelik's Section A Response"). Toscelik submitted its response to sections B and C of the antidumping questionnaire on August 17, 2009 ("Toscelik's Sections B and C Response").

On September 29, 2009, the Department issued a supplemental questionnaire to Toscelik regarding Toscelik's Section A Response and Toscelik's Sections B and C Response. Toscelik submitted its response to the Department's supplemental questionnaire on October 22, 2009 ("Toscelik's October 22, 2009 Response").

On December 17, 2009, the Department issued a second supplemental questionnaire to Toscelik regarding its prior questionnaire responses. Toscelik submitted its response to the Department's second supplemental questionnaire on January 25, 2010 ("Toscelik's January 25, 2010 Response"). On February 24, 2010, the Department issued a third supplemental questionnaire to Toscelik. Toscelik submitted its response to the Department's third supplemental questionnaire on March 8, 2010 ("Toscelik's March 8, 2010 Response"). On May 13, 2010, the Department issued a third supplemental questionnaire to Toscelik regarding its prior questionnaire responses. Toscelik submitted its response to the Department's third supplemental questionnaire on May 18, 2010 ("Toscelik's May 18, 2010 Response").

Scope of the Order

The merchandise subject to this order is certain welded carbon quality light–walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm. The term carbon–quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon–quality includes products in which 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, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon–quality is intended to identify carbon–quality products within the scope. The welded carbon–quality rectangular pipe and tube subject to this order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and CBP's customs purposes, our written description of the scope of the order is dispositive.

Verification

We conducted verification of Toscelik from April 12, 2010, through April 15,

2010. *See* the Memorandum from Tyler Weinhold and Mark Flessner to the File, "Light–Walled Rectangular Pipe and Tube from Turkey; Verification of Information submitted by Toscelik Profil ve Sac Endustrisi A.S. and Tosyali Dis Ticaret A.S. (collectively, "Toscelik")," ("Verification Report").

Fair Value Comparisons

To determine whether sales of light–walled rectangular pipe and tube from Turkey in the United States were made at less than NV, we compared U.S. price to NV, as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Tariff Act of 1930, as amended ("the Act"), we calculated monthly weighted–average NVs and compared these to individual U.S. transactions. Because we determined Toscelik made only EP sales during the POR, we used EP as the basis for U.S. price in all of our comparisons. We used the invoice date, as recorded in Toscelik's normal books and records, as the date of sale for Toscelik's EP and home market sales. *See* 19 CFR 351.401(i). For a more detailed discussion of these calculations, *see* Memorandum from Tyler Weinhold to the File, "Analysis of Data Submitted by Toscelik Profil ve Sac Endustrisi A.S. and Tosyali Dis Ticaret A.S. (collectively, "Toscelik") in the Preliminary Results of the 2008–2009 Administrative Review of Light–Walled Rectangular Pipe and Tube from Turkey," dated June 7, 2010 "Preliminary Analysis Memorandum").

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Toscelik covered by the description in the "Scope of the Order" section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. As mentioned above, we allowed Toscelik to limit the reporting period for home market sales to the period of May 1, 2008 through June 30, 2009. We relied on six characteristics to match U.S. sales of subject merchandise to home market sales of the foreign like product (listed in order of priority): 1) steel input type; 2) metallic coating; 3) painted/non–painted; 4) perimeter; 5) wall thickness; and 6) shape. *See* the antidumping questionnaire at Appendix 5. 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 these product characteristics and the reporting instructions listed in the antidumping questionnaire. Because there were sales of identical or similar merchandise in the home market suitable for comparison to each U.S. sale, we did not compare any U.S. sales to constructed value ("CV").

We relied on the prices and adjustments as reported by Toscelik based on Toscelik's proprietary weights. *See* Verification Report for more details.

Export Price

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 producer or exporter of subject merchandise 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). In accordance with section 772(a) of the Act, we used EP for all of Toscelik's U.S. sales. We preliminarily find that these sales are properly classified as EP sales because these sales were made before the date of importation and were made directly to unaffiliated U.S. customers, and because our CEP methodology was not otherwise warranted.

We based EP on the prices to unaffiliated customers in the United States. We made adjustments for price or billing adjustments and discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate, foreign inland freight, international freight, marine insurance, and U.S. brokerage and handling. Additionally, we made adjustments for direct selling expenses (credit expenses) in accordance with section 772(c)(2)(A) of the Act.

Normal Value

A. Selection of Comparison Market

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product was equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Toscelik's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act. Because Toscelik's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined the home market was viable. Therefore, we have based NV on home market sales in the usual commercial quantities and in the ordinary course of trade.

B. Cost of Production Analysis

No interested party has alleged sales in the home market were made at prices below the cost of production. Therefore, we are not conducting a sales–below-cost investigation in this review. For this reason, and because we did not anticipate that we would have to use constructed value as the basis for normal value for any of Toscelik's U.S. sales of subject merchandise, we have not required Toscelik to respond to section D of the Department's questionnaire (costs of production and constructed value).

Quarterly Costs of Production

Toscelik reported variable cost of manufacture and total cost of manufacture on the basis of quarterly costs, and requested that it be allowed to continue to report variable cost of manufacture and total cost of manufacture on this basis because of changes in the purchase prices of one of its major input materials, steel coil (steel sheet/strip in coils). See Toscelik's Sections B and C Response at pages 37 to 38, and at Exhibit 8.

The Department's normal practice is to calculate an annual weighted–average cost for the entire POR. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Certain Pasta from Italy*, 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, the Department recognizes that possible distortions may result if our normal annual average cost method is used during a period of significant cost changes. Therefore, the Department will deviate from its normal methodology of calculating an annual weighted average cost under certain circumstances.

In determining whether to deviate from our normal methodology of calculating an annual weighted average cost, the Department evaluates the case–specific record evidence using two primary factors: (1) the change in the cost of manufacturing recognized by the respondent during the POR must be deemed significant; and, (2) the record evidence must indicate that sales prices during the shorter averaging periods could be reasonably linked with the cost of production ("COP") or CV during the same shorter averaging periods. *See Stainless Steel Plate in Coils From Belgium: Final Results of Administrative Review*, 73 FR 75398, 75399 "December 11, 2008) ("*SSPC from Belgium*") and *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Administrative Review*, 75 FR 6627 (February 10, 2010) ("*S4 from Mexico*").

In this case, we have determined that the record evidence satisfies these criteria for the pipe and tube products. The record indicates Toscelik experienced significant changes in the cost of manufacturing ("COM") during the POR and that the change in COM is primarily attributable to the price volatility for coils, which are major inputs consumed in the production of the merchandise under consideration. *See* Preliminary Analysis Memorandum. The data show the percentage difference between the high and low quarterly COM clearly exceeded 25 percent during the POR. *Id*. Our analysis of the data provided by Toscelik reveals that during the POR sales and costs were generally trending in a consistent manner, and also that Toscelik turns over its inventory relatively quickly. *Id*. These facts indicate that Toscelik's costs and sales prices were reasonably correlated during the POR.

Therefore, the Department has used variable costs of manufacture and total costs of manufacture based on Toscelik's quarterly costs of production in these preliminary results of review. Specifically, the Department has conducted the "below cost" and "cost recovery" tests using an annual weighted average cost of manufacturing that incorporates an indexing method that addresses the distortive effect of the price volatility for costs. For a detailed analysis, *see* Preliminary Analysis Memorandum.

C. Price-to-Price Comparisons

We calculated NV based on prices to unaffiliated customers. We made adjustments for billing adjustments, early payment discounts, and rebates, where appropriate. We made deductions, where appropriate, for foreign inland freight, pursuant to section 773(a)(6)(B) of the Act. In addition, when comparing sales of similar merchandise, we made adjustments for differences in cost (i.e., DIFMER), where those differences were attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and section 351.411 of the Department's regulations. We also made adjustments for differences in circumstances of sale ("COS") in accordance with section 773(a)(6)(C)(iii) of the Act and section 351.410 of the Department's regulations. We made COS adjustments for imputed credit expenses. 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.

D. Constructed Value

In accordance with section 773(a)(4) of the Act, we base NV on CV if we are unable to find a contemporaneous comparison market match of identical or similar merchandise for the U.S. sale. Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication employed in making the subject merchandise, SG&A expenses, profit, and U.S. packing costs. However, as explained above, for these preliminary results, we did not base NV on CV in any instances.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we base NV on sales made in the comparison market at the same level of trade ("LOT") as the export transaction. The NV LOT is based on the starting price of sales in the home market or, when NV is based on CV, on the LOT of the sales from which SG&A expenses and profit are derived.

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. *See* 19 CFR 351.412(c)(2). If the comparison–market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison–market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. We expect that if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain–on-Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review,* 65 FR 30068 (May 10, 2000) and accompanying Issues and Decision Memorandum at Comment 6.

Toscelik reported that it sold light–walled rectangular pipe and tube at only one level of trade in the home market and in the U.S. market. *See* Toscelik's Sections B and C Response at pages 23 and 61. Toscelik identified one channel of distribution for sales in the home market, "ex works" (channel 1) and one channel of distribution in the U.S. market, "direct to the importer" (channel 1). *See* Toscelik's Section A Response at page 12 and 13, and Toscelik's Sections B and C Response at pages 15 and 54. Toscelik also reported that all sales in the home market were sold to customers within the same customer category, "distributors," and that all sales in the U.S. were sold to the same customer category, "importer." *See* Toscelik's Sections B and C Response at pages 15 and 53.

Based on our analysis of the record evidence provided by Toscelik, we preliminarily determine that a single LOT exists in the home market. Therefore, we have no basis upon which to calculate a level of trade adjustment. For these reasons, we preliminarily find that a LOT adjustment is not appropriate for Toscelik.

Moreover, we find that only minor differences exist between the sole home market channel of distribution and the sole U.S. channel of distribution, that of Toscelik's EP sales. We obtained information from Toscelik regarding the marketing stages involved in making its reported home market and U.S. sales. Toscelik described all selling activities performed, and provided a table comparing the selling functions performed among each channel of distribution for both markets. *See* Toscelik's Section A response at Exhibit 7. We reviewed the nature of the selling functions and the intensity to which all selling functions were performed between Toscelik's EP and home market channels of distribution and customer categories.

While we found differences in the levels of intensity performed between the home market and U.S. market channels of distribution for one of these functions, the "warranty service" function, the difference is minor. Toscelik reported that it performed these functions in the home market at a level of "<1" on a scale of 1 to 10, and not at all in the U.S. market. *See* Toscelik's Section A Response at Exhibit 7. Therefore, we find only minor differences exist between the sole home market channel of distribution and the sole U.S. channel of distribution, that of Toscelik's EP sales.

The Department has determined that we will find sales to be at the same LOT when the selling functions performed for each customer class are sufficiently similar. *See* 19 CFR 351.412 (c)(2). We find Toscelik performed virtually the same level of customer support services on its EP sales as it did on its home market sales and that the minor differences that do exist do not establish distinct and separate levels of trade.

The record evidence supports a finding that in both markets and in both channels of distribution Toscelik performs essentially the same level of services. Therefore, based on our analysis of the selling functions performed on EP sales in the United States, and its sales in the home market, we determine that the EP and the starting price of home market sales represent the same stage in the marketing process, and are thus at the same LOT.

Currency Conversions

In accordance with section 773A(a) of the Act, we made Turkish lira–U.S. dollar currency conversions, where appropriate, based on the exchange rates in effect on the dates of the U.S. sales, as collected by Dow Jones Reuters Business Interactive LLC (trading as Factiva) and as published on the Import Administration's web site (http://ia.ita.doc.gov/exchange/index.html).

Preliminary Results of Review

As a result of our review, we preliminarily find the following weighted–average dumping margin exists for the period January 30, 2008, through April 30, 2009:

Manufacturer / Exporter	Weighted Average Margin (percentage)
Toscelik	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. Toscelik 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(ies) 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 Toscelik 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: June 7, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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