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DEPARTMENT OF COMMERCE

International Trade Administration

C-489-823

Welded Line Pipe from the Republic of Turkey: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of welded line pipe from the Republic of Turkey (Turkey) as provided in section 705 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2013, through December 31, 2013. For information on the estimated subsidy rates, see the “Suspension of Liquidation” section of this notice.

DATES: Effective Date: Insert date of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Dennis McClure, Office II, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3874 and (202) 482-5973, respectively.

SUPPLEMENTARY INFORMATION:

Background

The petitioners in this investigation are American Cast Iron Pipe Company, Energex (a division of JMC Steel Group), Maverick Tube Corporation, Northwest Pipe Company, Stupp Corporation (a division of Stupp Bros., Inc.), Tex-Tube Company, TMK IPSCO, and Welspun

Tubular LLC USA. In addition to the Government of Turkey, the mandatory respondents in this investigation are Borusan Istikbal Ticaret, Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Mannesmann Boru Yatirim Holding A.S., and Borusan Holding A.S. (collectively, Borusan) and Toscelik Profil ve Sac Endustrisi A.S., Tosyali Demir Celik Sanayi A.S., Tosyali Dis Ticaret A.S., Tosyali Elektrik Enerjisi Toptan Satis Ith. Ihr. A.S., and Tosyali Holding A.S. (collectively, Toscelik).

The events that have occurred since the Department published the Preliminary Determination¹ on March 20, 2015, are discussed in the Issues and Decision Memorandum, which is hereby incorporated in this notice.² This memorandum also details the changes we made since the Preliminary Determination to the subsidy rates calculated for the mandatory respondents and all other producers/exporters. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

¹ See Welded Line Pipe From the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Determination, 80 FR 14943 (March 20, 2015) (Preliminary Determination), and accompanying Preliminary Decision Memorandum.

² See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Welded Line Pipe from the Republic of Turkey," dated concurrently with this notice (Issues and Decision Memorandum).

Scope of the Investigation

The scope of the investigation covers welded line pipe, which is carbon and alloy steel pipe of a kind used for oil or gas pipelines, not more than 24 inches in nominal outside diameter. For a complete description of the scope of the investigation, see Appendix I.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum, dated concurrently with this notice. A list of the issues that parties have raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix II.

Use of Facts Otherwise Available, Including Adverse Inferences

On April 14, 2015, Borusan notified the Department that it would not participate in the statutorily mandated verification in this investigation. By refusing to participate in verification, Borusan significantly impeded this proceeding and provided information that cannot be verified as provided by section 782(i) of the Act. Thus, for the final determination, we are basing the countervailing duty (CVD) rate for Borusan on facts otherwise available, pursuant to sections 776(a)(2)(C) and (D) of the Act. Further, because Borusan did not cooperate to the best of its ability in this investigation, we also determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. As adverse facts available (AFA), we have assigned Borusan a rate of 152.20 percent. For a full discussion of this issue, see the Issues and Decision Memorandum.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for Toscelik. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, we will determine an “all others” rate equal to the weighted-average countervailable subsidy rates

established for exporters and producers individually investigated, excluding any zero and de minimis countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. Where the rates for investigated companies are zero or de minimis, or based entirely on facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an “all others” rate using “any reasonable method.” As discussed above, we determined Borsuan’s rate based entirely on AFA in accordance with sections 776(a) and (b) of the Act. Therefore, we used the rate calculated for Toscelik as the “all others” rate.

We determine the total estimated net countervailable subsidy rates to be:

Company	Subsidy Rate
Borusan Istikbal Ticaret, Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Mannesmann Boru Yatirim Holding A.S., and Borusan Holding A.S.	152.20 percent
Tosçelik Profil ve Sac Endustrisi A.S., Tosyali Demir Celik Sanayi A.S., Tosyali Dis Ticaret A.S., Tosyali Elektrik Enerjisi Toptan Satis Ith. Ihr. A.S., and Tosyali Holding A.S. ³	1.31 percent
All Others	1.31 percent

As a result of our affirmative Preliminary Determination, pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise from Turkey which were entered or withdrawn from warehouse, for consumption on or after March 20, 2015, the date of the publication of the Preliminary Determination in the Federal Register.

In accordance with section 703(d) of the Act, we later issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or

³ In its December 15, 2014, response, Toscelik stated that Toscelik Profil ve Sac Endustrisi A.S. merged with its cross-owned affiliate, Tosyali Metal Ambalaj Sanayi A.S. (Tosyali Metal). Because Tosyali Metal no longer exists as a separate entity, we have not included it in the list of companies above.

withdrawn from warehouse, on or after July 18, 2015, but to continue the suspension of liquidation of all entries from March 20, 2015, through July 17, 2015, as appropriate.

We will issue a CVD order and reinstate the suspension of liquidation in accordance with our final determination and under section 706(a) of the Act if the United States International Trade Commission (ITC) issues a final affirmative injury determination, and we will instruct CBP to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction 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 terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the

Act.

Dated:

__October 5, 2015__

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is circular welded carbon and alloy steel (other than stainless steel) pipe of a kind used for oil or gas pipelines (welded line pipe), not more than 24 inches in nominal outside diameter, regardless of wall thickness, length, surface finish, end finish, or stenciling. Welded line pipe is normally produced to the American Petroleum Institute (API) specification 5L, but can be produced to comparable foreign specifications, to proprietary grades, or can be non-graded material. All pipe meeting the physical description set forth above, including multiple-stenciled pipe with an API or comparable foreign specification line pipe stencil is covered by the scope of this investigation.

The welded line pipe that is subject to this investigation is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.5000, 7305.12.1030, 7305.12.5000, 7305.19.1030, 7305.19.5000, 7306.19.1010, 7306.19.1050, 7306.19.5110, and 7306.19.5150. The subject merchandise may also enter in HTSUS 7305.11.1060 and 7305.12.1060. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Use of Facts Otherwise Available and Adverse Inferences
- IV. Subsidies Valuation Information
- V. Benchmark Interest Rates
- VI. Analysis of Programs
- VII. Analysis of Comments
 1. Application of AFA to Borusan
 2. Provision of Hot-Rolled Steel (HRS) for Less than Adequate Remuneration (LTAR) –Whether Eregli Demir ve Celik Fabrikalari T.A.S. (Erdemir) and Iskenderun Iron & Steel Works Co. (Isdemir) Are “Authorites”
 3. Provision of HRS for LTAR – Using a Tier One or Tier Two Benchmark
 4. Other Arguments Related to the Provision of HRS for LTAR
 5. Provision of Land for LTAR
 6. The Sales Denominator Used for Toscelik
 7. Specificity and Countervailability of the Investment Encouragement Program: Customs Duty and Value Added Tax Exemption
- VIII. Recommendation

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