

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-489-501]

**Circular Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Notice of Court Decision Not in Harmony With the Results of the 2017–2018 Antidumping Duty Administrative Review; Notice of Amended Final Results**

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

**SUMMARY:** On June 16, 2021, the U.S. Court of International Trade (CIT or Court) issued its final judgment in the 2017–2018 antidumping duty administrative review of circular welded carbon steel standard pipe and tube products from Turkey, Court no. 20–00015, sustaining the Department of Commerce (Commerce) first remand results pertaining to the administrative review of the antidumping duty (AD) order on circular welded carbon steel standard pipe and tube products from Turkey covering the period of review (POR), May 1, 2017, through April 30, 2018. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Borusan Istikbal Ticaret T.A.S. and Borusan Mannesmann Boru Sanayi ve Ticaret A.S.

**DATES:** Applicable June 26, 2021.

**FOR FURTHER INFORMATION CONTACT:** Magd Zalok, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4162.

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 22, 2020, Commerce published its *Final Results* in the 2017–2018 AD administrative review of circular welded carbon steel standard pipe and tube products from Turkey. Commerce calculated a weighted-average dumping margin of 9.99 percent for Borusan Istikbal Ticaret T.A.S. and

Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (collectively, Borusan).<sup>1</sup>

After correcting ministerial errors contained in the *Final Results*, on March 5, 2020, Commerce published the *Amended Final Results*, with an amended weighted-average dumping margin of 8.48 percent.<sup>2</sup>

Borusan appealed Commerce's *Amended Final Results*. On February 17, 2021, the CIT remanded the *Amended Final Results* to Commerce, ordering Commerce to “eliminate any adjustment to {cost of production} based on a {particular market situation (PMS)} in the sales-below-cost test.”<sup>3</sup> Also, while the CIT in *Borusan* sustained Commerce's decision that the constructed export price (CEP) and export price (EP) may be reduced by section 232 duties paid,<sup>4</sup> the CIT ordered Commerce to reweigh all of the evidence, including any relevant sales data, with respect to the reduction of CEP by section 232 duties paid, “applying normal decision-making tools without an adverse inference.”<sup>5</sup>

In its final remand redetermination, issued in April 2021, Commerce stated that it continues to find that a PMS existed in Turkey during the POR that distorted the price of hot-rolled coil, the principle material input for the production of the subject merchandise and significant component of the cost of production of the subject merchandise. Nevertheless, because the CIT has directed Commerce not to make an adjustment to Borusan's cost of production for purposes of the sales-below-cost test, under respectful protest, we recalculated Borusan's weighted-average dumping margin with no PMS adjustment to Borusan's cost of production for purposes of the sales-below-cost test.<sup>6</sup>

<sup>1</sup> See *Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017–2018*, 85 FR 3616 (January 22, 2020) (*Final Results*).

<sup>2</sup> See *Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Amended Final Results of Antidumping Duty Administrative Review; 2017–2018*, 85 FR 12,893 (March 5, 2020) (*Amended Final Results*).

<sup>3</sup> See *Borusan Mannesmann Boru Sanayi Ve Ticaret A.S. and Borusan Mannesmann Pipe U.S. Inc., v. United States*, Court No. 20–00015, Slip Op. 21–18 (CIT February 17, 2021) (*Borusan*) at 19.

<sup>4</sup> See *Borusan* at 17.

<sup>5</sup> *Id.* at 17–19.

<sup>6</sup> See Commerce's Final Results of Redetermination Pursuant to Court Order, *Borusan*

Moreover, pursuant to the CIT order that Commerce reweigh all of the evidence, including any relevant sales data, with respect to the reduction of CEP by section 232 duties paid, without applying an adverse inference, we re-examined the information on the record. Based on record evidence, we determined that section 232 duties should not be deducted from CEP sales, because the CEP shipment on which section 232 duties were paid, shortly before the end of the POR, did not include products that Borusan sold between the shipment entry date and the end of the POR.<sup>7</sup> On June 16, 2021, the CIT sustained Commerce's final redetermination with regards to both issues.<sup>8</sup>

**Timken Notice**

In its decision in *Timken*,<sup>9</sup> as clarified by *Diamond Sawblades*,<sup>10</sup> the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) 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 June 16, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

**Amended Final Results**

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

*Mannesmann Boru Sanayi Ve Ticaret A.S. and Borusan Mannesmann Pipe U.S. Inc. v. United States*, Court No. 20–00015, Slip Op. 21–18, dated April 18, 2021.

<sup>7</sup> *Id.*

<sup>8</sup> See *Borusan Mannesmann Boru Sanayi Ve Ticaret A.S. v. United States*, Court No. 20–00015, Slip Op. 21–75 (CIT June 16, 2021) (*Borusan Mannesmann*).

<sup>9</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>10</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*DiamondSawblades*).

Exporter or producer	Final results of review weighted-average dumping margin <sup>11</sup>	Final results of remand redetermination weighted-average dumping margin <sup>12</sup>
Borusan Mannesmann Boru Sanayi Ve Ticaret A.S./Borusan Mannesmann Pipe U.S. Inc .....	8.48	4.06

### Cash Deposit Requirements

Because Borusan has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

### Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: Were produced and/or exported by Borusan and were entered, or withdrawn from warehouse, for consumption during the period May 1, 2017, through April 30, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and exported by Borusan in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an import-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>13</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

### Notification to Interested Parties

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

Dated: June 21, 2021.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-469-823]

### Utility Scale Wind Towers From Spain: Final Determination of Sales at Less Than Fair Value

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

**SUMMARY:** The Department of Commerce (Commerce) determines that imports of utility scale wind towers (wind towers) from Spain are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is July 1, 2019, through June 30, 2020.

**DATES:** Applicable June 25, 2021.

**FOR FURTHER INFORMATION CONTACT:** Benito Ballesteros or Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-7425 or (202) 482-0413, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On April 2, 2021, Commerce published in the **Federal Register** its affirmative preliminary determination in the LTFV investigation of wind towers from Spain.<sup>1</sup> We invited interested parties to comment on the *Preliminary Determination*. A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>2</sup>

<sup>1</sup> See *Utility Scale Wind Towers from Spain: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 86 FR 17354 (April 2, 2021) (*Preliminary Determination*).

<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Spain," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

### Scope of the Investigation

The products covered by this investigation are wind towers from Spain. For a full description of the scope of this investigation, see Appendix I of this notice.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. 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 <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

### Verification

As stated in the *Preliminary Determination*, after being selected as the mandatory respondent, Vestas Eolica S.A.U. (Vestas) discontinued its participation in this investigation. Accordingly, Commerce based the *Preliminary Determination* entirely on the application of facts available with adverse inferences (AFA), and did not conduct verification under section 782(i) of the Tariff Act of 1930, as amended (the Act).

### Use of Adverse Facts Available

In the *Preliminary Determination*, Commerce found that Vestas failed to participate to the best of its ability in this investigation. We also found six other companies did not cooperate in this investigation by failing to provide a timely response to Commerce's quantity and value (Q&V) questionnaires. These companies are: Acciona Windpower S.A.; Gamesa Energy Transmission; Haizea Wind Group; Kuzar Systems, S.L.; Proyecto Integrales y Logísticos S.A.A. (Proinlosa); and Windar Revonables. Therefore, in the *Preliminary Determination*, pursuant to sections 776(a) and (b) of the Act, we assigned these companies dumping margins based on total AFA. In applying

<sup>11</sup> See Memorandum, "Analysis for the Amended Final Results of the Antidumping Duty Administrative Review of Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Borusan Istikbal Ticaret T.A.S. and Borusan Mannesmann Boru Sanayi ve Ticaret A.S.," dated February 28, 2020.

<sup>12</sup> See Borusan's Final Remand Results Analysis Memorandum.

<sup>13</sup> See 19 CFR 351.106(c)(2).