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DEPARTMENT OF COMMERCE

International Trade Administration

[C-489-832]

Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Notice of Court Decision Not in Harmony with Final Countervailing Duty Determination, and Notice of Amended Final Countervailing Duty Determination

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

SUMMARY: On June 25, 2020, the United States Court of International Trade (CIT) sustained the final results of redetermination pertaining to the countervailing duty (CVD) investigation of carbon and alloy steel wire rod (wire rod) from the Republic of Turkey (Turkey) for the period of investigation (POI), January 1, 2016 through December 31, 2016. The Department of Commerce (Commerce) is notifying the public that the final judgment in this case is not in harmony with the final determination in the CVD investigation, and that Commerce is amending the final determination and resulting CVD order with respect to the subsidy rates assigned to Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas) and all other producers/exporters not individually investigated.

DATES: Applicable July 5, 2020

FOR FURTHER INFORMATION CONTACT: Justin Neuman, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0486.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 2018, Commerce published its *Final Determination* in the CVD investigation of wire rod from Turkey for the POI of January 1, 2016 through December 31, 2016.¹ In the *Final Determination*, Commerce applied a rate based on adverse facts available to one program used by the respondents after discovering unreported information related to the Government of Turkey's (GOT's) "Assistance to Offset Costs Related to AD/CVD Investigations" program, which confers a countervailable subsidy.² In the *Final Determination*, Commerce also evaluated whether the GOT sold natural gas to Turkish wire rod producers for less-than-adequate remuneration (LTAR), and relied on Russian Eurostat (Eurostat) data for the tier two benchmark in the LTAR analysis. On May 21, 2018, Commerce published the *Amended Final Determination and Order*.³

On December 3, 2018, Habas, Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas), and the Nucor Corporation (Nucor) challenged various aspects of Commerce's *Final Determination*. Habas and Icdas contested Commerce's application of adverse facts available as unsupported by evidence and contrary to law. Nucor separately argued that Commerce's selection of Eurostat data as a tier two benchmark to calculate benefits from the provision of natural gas at LTAR was inadequately explained, the data did not represent the best available information, and the decision was unsupported by evidence and contrary to law. On November

¹ See *Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination, in Part*, 83 FR 13239 (March 28, 2018) (*Final Determination*) accompanying Issues and Decision Memorandum (IDM).

² See IDM at section VII; see also Memorandum, "Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Calculations for the Final Countervailing Duty Determination," dated March 19, 2018.

³ See *Carbon and Alloy Steel Wire Rod from Italy and the Republic of Turkey: Amended Final Affirmative Countervailing Duty Determination for the Republic of Turkey and Countervailing Duty Orders for Italy and the Republic of Turkey*, 83 FR 23420 (May 21, 2018) (*Amended Final Determination and Order*).

19, 2019, the CIT sustained Commerce’s application of adverse facts available against Habas and Icdas. However, the CIT remanded the *Final Determination* to Commerce with instructions for Commerce to reconsider benchmark data relating to the natural gas for LTAR program.⁴

On February 11, 2020, Commerce issued its Final Results of Redetermination in accordance with the CIT’s order.⁵ As part of its analysis, Commerce placed new factual information on the record relating to natural gas prices. Commerce then reconsidered its reliance on Russian Eurostat data as a tier two benchmark, and instead relied on data from an International Energy Administration (IEA) report, as adjusted by Commerce, to construct a tier three benchmark.⁶ On June 25, 2020, the CIT sustained Commerce’s Final Results of Redetermination.⁷

Timken Notice

In its decision in *Timken*,⁸ as clarified by *Diamond Sawblades*,⁹ the Court of Appeals for the Federal Circuit (CAFC) held that, pursuant to section 516A of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s June 25, 2020, judgment sustaining the Final Results of Redetermination constitutes a final decision of the CIT that is not in harmony with Commerce’s

⁴ See *Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi AS et al. v. United States*, Court No. 18-00144, Slip Op. 19-144 (CIT November 19, 2019).

⁵ See *Final Results of Redetermination Pursuant to Remand Order, Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi AS et al. v. United States*, Court No. 18-00144, Slip Op. 19-144 (CIT November 19, 2019), dated February 11, 2020 (Final Results of Redetermination).

⁶ *Id.*

⁷ See *Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi AS, et al. v. United States*, Court No. 18-00144, Slip Op. 20-87 (CIT June 25, 2020).

⁸ See *Timken Co. v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

⁹ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Final Determination, as modified by the *Amended Final Determination and Order*. This notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Determination

Because there is now a final court decision, Commerce is amending its *Final Determination* with respect to the countervailing duty rate calculated for Habas and the companies covered by the all-others rate. The revised rates are as follows:

Exporter or Producer	Subsidy Rate
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. ¹⁰	6.09
Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. ¹¹	3.81
All Others	4.95

Cash Deposit Requirements

Because Habas does not have a superseding cash deposit rate, *i.e.*, there have been no final results published in a subsequent administrative review for the Habas, Commerce will issue revised cash deposit instructions to CBP. Commerce will instruct CBP to collect a cash deposit for estimated countervailing duties at *ad valorem* rates equal to the estimated weighted-average subsidy rates listed above for Habas and all other producers and exporters of the subject merchandise, effective July 5, 2020.

¹⁰ See *Final Results of Redetermination*.

¹¹ The rate for Icdas did not change as a result of litigation. See *Carbon and Alloy Steel Wire Rod From the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination, in Part*, 83 FR 13239 (March 28, 2018); see also *Order*, 83 FR at 23421.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), and 777(i)(1) of the Act.

Dated: July 7, 2020.

Jeffrey I. Kessler,
Assistant Secretary for Enforcement and Compliance.

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