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DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-501]

Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Notice of Court Decision Not in Harmony With Amended Final Results of Review; Amended Final Results of Administrative Review of the Antidumping Duty Order on Welded Carbon Steel Standard Pipe and Tube Products from the Republic of Turkey, 2014-2015

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

SUMMARY: On July 28, 2020, the U.S. Court of International Trade (CIT) sustained the Department of Commerce (Commerce)'s third remand redetermination pertaining to the administrative review of welded carbon steel standard pipe and tube products (welded pipe and tube) from the Republic of Turkey (Turkey) covering the period of review (POR) May 1, 2014 through April 30, 2015. Commerce is notifying the public that the CIT's final judgment is not in harmony with the amended final results of the administrative review, and that Commerce is amending the weighted-average dumping margin for Toscelik Profil ve Sac Endustrisi A.S. (Toscelik).

DATES: Applicable August 7, 2020.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 2016, Commerce published the *Final Results* in the 2014-2015 administrative review of welded pipe and tube from Turkey, in which Commerce calculated a weighted-average dumping margin of 1.91 percent.¹ After correcting ministerial errors contained in the *Final Results*, on February 17, 2017, Commerce published the *Amended Final Results*, and calculated a revised weighted-average dumping margin of 3.40 percent for Toscelik.²

Toscelik and the JMC Steel Group (a domestic interested party) appealed Commerce's *Final Results*, as amended by the *Amended Final Results*, to the CIT. On June 6, 2018, the CIT issued its *First Remand Order*, directing Commerce to: (1) reconsider the calculation of Toscelik's duty drawback adjustment; and (2) provide further explanation for granting Toscelik a circumstance-of-sale adjustment for warehousing expenses.³ On October 4, 2018, Commerce submitted its final results of redetermination, recalculating Toscelik's duty drawback adjustment, under respectful protest,⁴ and providing further explanation for granting a circumstance-of-sale adjustment for warehousing expenses.⁵

On April 1, 2019, the CIT issued its *Second Remand Order*, sustaining Commerce's explanation of Toscelik's circumstance-of-sale for adjustment for warehousing expenses, but

¹ See *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Administrative Review; 2014-2015*, 81 FR 92785 (December 20, 2016) (*Final Results*), and accompanying Issues and Decision Memorandum.

² See *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Amended Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 11002 (February 17, 2017) (*Amended Final Results*).

³ See *Toscelik Profil ve Sac Endustrisi A.S. v. United States*, 321 F. Supp. 3d 1270 (CIT 2018) (*First Remand Order*) at 17-18.

⁴ See *Viraj Group, Ltd. v. United States*, 343 F.3d 1371 (Fed. Cir. 2003).

⁵ See Final Results of Redetermination Pursuant to Court Remand, *Toscelik Profil ve Sac Endustrisi A.S. v. United States*, Court No. 17-00018, Slip Op. 18-66 (CIT June 6, 2018).

remanding Commerce's modified calculation of Toscelik's duty drawback adjustment.⁶ In particular, the CIT found that Commerce's additional circumstance-of-sale adjustment to correct a perceived imbalance in Toscelik's dumping margin calculation "negates the statutory duty drawback adjustment that Toscelik earned by exporting its finished product to the United States and impinges on the agency's ability to make a fair comparison."⁷ On May 30, 2019, Commerce submitted its second final results of redetermination, recalculating Toscelik's duty drawback adjustment, including a circumstance-of-sale adjustment to account for the imbalance between the amount of import duties included in U.S. price as a result of the duty drawback adjustment and the amount of import duties reflected in normal value.⁸

On December 18, 2019, in its *Third Remand Order*, the CIT ordered Commerce to recalculate normal value without making a circumstance-of-sale adjustment related to the duty drawback adjustment made to U.S. price.⁹ On March 13, 2020, in the third results of redetermination, Commerce granted Toscelik a duty drawback adjustment, without making a circumstance-of-sale adjustment to account for the imbalance between the U.S. duty drawback adjustment and the amount of import duties reflected in normal value.¹⁰ Additionally, Commerce added an imputed cost for import duties to the cost of production.¹¹ This amount is based on Toscelik's cost of manufacturing during the POR for pipe and tube and was calculated as the ratio of the total amount of Toscelik's exempted import duties and its cost of

⁶ See *Toscelik Profil ve Sac Endustrisi A.S. v. United States*, 375 F. Supp. 3d 1312 (CIT 2019) (*Second Remand Order*).

⁷ See *Second Remand Order*, 375 F. Supp. 3d at 1316.

⁸ See Final Results of Redetermination Pursuant to Court Remand, *Toscelik Profil ve Sac Endustrisi A.S. v. United States*, Court No. 17-00018, Slip Op. 19-41 (CIT April 1, 2019) (Second Redetermination).

⁹ See *Toscelik Profil ve Sac Endustrisi A.S. v. United States*, 415 F. Supp. 3d 1395 (CIT 2019) (*Third Remand Order*).

¹⁰ See Final Results of Redetermination Pursuant to Court Remand, *Toscelik Profil ve Sac Endustrisi A.S. v. United States*, Court No. 17-00018, Slip Op. 19-166 (CIT December 18, 2019) (Third Redetermination).

¹¹ *Id.*

manufacturing during the POR. On July 28, 2020, the CIT sustained Commerce’s third results of redetermination, and entered final judgment.¹²

Timken Notice

In its decision in *Timken*,¹³ as clarified by *Diamond Sawblades*,¹⁴ the Court of Appeals for the Federal Circuit held that, pursuant to section 516A of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of 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 July 28, 2020, final judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Amended Final Results*.¹⁵ Thus, this notice is published in fulfillment of the publication requirements of *Timken* and section 516A of the Act.

Amended Final Results of Review

Because there is now a final court judgment, Commerce is amending its *Amended Final Results* with respect to Toscelik as follows:

Exporter or Producer	Weighted-Average Dumping Margin (percent)
Toscelik Profil ve Sac Endustrisi A.S.	0.00

¹² See *Toscelik Profil ve Sac Endustrisi A.S. v. United States*, Court No., 17-00018, Slip Op. 20-105 (CIT July 28, 2020) (CIT Final Judgment).

¹³ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁴ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

¹⁵ See CIT Final Judgment.

Cash Deposit Requirements

Because Toscelik has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review for Toscelik, this notice will not affect the current cash deposit rate for Toscelik.

Liquidation of Suspended Entries

If the CIT's final judgment is not appealed, or if appealed and upheld, because Toscelik's amended weighted-average dumping margin is zero percent, Commerce will instruct CBP to terminate the suspension of liquidation, and to liquidate and to assess duties at a rate of zero for entries during the POR that were produced and exported by Toscelik.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Toscelik for which Toscelik did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.¹⁶

Lastly, at this time, Commerce remains enjoined by Court order from liquidating entries that: (1) were the subject of the administrative determination published in the *Final Results*, as amended by the *Amended Final Results*;¹⁷ (2) were produced and/or exported by any of the following: Toscelik Profil ve Sac Endustrisi A.S.; Tosyali Dis Ticaret A.S.; Tubeco Pipe and Steel Corporation; and Toscelik Metal Ticaret A.S.; (3) were entered, or were withdrawn from warehouse, for consumption on or after May 1, 2014 through and including April 30, 2015; and (4) remain unliquidated as of 5:00 p.m. Eastern Time on February 17, 2017.

¹⁶ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹⁷ See *Final Results*, 81 FR at 92785; see also *Amended Final Results*, 82 FR at 11002.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c)(1) and (e), 751(a) and 777(i) of the Act.

Dated: August 13, 2020.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

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