

Dated: October 31, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-489-807

#### Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On May 5, 2006, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey (71 FR 26455). This review covers 14 producers/exporters of the subject merchandise to the United States. The period of review (POR) is April 1, 2004, through March 31, 2005. We are rescinding the review with respect to 19 companies because either: 1) these companies had no shipments of subject merchandise during the POR; or 2) the questionnaires sent to these companies were returned to the Department because of undeliverable addresses.

Based on our analysis of the comments received, we have made certain changes in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of Review."

**EFFECTIVE DATE:** November 7, 2006.

**FOR FURTHER INFORMATION CONTACT:** Irina Itkin or Alice Gibbons, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482-0656 and (202) 482-0498, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

This review covers the following 14 producers/exporters: Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret (collectively "Colakoglu"); Diler Demir Celik Endustrisi ve Ticaret A.S., Yazici Demir Celik Sanayi ve Turizm Ticaret A.S., and Diler Dis Ticaret A.S.

(collectively "Diler"); Ege Metal Demir Celik Sanayi ve Ticaret A.S. (Ege Metal); Ekinciler Demir ve Celik Sanayi A.S. and Ekinciler Dis Ticaret A.S. (collectively "Ekinciler"); Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas); Ilhanlar Rolling and Textile Industries, Ltd., Sti. and Ilhanlar Group (collectively "Ilhanlar"); Intermet A.S. (Intermet); Iskenderun Iron & Steel Works Co. (Iskenderun); Koc Dis Ticaret A.S. (Koc); Nurmet Celik Sanayi ve Ticaret A.S. (Nurmet); Nursan Celik Sanayi ve Haddecilik A.S. (Nursan); Sozer Steel Works (Sozer); Ucel Haddecilik Sanayi ve Ticaret A.S. (Ucel); and the Yolbulan Group (Yolbulanlar Nak. ve Ticaret A.S., Yolbulan Metal Sanayi ve Ticaret A.S. and Yolbulan Dis Ticaret Ltd. Sti.).

On May 5, 2006, the Department published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on rebar from Turkey. See *Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 26455 (May 5, 2006) (*Preliminary Results*).

Prior to the preliminary results, the following companies informed the Department that they had no shipments to the United States during the POR: Buyurgan Group Steel Division and Metalenerji A.S. (Buyurgan), Cag Celik Demir ve Celik Endustrisi A.S. (Cag Celik), Cebitas Demir Celik Endustrisi A.S. (Cebitas), Cemtas Celik Makina Sanayi ve Ticaret A.S. (Cemtas), Demirsan Haddecilik Sanayi ve Ticaret A.S. (Demirsan), DHT Metal (DHT), Efesan Demir Sanayi ve Ticaret A.S. and Efe Demir Celik (Efesan), Ege Celik Endustrisi Sanayi ve Ticaret A.S. (Ege Celik), Izmir Demir Celik Sanayi A.S. (Izmir), Kaptan Demir Celik Endustrisi ve Ticaret A.S. (Kaptan), Kardemir - Karabuk Demir Celik Sanayi ve Ticaret A.S. (Kardemir), Kurum Demir Sanayi ve Ticaret Metalenerji A.S. (Kurum), Tosyali Demir Celik Sanayi A.S. (Tosyali), and Yesilyurt Demir Celik/Yesilyurt Demir Cekme San ve Tic Ltd. Sirketi (Yesilyurt). We reviewed U.S. Customs and Border Protection (CBP) data and confirmed that there were no entries of subject merchandise from any of these companies. See the Memorandum to the File from Brianne Riker entitled, "Placing Customs Entry Documents on the Record of the 2004-2005 Antidumping Duty Administrative Review of Certain Steel Concrete Reinforcing Bars from Turkey," dated May 2, 2005. Consequently, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are rescinding our review for Buyurgan,

Cebitas, Cemtas, Demirsan, DHT, Efesan, Ege Celik, Izmir, Kaptan, Kardemir, Kurum, Tosyali, and Yesilyurt. For further discussion, see the "Partial Rescission of Review" section of this notice, below.

The antidumping duty questionnaires sent to Akmisa Foreign Trade Ltd. Co. (Akmisa), Cukurova Celik Endustrisi A.S. (Cukurova), Metas Izmir Metalurji Fabrikasi Turk A.S. (Metas), Sivas Demir Celik Isletmeleri A.S. (Sivas), and ST Steel Industry and Foreign Trade Ltd. Sti. (ST Steel) were returned to the Department because of undeliverable addresses. Subsequently, we contacted the petitioners in this review and requested that they provide alternate addresses for these companies; however, they were unable to do so.

Consequently, we are also rescinding our review with respect to these companies. For further discussion, see the "Partial Rescission of Review" section of this notice.

In addition, we are reversing our preliminary decision to base the margin for Kroman Celik Sanayi A.S. (Kroman) on adverse facts available (AFA) because we find Kroman's explanation as to why it did not respond to the questionnaire (*i.e.*, because it did not receive it) plausible. As a result, we are also rescinding the review for Kroman. For further discussion, see the "Partial Rescission of Review" section of this notice and the accompanying Issues and Decision Memorandum (Decision Memo) at *Comment 22*.

Finally, in April 2006, it came to our attention that one of Diler's affiliated rebar producers, Yazici Demir Celik Sanayi ve Ticaret A.S. (Yazici), changed its corporate structure prior to the initiation of this review and is now doing business under the name Yazici Demir Celik Sanayi ve Turizm Ticaret A.S. (Yazici Turizm). As a result, we solicited information on this change from Diler. Diler supplied this information in April 2006. After analyzing this information, we find that Yazici Turizm is the successor-in-interest to Yazici. For further discussion, see the "Successor-in-Interest" section of this notice, below.

We invited parties to comment on our preliminary results of review. In June and July 2006, we received case briefs from the petitioners (*i.e.*, Gerdau AmeriSteel Corporation, Commercial Metals Company (SMI Steel Group), and Nucor Corporation), Colakoglu, Habas, and Kroman, and we received rebuttal briefs from the petitioners, Colakoglu, Diler, Ekinciler, and Habas.

The Department has conducted this administrative review in accordance

with section 751 of the Tariff Act of 1930, as amended (the Act).

### Scope of the Order

The product covered by this order is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7213.10.000 and 7214.20.000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

### Successor-in-Interest

As noted above, in April 2006, Diler informed the Department that its affiliated producer, Yazici, merged with another group company and is now doing business under the name Yazici Turizm. Based on Diler's submission addressing the four factors with respect to this change in corporate structure (*i.e.*, management, production facilities for the subject merchandise, supplier relationships, and customer base), in the preliminary results, we found that Yazici Turizm's organizational structure, management, production facilities, supplier relationships, and customers have remained essentially unchanged. Further, we found that Yazici Turizm operates as the same business entity as Yazici with respect to the production and sale of rebar. Therefore, we preliminarily found that Yazici Turizm was the successor-in-interest to Yazici. See *Preliminary Results*, 71 FR at 26456. Since the preliminary results, no party to this proceeding has commented on this issue and we have found no additional information that would compel us to reverse our preliminary finding. Thus, for purposes of these final results, we find that Yazici Turizm is the successor-in-interest to Yazici, and, as a consequence, its exports of rebar are subject to this administrative review. For further discussion, see the *Preliminary Results*, 71 FR at 26456.

### Period of Review

The POR is April 1, 2004, through March 31, 2005.

### Partial Rescission of Review

As noted above, Buyurgan, Cebitas, Cemtas, Demirsan, DHT, Efesan, Ege Celik, Izmir, Kaptan, Kardemir, Kurum,

Tosyali, and Yesilyurt notified the Department that they had no shipments and/or entries of subject merchandise to the United States during the POR. We have confirmed this with CBP data. Therefore, in accordance with 19 CFR 351.213(d)(3), and consistent with the Department's practice, we are rescinding our review with respect to these companies. See, *e.g.*, *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 70 FR 67665, 67666 (Nov. 8, 2005); *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part*, 69 FR 64731, 64732 (Nov. 8, 2004).

In addition, the questionnaires sent to Akmisa, Cukurova, Metas Izmir, Sivas, and ST Steel were returned to the Department because of undeliverable addresses. Although we requested that the petitioners provide alternate addresses for these companies, they were unable to do so. For further discussion, see the Memorandum to the File from Brianne Riker entitled, "Placing Information on the Record in the 2004-2005 Antidumping Duty Administrative Review of Certain Steel Concrete Reinforcing Bars (Rebar) from Turkey," dated September 20, 2005. Because we were unable to locate these companies, we are also rescinding our review with respect to them.

Finally, we are reversing our preliminary decision to base the margin for Kroman on AFA. Rather, we are rescinding the review for this company because it did not receive the questionnaire. For further discussion, see the Decision Memo at *Comment 22*.

### Cost of Production

As discussed in the *Preliminary Results*, we conducted an investigation to determine whether Colakoglu, Diler, Ekinciler, and Habas made home market sales of the foreign like product during the POR at prices below their costs of production (COP) within the meaning of section 773(b)(1) of the Act. We performed the cost test for these final results following the same methodology as in the *Preliminary Results*, except as discussed in the Decision Memo.

We found 20 percent or more of each respondent's sales of a given product during the reporting period were at prices less than the weighted-average COP for this period. Thus, we determined that these below-cost sales were made in "substantial quantities" within an extended period of time and at prices which did not permit the

recovery of all costs within a reasonable period of time in the normal course of trade. See sections 773(b)(2)(B) - (D) of the Act.

Therefore, for purposes of these final results, we found that Colakoglu, Diler, Ekinciler, and Habas made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales for each respondent and used the remaining sales as the basis for determining NV pursuant to section 773(b)(1) of the Act.

### Facts Available

In the preliminary results, we determined that, in accordance with section 776(a)(2)(A) of the Act, the use of facts available was appropriate as the basis for the dumping margins for the following producer/exporters: Ege Metal, Ilhanlar, Intermet, Iskenderun, Koc, Kroman, Nurmet, Nursan, Sozer, Ucel, and the Yolbulan Group. See *Preliminary Results*, 71 FR at 26457-58. We find that it continues to be appropriate to apply facts available to these respondents, with the exception of Kroman. Section 776(a) of the Act, provides that the Department will apply "facts otherwise available" if, *inter alia*, necessary information is not available on the record or an interested party: (1) withholds information that has been requested by the Department; (2) fails to provide such information within the deadlines established, or in the form or manner requested by the Department; (3) significantly impedes a proceeding; or (4) provides such information, but the information cannot be verified.

On August 26, 2005, the Department requested that Ege Metal, Ilhanlar, Intermet, Iskenderun, Koc, Nurmet, Nursan, Sozer, Ucel, and the Yolbulan Group respond to the Department's antidumping duty questionnaire. The deadline to file a response was October 3, 2005. The Department did not receive a response from these companies. On October 31, 2005, the Department placed documentation on the record confirming delivery of the questionnaires to each company. See the Memorandum to the File from Brianne Riker entitled, "Placing Information on the Record of the 2004-2005 Antidumping Duty Administrative Review of Certain Steel Concrete Reinforcing Bars (Rebar) from Turkey," dated October 31, 2005. Thus, because these companies did not respond to the Department's questionnaire, as in the preliminary results, the Department must use facts otherwise available with regard to Ege Metal, Ilhanlar, Intermet, Iskenderun, Koc, Nurmet, Nursan, Sozer, Ucel, and the Yolbulan Group, pursuant to sections 776(a)(2)(A) and (C)

of the Act of the Act. *See Preliminary Results*, 71 FR at 26457–58.

**Adverse Facts Available**

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (Sept. 13, 2005); *see also Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (Aug. 30, 2002). Adverse inferences are appropriate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, Vol. 1, at 870 (1994). Furthermore, “affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.” *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997). *See also, Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003) (*Nippon*). We find that Ege Metal, Ilhanlar, Intermet, Iskenderun, Koc, Nurmet, Nursan, Sozer, Ucel, and the Yolbulan Group did not act to the best of their abilities in this proceeding, within the meaning of section 776(b) of the Act, because they failed to respond to the Department’s questionnaire. Therefore, an adverse inference is warranted in selecting facts otherwise available. *See Nippon*, 337 F.3d at 1382–83.

Section 776(b) of the Act provides that the Department may use as AFA information derived from: (1) the petition; (2) the final determination in

the investigation; (3) any previous review; or (4) any other information placed on the record.

The Department’s practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.” *See, e.g., Carbon and Certain Alloy Steel Wire Rod from Brazil: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances*, 67 FR 55792, 55796 (Aug. 30, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (Feb. 23, 1998). Additionally, the Department’s practice has been to assign the highest margin determined for any party in the less-than-fair-value (LTFV) investigation or in any administrative review of a specific order to respondents who have failed to cooperate with the Department. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews*, 71 FR 40064, 40066 (July 14, 2006); *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People’s Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum at the “Facts Available” section.

In order to ensure that the margin is sufficiently adverse so as to induce cooperation, we have assigned a rate of 41.80 percent, which was the rate alleged in the petition, as adjusted at the initiation of the LTFV investigation, to Ege Metal, Ilhanlar, Intermet, Iskenderun, Koc, Nurmet, Nursan, Sozer, Ucel, and the Yolbulan Group. This rate was assigned in a previous

segment of this proceeding and is the highest rate determined for any respondent in any segment of this proceeding. *See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 9737 (Mar. 4, 1997). The Department finds that this rate is sufficiently high as to effectuate the purpose of the AFA rule (*i.e.*, we find that this rate is high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act). We continue to find that the information upon which this margin is based has probative value and thus satisfies the requirements of section 776(c) of the Act. *See Preliminary Results*, 71 FR at 26457–58.

**Analysis of Comments Received**

All issues raised in the case briefs by parties to this administrative review, and to which we have responded, are listed in the Appendix to this notice and addressed in the Decision Memo, which is adopted by this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memo are identical in content.

**Changes Since the Preliminary Results**

Based on our analysis of comments received, we have made certain changes in the margin calculations. These changes are discussed in the relevant sections of the Decision Memo.

**Final Results of Review**

We determine that the following weighted-average margin percentages exist for the period April 1, 2004, through March 31, 2005:

Manufacturer/Producer/Exporter	Margin Percentage
Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret A.S. ....	0.27 ( <i>de minimis</i> )
Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik Sanayi ve Turizm Ticaret A.S./Diler Dis Ticaret A.S. ....	0.02 ( <i>de minimis</i> )
Ege Metal Demir Celik Sanayi ve Ticaret A.S. ....	41.80
Ekinciler Demir ve Celik Sanayi A.S. and Ekinciler Dis Ticaret A.S. ....	8.59
Habas Sinai ve Tibbi Gazlar Istithsal Endustrisi A.S. ....	0.04 ( <i>de minimis</i> )
Ilhanlar Rolling and Textile Industries, Ltd., Sti. and Ilhanlar Group ....	41.80
Intermet A.S. ....	41.80
Iskenderun Iron & Steel Works Co. ....	41.80
Koc Dis Ticaret A.S. ....	41.80
Nurmet Celik Sanayi ve Ticaret A.S. ....	41.80
Nursan Celik Sanayi ve Haddecilik A.S. ....	41.80
Sozer Steel Works ....	41.80
Ucel Haddecilik Sanayi ve Ticaret A.S. ....	41.80

Manufacturer/Producer/Exporter	Margin Percentage
Yolbulanlar Nak. ve Ticaret A.S./Yolbulan Metal Sanayi ve Ticaret A.S./Yolbulan Dis Ticaret Ltd., Sti. ....	41.80

### Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. On March 9, 2006, Mitsui, an interested party to this proceeding, submitted evidence demonstrating that it was the importer of record for certain of Diler's POR sales. We examined the information submitted by Mitsui and tied it to the U.S. sales listing, as well as to documentation obtained at the sales verification of Diler. We noted that Mitsui was indeed the importer of record for the sales in question. Therefore, for purposes of calculating the importer-specific assessment rates, we have treated Mitsui as the importer of record for Diler's relevant POR shipments.

Pursuant to 19 CFR 351.212(b)(1), for all sales made by Habas and Colakoglu, as well as for certain sales made by Diler, because we have the reported entered value of the U.S. sales, we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

Regarding certain of Diler's and all of Ekincler's sales, we note that these companies did not report the entered value for the U.S. sales in question. Accordingly, we have calculated importer-specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific ad valorem ratios based on the estimated entered value.

In addition, we will inform CBP that Yazici Turizm is the successor-in-interest to Yazici, and we will assign a new company-specific number to Yazici Turizm (as part of the Diler Group). We will instruct CBP that it should apply to Yazici Turizm the cash deposit rate determined for Yazici in these final results (*i.e.*, 0.00 percent). This cash deposit rate will apply to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. See *Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Changed Circumstances Review*,

68 FR 25327 (May 12, 2003). This deposit rate shall remain in effect until publication of the final results of the next administrative review in which Yazici Turizm (as part of the Diler Group) is reviewed. Further, pursuant to the final results of this administrative review, for Yazici Turizm sales examined, we will instruct CBP to liquidate all unliquidated entries during the POR at the importer-specific assessment rates determined for the Diler Group.

Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these preliminary results of review for which the reviewed companies did not know their merchandise was destined for the United States, as well as any companies for which we are rescinding the review based on certifications of no shipments. In such instances, 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.

### Cash Deposit Requirements

Further, the following deposit requirements will be effective for all shipments of rebar from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: 1) the cash deposit rates for the reviewed companies will be the rates shown above, except if the rate is less than 0.50 percent, *de minimis* within the meaning of 19 CFR 351.106(c)(1), the cash deposit will be zero; 2) for previously 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, or the 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) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the all-others rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), 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.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 1, 2006.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

### Appendix – Issues in Decision Memorandum

#### General Issues

1. Cost of Ferro-vanadium for Colakoglu Metalurji A.S./Colakoglu Dis Ticaret A.S. (Colakoglu) and Habas Sinai Ve Tibbi Gazlar Istithsal Endustrisi A.S. (Habas)

#### Company-Specific Issues

2. Whether to Apply Adverse Facts Available (AFA) to Colakoglu
3. Indirect Selling Expense (ISE) Calculation for Colakoglu
4. Depreciation Expenses for Colakoglu
5. Affiliated Party Transaction for Colakoglu
6. Net Financial Expense Ratio Calculation for Colakoglu
7. Depreciation Expenses for Diler Demir Celik Endustrisi ve Ticaret A.S./Yazici Demir Celik Sanayi ve

- Turizm Ticaret A.S./Diler Dis Ticaret A.S (Diler)
8. Affiliated Party Transaction for Diler
  9. General and Administrative (G&A) Offsets for Diler
  10. Defective Bars and Edges Offset Exclusion from the G&A and Financial Expense Ratio Calculation for Diler
  11. Depreciation Expenses for Ekinciler Demir ve Celik Sanayi A.S./Ekinciler Dis Ticaret A.S. (Ekinciler)
  12. Allocation Methodology of G&A Expenses for Ekinciler
  13. Shutdown Costs for Ekinciler
  14. G&A Offsets to Costs Not Included in the Reported Costs for Ekinciler
  15. G&A Offsets to Costs Related to Prior Periods for Ekinciler
  16. Calculation of the G&A and Financial Expense Denominator for Ekinciler
  17. Financial Expense Exclusions from Ekinciler's Reported Costs
  18. Clerical Error for Habas
  19. Depreciation Expenses for Habas
  20. Bartered Billets for Habas
  21. Habas' Financial Statements
  22. Whether to Apply AFA to Kroman

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 082906A]

RIN 0648-AU89

### Atlantic Highly Migratory Species; Atlantic Shark Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of intent to prepare an environmental impact statement; request for comments.

**SUMMARY:** Based on several new shark stock assessments, NMFS has determined that a number of shark fisheries are overfished. As a result, NMFS announces its intent to prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) to assess the potential effects on the human environment and to initiate an amendment to the Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP). The EIS and

amendment will examine management alternatives available to rebuild sandbar, dusky, and porbeagle sharks, consistent with the shark stock assessments, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other relevant Federal laws. NMFS is requesting comments on a range of commercial and recreational management measures including, but not limited to, quota levels, regional and seasonal quotas, retention limits, minimum sizes, and time/area closures.

**DATES:** Comments on this action must be received no later than 5 p.m., local time, on February 5, 2007.

**ADDRESSES:** Written comments on this action should be mailed to Karyl Brewster-Geisz, Highly Migratory Species Management Division by any of the following methods:

- E-mail: [SF1.082906A@noaa.gov](mailto:SF1.082906A@noaa.gov). Include in the subject line the following identifier: "I.D. 082906A."
- Written: 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope "Scoping Comments on Amendment 2 to HMS FMP."
- Fax: (301) 713-1917.

For a copy of the stock assessments, please contact Sarah McTee or Karyl Brewster-Geisz at (301) 713-2347.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz (301) 713-2347 or Jackie Wilson (404) 806-7622.

#### SUPPLEMENTARY INFORMATION:

#### Determination of Overfished Shark Fisheries

The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Act. The Consolidated HMS FMP is implemented by regulations at 50 CFR part 635. NMFS' determination of the status of a stock relative to overfishing and an overfished condition is based on both the removal of fish from the stock through overfishing (the exploitation rate) and the current stock size. Thresholds used to determine the status of Atlantic HMS are fully described in Chapter 3 of the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks. A species is considered overfished when the current biomass is less than the minimum stock size threshold. The minimum stock size threshold is determined based on the natural mortality of the stock and the biomass at maximum sustainable yield ( $B_{MSY}$ ). Maximum sustainable yield is the maximum long-term average yield that can be produced by a stock on a continuing basis. The biomass can be lower than  $B_{MSY}$ , and the stock not

declared overfished as long as the biomass is above the biomass at the minimum stock size threshold.

Overfishing may be occurring on a species if the current fishing mortality is greater than the fishing mortality ( $F$ ) at maximum sustainable yield ( $F_{MSY}$ ) ( $F > F_{MSY}$ ). In the case of  $F$ , the maximum fishing mortality threshold is  $F_{MSY}$ . Thus, if  $F$  exceeds  $F_{MSY}$ , the stock is experiencing overfishing.

#### Background

##### *Large Coastal Sharks (LCS)*

The LCS complex is comprised of 11 species including sandbar, silky, tiger, blacktip, spinner, bull, lemon, nurse, scalloped hammerhead, great hammerhead, and smooth hammerhead sharks. Since the 1993 Shark FMP, LCS have been considered overfished, and management has been based on the results of assessments on the complex as a whole. The 2002 LCS stock assessment found that the LCS complex was overfished with overfishing occurring; sandbar sharks were not overfished but overfishing was occurring; and blacktip sharks were rebuilt and healthy. The latest 2005/2006 stock assessment of LCS in the U.S. Atlantic and Gulf of Mexico was recently completed (July 24, 2006; 71 FR 41774). This assessment was conducted according to the Southeast Data, Assessment, and Review (SEDAR) process, and peer-reviewed, provides an update on the status of LCS stocks, and projects their future abundance under a variety of catch levels in waters off the U.S. Atlantic and Gulf of Mexico coasts. The 2005/2006 assessment includes catch estimates, new biological data, and a number of fishery-independent catch rate series, as well as extended fishery-dependent catch rate series.

Unlike past assessments, the 2005/2006 LCS stock assessment determined that it is inappropriate to assess the LCS complex as a whole. Due to the variation in life history parameters, different intrinsic rates of increase, and different catch and abundance data for all the species included in the LCS complex, the peer reviewers felt it was unclear what exactly the results of the assessment represented, making it impossible to support the use of the results for management of the complex. The peer reviewers also felt that previous assessments that used the same approach and similar data would receive the same criticisms. NMFS is continuing to examine viable options to assess shark populations. Based on these results, NMFS is changing the status of the LCS complex from overfished to unknown.