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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

**President's Export Council
Subcommittee on Export
Administration; Notice of Partially
Closed Meeting**

The President's Export Council Subcommittee on Export Administration (PECSEA) will meet on May 20, 2004 10 a.m., at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 4832, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The PECSEA provides advice on matters pertinent to those portions of the Export Administration Act, as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations and of controlling trade for national security and foreign policy reasons.

Public Session:

1. Opening remarks by the Chairman.
2. Bureau of Industry and Security (BIS) and Export Administration update.
3. Export Enforcement update.
4. Presentation of papers or comments by the public.

Closed Session:

5. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

A limited number of seats will be available for the public session.

Reservation are not accepted. To the extent time permits, members of the public may present oral statements to the PECSEA. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to PECSEA members, the PECSEA suggests that public presentation materials or comments be forwarded before the meeting to the address listed below: Ms. Lee Ann Carpenter, EA/BIS MS: 1099D, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

A Notice of Determination to close meetings, or portions of meetings, of the PECSEA to the public on the basis of 5 U.S.C. 522(c)(1) was approved on October 8, 2003 in accordance with the Federal Advisory Committee Act.

For more information, call Ms. Carpenter on (202) 482-2583.

Dated: March 31, 2004.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 04-7717 Filed 4-05-04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-501]

**Notice of Preliminary Results of
Antidumping Duty Administrative
Review: Certain Welded Carbon Steel
Pipe and Tube From Turkey**

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

SUMMARY: In response to a request by domestic interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain welded carbon steel pipe and tube (welded pipe and tube) from Turkey. This review covers one producer/exporter of the subject merchandise, The Borusan Group (Borusan). We preliminarily determine that Borusan made sales below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on the difference between the export price (EP) and the NV.

EFFECTIVE DATE: April 6, 2004.

FOR FURTHER INFORMATION CONTACT:

Martin Claessens or Erin Begnal, at (202) 482-5451 or (202) 482-1442,

respectively; AD/CVD Enforcement Office 5, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:**Background**

On May 15, 1986, the Department published in the **Federal Register** the antidumping duty order on welded pipe and tube from Turkey (51 FR 17784). On May 1, 2003, the Department published a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 23281 (May 1, 2003). On May 30, 2003, in accordance with 19 CFR 351.213(b), interested parties Allied Tube & Conduit Corporation, IPSCO Tubulars, Inc., and Wheatland Tube Company requested a review of Borusan.

On July 1, 2003, the Department published a notice of initiation of administrative review of the antidumping duty order on welded pipe and tube from Turkey, covering the period May 1, 2002, through April 30, 2003 (68 FR 39055). On January 6, 2004 the Department extended the deadline for the preliminary results until no later than March 31, 2004. *See Certain Welded Carbon Steel Pipe and Tube from Turkey: Extension of the Time Limit for the Preliminary Results of Antidumping Duty Administrative Review* (69 FR 628). From March 1 through March 12, 2004, we conducted sales and cost verifications of Borusan's questionnaire response.

Scope of the Review

The products covered by this order include circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, or galvanized, painted), or end finish (plain end, beveled end, threaded and coupled). Those pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing,

and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe application. All carbon steel pipes and tubes within the physical description outlined above are included in the scope of this review, except for line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Verification

As provided in sections 782(i)(3) of the Tariff Act of 1930, as amended (the Act), we verified the information provided by Borusan. We used standard verification procedures, including on-site inspection of the respondent producer's facilities and examination of relevant sales and financial records.

Product Comparisons

We compared the EP to the NV, as described in the *Export Price* and *Normal Value* sections of this notice. Because Turkey's economy experienced high inflation during the period of review (POR) (approximately 35 percent), as is Department practice, we limited our comparisons of U.S. sales to comparison-market sales made during the same month in which the U.S. sale occurred and did not apply our "90/60 contemporaneity rule" (see, e.g., Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey, 63 FR 68429, 68430 (December 11, 1998)). This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred during the time between the U.S. and the home-market sales. We first attempted to compare products sold in the U.S. and home markets that were identical with respect to the following characteristics: grade, diameter, wall thickness, finish, and end finish. Where there was not an identical comparison, we compared U.S. products with the most similar merchandise sold in the home market based on the

characteristics listed above, in that order of priority.

Export Price

Because Borusan sold subject merchandise directly to the first unaffiliated purchaser in the United States prior to importation, and constructed export price methodology was not otherwise warranted based on the record facts of this review, in accordance with section 772(a) of the Act, we used EP as the basis for all of Borusan's sales.

We calculated EP using, as starting price, the packed, delivered price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made the following deductions from the starting price (gross unit price), where appropriate: foreign inland freight from the mill to the port, foreign brokerage and handling, international freight, marine insurance, and other related charges. In addition, we added duty drawback to the starting price.

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, we compared Borusan's volume of home-market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Borusan'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 that the home market was viable. We calculated NV as noted in the "Price to Price Comparisons" section of this notice.

B. Cost of Production Analysis

Because the Department disregarded sales below the cost of production (COP) in the last completed review of Borusan, we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Borusan in the home market. (See Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipes and Tubes From Turkey (Final Results), 65 FR 37116 (June 13, 2000)).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of Borusan's costs of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A) and the cost of all expenses incidental to packing and preparing the foreign like product for shipment.

In order to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that Borusan submit monthly production costs incurred during each month of the POR. We calculated a POR-average cost for each product, then deflated that POR-average for each product back to every month to take into account inflation. To do this, we indexed the reported monthly costs of manufacturing (COM) during the POR to the final month of the POR using the wholesale price index for Turkey from the International Financial Statistics, published by the International Monetary Fund, and calculated a POR-average COM for each product. We then restated the POR-average COM to the inflation level of each month and calculated monthly COP and constructed value (CV) for each product (see, e.g., *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not to Revoke in Part*, 68 FR 23972 (September 9, 2003)) as explained in *Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke in Part* 68 FR 53127 (May 6, 2003)). To obtain a Borusan Group general and administrative (G&A) expense factor, we used the company-wide cost information from the two Borusan Group producers involved in the production of the subject merchandise and the foreign like product. We applied the G&A and interest expense rates to the monthly indexed COM.

2. Test of Comparison Market Sales Prices

We compared the indexed weight-averaged COP figures to home-market sales of the foreign like product as called for by section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to the home-market prices, less any applicable movement charges, rebates, discounts, packing, and direct selling expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales were not made in "substantial quantities." To avoid the distortive effects of high inflation, we compared the price for each CONNUM to its COP in the same month. We found that, for certain products, more than 20 percent of Borusan's home market sales were sold at prices below the COP. Further, we did not find that the prices for these sales provided for the recovery of costs within a reasonable period of time. We therefore excluded these sales from our analysis and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Calculation of NV Based on Comparison Market Prices

For those comparison products for which there were sales at prices above the COP, we based NV on home-market prices. In these preliminary results, we were able to match all U.S. sales to contemporaneous sales, made in the ordinary course of trade, of either an identical or a similar foreign like product (based on matching characteristics). We calculated NV based on FOB mill/warehouse or delivered prices to unaffiliated customers, or prices to affiliated customers which were determined to be at arm's length (see discussion below regarding these sales). We made deductions, where appropriate, from the starting price for discounts, rebates, inland freight, and pre-sale warehouse expense. Additionally, we added billing adjustments and interest revenue. In accordance with section 773(a)(6) of the Act, we deducted home-market packing costs and added U.S. packing costs.

In accordance with section 773(a)(6)(C)(iii) of the Act, we adjusted for differences in the circumstances of sale (COS). These circumstances included differences in imputed credit expenses and other direct selling expenses. We also made adjustments, where appropriate, for physical differences in the merchandise (DIFMER) in accordance with section 773(a)(6)(C)(ii) of the Act and for differences in the level of trade (see discussion below regarding level of trade). For the DIFMER adjustment, we calculated POR-average variable and total COMs, by product, after indexing the reported monthly costs using the

wholesale price index for Turkey. We then restated the average variable and total COMs to the currency level of each respective month.

Arm's-Length Sales

We included in our analysis Borusan's home-market sales to affiliated customers only where we determined that such sales were made at arm's-length prices, *i.e.*, at prices comparable to prices at which Borusan sold identical merchandise to unrelated customers. To test whether the sales to affiliates were made at arm's-length prices, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts, and packing. Where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties we determined that the sales made to the affiliated party were at arm's length. *See Modification Concerning Affiliated Party Sales in the Comparison Market*, 67 FR 69186 (November 15, 2002).

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, at 829–831 (see H.R. Doc. No. 316, 103d Cong., 2d Sess. 829–831 (1994)), to the extent practicable, the Department calculates NV based on sales at the same level of trade (LOT) as the U.S. sales (either EP or CEP). When the Department is unable to find sale(s) in the comparison market at the same LOT as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at different LOTs. The NV LOT is that of the starting-price sales in the home market. To determine whether home-market sales are at a different LOT than U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT and the differences affect 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.

In implementing these principles, we examined information from the respondent regarding the marketing stages involved in the reported home-market and EP sales, including a description of the selling activities

performed by Borusan for each channel of distribution. Consistent with the prior review of this respondent for the period 1998–1999, we determined that with respect to Borusan's sales, there were two home market LOTs and one U.S. LOT (*i.e.*, the EP LOT). *See Final Results*, 65 FR 37116 (June 13, 2000).

For home-market sales, we found that Borusan's back-to-back sales by affiliated resellers and mill-direct sales comprised one LOT, and Borusan's inventory sales by affiliated resellers warranted a separate LOT. Back-to-back sales by affiliated resellers are sales by Borusan through an affiliated selling agent. Such sales are very similar to mill-direct sales, however the affiliated agent arranges for freight. The affiliated agent does not take possession of the merchandise; it is transferred directly from the mill to the final customer. For mill-direct sales, Borusan provided customer advice, product information and technical services, warranty services, and advertising. For back-to-back sales by affiliated resellers, the resellers engage in marketing activities and make freight arrangements, and warranty services are provided by the mill. For inventory sales by affiliated resellers, the resellers have a sales staff that sells Borusan products out of the reseller's warehouse. Those resellers maintain such warehouses, provide product information, and customer advice. Warranty services for these sales were provided by the mill.

Besides the large difference of warehousing expenses for Borusan's inventory sales by affiliated resellers, with back-to-back and mill-direct sales Borusan transfers the title of the merchandise directly and immediately to the first unaffiliated customer. Borusan also provides discounts for both mill-direct and back-to-back sales, but provides only very limited discounts for inventory sales.

Borusan's U.S. sales were made at only one LOT. The selling functions for U.S. sales included customer advice and product information, warranty services, and freight and delivery arrangements. Borusan's sales to the United States were not made out of warehouses. This LOT is most similar to the first LOT in the home market (mill-direct and back-to-back sales).

Where possible, we compared U.S. sales to sales at the identical home-market LOT—mill-direct sales and back-to-back affiliated reseller sales. If no match was available at the same LOT, we compared sales at the U.S. LOT to sales at the second home-market LOT.

To determine whether a LOT adjustment was warranted, we examined, on a monthly basis, the

prices of comparable product categories, net of all adjustments, between sales at the two home-market LOTs we had designated. We found a pattern of consistent price differences between sales at these LOTs.

In making the LOT adjustment, we calculated the difference in monthly weight-averaged prices between the two home-market LOTs. Where U.S. sales were compared to home-market sales at a different LOT, we adjusted the home-market price by the amount of this calculated difference.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Turkish lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Business Information Services.

Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from a benchmark rate by 2.25 percent. The benchmark rate is defined as the rolling average of the rates for the past 40 business days. When we determine that a fluctuation existed, we generally utilize the benchmark rate instead of the daily rate, in accordance with established practice.

When the rate of domestic price inflation is significant, as it is in this case, it is important that we use as a basis for NV home-market prices that are as contemporaneous as possible with the date of the U.S. sale. This is to minimize the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the time between the U.S. and the home market sales. For this reason, as discussed above, we are comparing home-market and U.S. sales in the same month. For the same reason, we have used the daily exchange rates for currency conversion purposes. *See, e.g., Certain Porcelain on Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 42496, 42503 (August 7, 1997) and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey*, 61 FR 30309 (June 14, 1996).

Preliminary Results of Review

As a result of this review, we preliminarily determine that the

following margin exists for the period May 1, 2002, through April 30, 2003:

Manufacturer/exporter	Margin (percent)
Borusan Group	1.78

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* section 351.224(b) of the Department's regulations. Interested parties are invited to comment on the preliminary results. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 37 days after the date of publication of this notice. Parties who submit arguments are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on a diskette. Any interested party may request a hearing within 30 days of publication of this notice. *See* section 351.310(c) of the Department's regulations. If requested, a hearing will be held 44 days after the publication of this notice, or the first workday thereafter. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any written comments or hearing, within 120 days from publication of this notice.

Assessment

Pursuant to section 351.212(b) of the Department's regulations, the Department calculated an assessment rate for each importer of subject merchandise. Upon completion of this review, the Department will instruct CBP to assess antidumping duties on all entries of subject merchandise by those importers. We have calculated each importer's duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total calculated entered value of examined sales. Where the assessment rate is above *de minimis*, the importer-specific rate will be assessed uniformly on all entries made during the POR.

Cash Deposit Requirements

The following cash deposit rates will be effective upon publication of the final results of this administrative

review for all shipments of welded pipe and tube from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the company listed above will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior 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 (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review or the LTFV investigation conducted by the Department, the cash deposit rate will be 14.74 percent, the "All Others" rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations 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 antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 31, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04-7806 Filed 4-5-04; 8:45 am]

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