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DEPARTMENT OF COMMERCE

International Trade Administration

[C-489-817]

Oil Country Tubular Goods from the Republic of Turkey: Amendment of Countervailing Duty Order

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

SUMMARY: On May 30, 2017, the United States Court of Appeals for the Federal Circuit (CAFC) affirmed the Department of Commerce's (the Department) remand redetermination concerning the countervailing duty (CVD) investigation of oil country tubular goods (OCTG) from the Republic of Turkey (Turkey). This judgment was not appealed within the 90-day deadline, and became final and conclusive on August 28, 2017. The Department previously notified the public that the final judgment in this case by the U.S. Court of International Trade (CIT) is not in harmony with the Department's final determination in the CVD investigation of OCTG from Turkey. Because the judgment in this case is now final and conclusive, the Department is amending its CVD order on OCTG from Turkey covering the period of investigation of January 1, 2012, through December 31, 2012, to exclude Tosyali Dis Ticaret A.S., Tosçelik Profil ve Sac Endustrisi A.S., Tosyali Elektrik Enerjisi Toptan Satis Ith. Ihr. A.S., Tosyali Demir Celik San. A.S., and Tosyali Holding A.S. (collectively, Tosçelik) from the order, and to revise the net countervailing subsidy rate for Borusan Istikbal Ticaret, Borusan Mannesmann Boru Sanayi, Borusan Mannesmann Boru Yatirim Holding A.S., and Borusan Holding A.S. (collectively, Borusan) and the "all others" rate.

DATES: *Applicable* March 3, 2016

FOR FURTHER INFORMATION CONTACT: Aimee Phelan or Jennifer Shore, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC, 20230; telephone (202) 482-0697 or (202) 482-2778, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 2014, the Department published its final affirmative CVD determination and final affirmative critical circumstances determination in this proceeding.<sup>1</sup> The Department reached affirmative determinations for mandatory respondents Borusan and Tosçelik. On September 2, 2014, the International Trade Commission notified the Department of its affirmative determination that an industry in the U.S. was materially injured by reason of OCTG that were subsidized by the Government of Turkey (GOT).<sup>2</sup> On September 10, 2014, the Department published the CVD orders on OCTG from India and the Republic of Turkey.<sup>3</sup> The petitioner, Maverick Tube Corporation, and Borusan, each appealed the *Final Determination* to the CIT.<sup>4</sup> In *Borusan*, the CIT remanded for further consideration the Department's finding of distortion in the Turkish hot-rolled steel (HRS) market, the Department's selection of a HRS benchmark, and the Department's application of facts available with adverse inferences with

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<sup>1</sup> See *Certain Oil Country Tubular Goods from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 41964 (July 18, 2014) (*Final Determination*).

<sup>2</sup> See Letter from the ITC to the Department, dated September 2, 2014; see also *Certain Oil Country Tubular Goods from India, Korea, Philippines, Taiwan, Thailand, Turkey, Ukraine, and Vietnam* (Investigation Nos. 701-TA-499-500 and 731-TA-1215-1217 and 1219-1223 (Final) USITC Publication 4489, September 2014).

<sup>3</sup> See *Certain Oil Country Tubular Goods from India and the Republic of Turkey: Countervailing Duty Orders and Amended Affirmative Final Countervailing Duty Determination for India*, 79 FR 53688 (September 10, 2014) (*Orders*).

<sup>4</sup> See *Borusan Mannesmann Boru Sanayi Ve Ticaret A.S. v. United States*, 61 F. Supp. 3d 1306 (CIT 2015) (*Borusan*); and *Maverick Tube Corporation v. United States*, Consol. Court No. 14-00229, Slip Op. 15-59 (CIT 2015) (*Maverick*). On June 22, 2015, the CIT granted a motion to consolidate Court No. 14-00214 into Consolidated Court No. 14-00229.

respect to purchases of HRS by respondent Borusan. In *Maverick*, the CIT remanded issues pertaining to the Department's HRS benchmark calculations as well and, in addition, the Department's benchmark valuation for a parcel of land that the GOT granted to Tosçelik in 2008 for less than adequate remuneration.

On August 31, 2015, the Department issued its *Remand Redetermination* in accordance with the CIT's Order.<sup>5</sup> On remand, the Department revised the net countervailable subsidy rates for Borusan, Tosçelik, and the "all others" rate. On February 22, 2016, the CIT affirmed the Department's *Remand Redetermination*.<sup>6</sup> In response to the CIT's February 22, 2016, decision, the Department published a notice of court decision not in harmony with the final determination of the CVD investigation, and amended its *Final Determination* with respect to Borusan, Tosçelik, and the "all others" rate.<sup>7</sup> The revised net countervailable subsidy rates for Tosçelik and Borusan are 0.95 percent and 2.39 percent, respectively. The revised "all others" rate is 2.39 percent. Because neither Tosçelik nor Borusan had a superseding cash deposit rate (*e.g.*, from an administrative review), the Department issued amended cash deposit instructions to U.S. Customs and Border Protection (CBP) on March 16, 2016.<sup>8</sup>

Borusan appealed, and *Maverick* cross-appealed, the CIT's decision to the CAFC, which affirmed the Department's *Remand Redetermination* on May 30, 2017.<sup>9</sup> Parties had 90 days, until August 28, 2017, to appeal the CAFC's decision by filing a petition for *writ of certiorari* with the United States Supreme Court. No party appealed.

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<sup>5</sup> See Final Results of Remand Redetermination, *Borusan Mannesmann Boru Sanayi Ve Ticaret A.S. and Borusan Istikbal Ticaret v. United States; Maverick Tube Corporation v. United States*, Consol. Ct. No. 14-00229, 61 F. Supp. 3d 1306 and Slip Op. 15-59, dated August 31, 2017 (*Remand Redetermination*).

<sup>6</sup> See *Maverick Tube Corporation v. United States*, CIT Consol. Court No. 14-00229, Slip Op. 16-16 (February 22, 2016).

<sup>7</sup> See *Oil Country Tubular Goods from Turkey: Notice of Court Decision not in Harmony with the Final Determination of the Countervailing Duty Investigation*, 81 FR 12691 (March 10, 2016) (*Timken Notice*).

<sup>8</sup> See Message No. 6076302, dated March 16, 2016 (Message No. 6076302).

<sup>9</sup> See *Maverick Tube Corporation v. United States*, 857 F.3d 1353 (Fed. Cir. 2017).

Amendment of the Order on OCTG from Turkey

The period to appeal the CAFC’s decision has passed, and a final and conclusive court decision has been reached in this case. Therefore, the Department is amending the CVD order on OCTG from Turkey<sup>10</sup> to exclude from the order subject merchandise produced and exported by Tosçelik<sup>11</sup> because the revised net countervailable subsidy rate is *de minimis*.

Net Countervailable Subsidy Rates

The net countervailable subsidy rates are as follows:

Producer/Exporter	Net Subsidy Rate (Percent)
Borusan Istikbal Ticaret, Borusan Mannesmann Boru Sanayi, Borusan Mannesmann Boru Yatirim Holding A.S., and Borusan Holding A.S. <sup>12</sup>	2.39
Tosyali Dis Ticaret A.S, Tosçelik Profil ve Sac Endustrisi A.S., Tosyali Elektrik Enerjisi Toptan Satis Ith. Ihr. A.S., Tosyali Demir Celik San. A.S., and Tosyali Holding A.S.	0.95 ( <i>de minimis</i> )
All Others	2.39

Continuation of Suspension of Liquidation, in Part

In accordance with section 705(c)(1)(B) of the Tariff Act of 1930, as amended (the Act), the Department has instructed CBP to continue to suspend liquidation on all relevant entries of OCTG from Turkey.<sup>13</sup> These instructions suspending liquidation will remain in effect until further notice. However, because the revised countervailable subsidy rate for Tosçelik is *de minimis*, the Department is directing CBP to liquidate all entries produced and exported by Tosçelik currently suspended without regard to countervailing duties, and to discontinue the

<sup>10</sup> See Orders.

<sup>11</sup> The Department determined that Tosyali Dis Ticaret A.S, Tosçelik Profil ve Sac Endustrisi A.S., Tosyali Elektrik Enerjisi Toptan Satis Ith. Ihr. A.S., Tosyali Demir Celik San. A.S., and Tosyali Holding A.S. are cross-owned. See *Final Determination* and accompanying Issues and Decision Memorandum, at 6 - 8.

<sup>12</sup>The Department determined that Borusan Istikbal Ticaret, Borusan Mannesmann Boru Sanayi, Borusan Mannesmann Boru Yatirim Holding A.S., and Borusan Holding A.S. are cross owned. Id. at 4-6.

<sup>13</sup> *Id.*, 79 FR at 53690; see also Message No. 4260305, dated September 17, 2014, and Message No. 6076302, dated March 16, 2016.

suspension of liquidation of entries of subject merchandise where Tosçelik acted as both the producer and exporter. Entries of subject merchandise exported to the United States by any other producer and exporter combination involving Tosçelik are not entitled to this exclusion from suspension of liquidation and are subject to the cash deposit rate for the “all others” entity.

Because the net countervailable subsidy rate determined for Tosçelik is *de minimis*, consistent with the requirement under section 705(c)(5)(A) of the Act that the calculation of the “all others” rate excludes zero or *de minimis* rates calculated for the companies individually investigated, the Department revised the “all others” rate.<sup>14</sup> Therefore, for purposes of the amended CVD order with respect OCTG from Turkey, the “all others” cash deposit rate is amended to Borusan’s revised calculated subsidy rate of 2.39 percent.

#### Notification to Interested Parties

This notice constitutes the amended CVD order with respect OCTG from Turkey. This notice is issued and published in accordance with sections 516A(e) and 706(a) of the Act.

*Dated: September 27, 2017.*

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Carole Showers,  
Executive Director, Office of Policy  
performing the duties of the Deputy Assistant Secretary  
for Enforcement and Compliance.

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<sup>14</sup> See *Timken Notice*, 81 FR, at 12692.

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