C-489-502
Sunset Review (Third)
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MEMORANDUM TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Final Results of the Third Expedited Sunset Review of the Countervailing Duty Order on Welded Carbon Steel Pipe and Tube from Turkey

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Summary

We have analyzed the substantive responses and rebuttal comments of the interested parties submitted on the record of this third expedited sunset review of the countervailing duty (CVD) order on welded carbon steel pipe and tube from Turkey. We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum. Below is a complete list of the issues in this review for which we received comments from interested parties:

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Likely to Prevail
3. Nature of the Subsidy

History of the Order

The Department of Commerce (the Department) published its final affirmative CVD determination on welded carbon steel pipe and tube from Turkey on January 10, 1986. See Final Affirmative Countervailing Duty Determinations: Certain Welded Carbon Steel Pipe and Tube Products From Turkey, 51 FR 1268 (January 10, 1986). In the final determination, the Department calculated an estimated net subsidy, for all producers/exporters of welded carbon steel pipe and tube from Turkey, of 17.80 percent ad valorem.[1] In the investigation, the Department found that the following programs conferred countervailable subsidies on Turkish producers/exporters of the subject merchandise: (1) Export Tax Rebate and Supplemental Tax Rebate, (2) Preferential Export Financing, (3) Deduction from Taxable Income for Export Revenues, and (4) Resource Utilization Support Fund. On March 7, 1986, the order was

[1] We initially calculated a country-wide CVD rate of 18.81 percent ad valorem. However, after taking into account several program-wide changes, we established a duty deposit rate of 17.80 percent ad valorem.

published. See Countervailing Duty Order: Certain Welded Carbon Steel Pipe and Tube Products from Turkey, 51 FR 7984 (March 7, 1986).

On April 3, 2000, the Department published a notice of final results of the first sunset review (full). See Welded Carbon Steel Pipes and Tubes From Turkey: Final Results of Full Sunset Review, 65 FR 17486 (April 3, 2000) (Turkey Pipe Final Sunset 2000). We found that countervailable subsidies would likely continue to be conferred on Turkish producers and exporters through the following programs: (1) Pre-Shipment Export Credits, (2) Deduction from Taxable Income for Export Revenue, (3) Foreign Exchange Loan Assistance, (4) Investment Allowance under the General Incentives Program (GIP), and (5) Value-Added Tax (VAT) Support Program (Incentive Premium on Domestically Obtained Goods under the GIP). We determined that revocation of the CVD order would likely lead to continuation or recurrence of countervailable subsidies at the following rates:

Producer/Exporter	Net Countervailable Subsidy (percent)
Bant Boru[2]	0.00
Borusan Group[3]	0.68
ERBOSAN[4]	2.89
Yucel Boru Group[5]	0.84
All Others	2.90

Subsequent to the final results of the first sunset review, the Department completed an administrative review for the period of review (POR) January 1, 1998, through December 31, 1998. See Certain Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review, 65 FR 49230 (August 11, 2000). The Department found that BBBF, of the Borusan Group, received countervailable subsidies under the Pre-Shipment Export Credit program and VAT Support Program (Investment Allowance under the GIP) and calculated a total net subsidy rate of 0.20 percent ad valorem. BBBF requested an administrative review for the POR January 1, 2001, through December 31, 2001, but later withdrew its request. See Certain Welded Carbon Steel Pipe and Tube from Turkey: Rescission of Countervailing Duty Administrative Review, 67 FR 42541 (June 24, 2002).

On October 28, 2005, the Department published the final results of the second sunset review (expedited) of this order. See Final Results of Expedited Sunset Review: Welded Carbon Steel Standard Pipe from Turkey, 70 FR 62097 (October 28, 2005). We found that countervailable subsidies would likely continue to be conferred on Turkish producers and exporters through the following programs: (1) Pre-Shipment Export Credits, (2) Deduction from Taxable Income for Export Revenue, (3) Foreign Exchange Loan Assistance, (4) Investment Allowance under the GIP, and (5) VAT Support Program (Incentive Premium on Domestically

[2] Bant Boru Sanayi ve Ticaret A.S.
[3] At that time, the Borusan Group was Borusan Birlesik Boru Fabrikalari A.S. (BBBF) and Borusan Ihracat Ithalat ve Dagitim A.S.
[4] Erciyas Boru Sanayi ve Ticaret A.S.
[5] Yucel Boru and its affiliated companies: Cayirova Boru Sanayi ve Ticaret A.S. and Yucelboru Ihracat Ithalat ve Pazarlama A.S.

Obtained Goods under the GIP). We determined that revocation of the CVD order would likely lead to continuation or recurrence of countervailable subsidies at the following rates:

Producer/Exporter	Net Countervailable Subsidy (percent)
Bant Boru	0.00
Borusan Group	0.68
ERBOSAN	2.89
Yucel Boru Group	0.84
All Others	2.90

After the final results of the second sunset review, the Department completed several administrative reviews and a new shipper review. On July 31, 2006, the Department published the final results of the administrative review covering the POR January 1, 2004, through December 31, 2004. See Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey, 71 FR 43111 (July 31, 2006), and accompanying Issues and Decision Memorandum (Turkey Decision Memorandum 2004). The Borusan Group, which, at that time, consisted of BBBF, Mannesmann Boru Endustrisi T.A.S., Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (BMB), and Borusan Istikbal Ticaret T.A.S. (Istikbal), was the only company reviewed. We found that the Borusan Group received countervailable subsidies from the following programs and calculated a total net subsidy rate of 0.27 percent ad valorem: (1) Deduction from Taxable Income for Export Revenue, (2) Pre-Shipment Export Credits, (3) Foreign Trade Companies Short-Term Export Credits, and (4) Pre-Export Credits. The 2004 administrative review was the first segment of this proceeding in which the Department found the following two programs to be countervailable export subsidies: Foreign Trade Companies Short-Term Export Credits and Pre-Export Credits.

On March 22, 2007, the Department published the final results of the administrative review covering the POR January 1, 2005, through December 31, 2005. See Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey, 72 FR 13479 (March 22, 2007). The Borusan Group, which now consisted of BMB and Istikbal, was the only company reviewed. We found that the Borusan Group received countervailable subsidies from the following programs and calculated a total net subsidy rate of 0.23 percent ad valorem: (1) Deduction from Taxable Income for Export Revenue, (2) Foreign Trade Companies Short-Term Export Credits, and (3) Pre-Export Credits.

On May 2, 2007, the Department published the final results of the new shipper review of Toscelik Profil ve Sac Endustrisi A.S. and its affiliated export trading company, Tosyali Dis Ticaret A.S. (collectively, Toscelik), covering the POR January 1, 2005, through December 31, 2005. See Final Results of Countervailing Duty New Shipper Review: Certain Welded Carbon Steel Standard Pipe from Turkey, 72 FR 24278 (May 2, 2007). We found that Toscelik received countervailable subsidies from the following programs and calculated a total net subsidy rate of 0.20 percent ad valorem: (1) Deduction from Taxable Income for Export Revenue and (2) Pre-Shipment Export Credits.

On March 6, 2008, the Department published the final results of the administrative review covering the POR January 1, 2006, through December 31, 2006. See Certain Welded Carbon Steel Standard Pipe from Turkey: Final Results of Countervailing Duty Administrative

Review, 73 FR 12080 (March 6, 2008). The Borusan Group (i.e., BMB and Istikbal) was the only company reviewed. We found that the Borusan Group received countervailable subsidies from the following programs and calculated a total net subsidy rate of 0.23 percent ad valorem: (1) Deduction from Taxable Income for Export Revenue, (2) Foreign Trade Companies Short-Term Export Credits, and (3) Pre-Export Credits.

No interested party requested a review of this order for the POR January 1, 2007, through December 31, 2007.

On July 29, 2010, the Department published the final results of the administrative review covering the POR January 1, 2008, through December 31, 2008. See Certain Welded Carbon Steel Standard Pipe from Turkey: Final Results of Countervailing Duty Administrative Review, 75 FR 44766 (July 29, 2010). For the 2008 administrative review, a review of the following companies was requested: Borusan Group (i.e., BMB and Istikbal), Toscelik, and Yucel Boru Group (Yucel). Yucel certified that it had no sales, shipments, or entries of subject merchandise to the United States during the review period and, thus, we rescinded the review of Yucel. See Welded Carbon Steel Standard Pipe and Tube from Turkey: Notice of Rescission of Countervailing Duty Administrative Review, In Part, 74 FR 47921 (September 18, 2009). With regard to the Borusan Group and Toscelik, we found that both companies received countervailable subsidies during 2008. We found that the following programs provided countervailable benefits: (1) Deduction from Taxable Income for Export Revenue, (2) Foreign Trade Companies Short-Term Export Credits, (3) Pre-Export Credits, and (4) Pre-Shipment Export Credits. We calculated a total net subsidy rate of 0.12 percent ad valorem for Borusan and 0.09 percent ad valorem for Toscelik.

No interested party requested a review of this order for the POR January 1, 2009, through December 31, 2009.

On April 27, 2011, the Department initiated an administrative review for the POR January 1, 2010, through December 31, 2010, covering the Borusan Group (i.e., BMB and Istikbal), Toscelik, and ERBOSAN. See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 76 FR 23545 (April 27, 2011). The preliminary results of this administrative review are currently due on December 1, 2011.

Background

On July 1, 2011, the Department initiated the third sunset review of this order pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See Initiation of Five-Year ("Sunset") Review, 76 FR 38613 (July 1, 2011). The Department received a notice of intent to participate on behalf of the following domestic interested parties: Allied Tube and Conduit, TMK IPSCO Tubulars, Leavitt Tube Company, Northwest Pipe Company, Western Tube and Conduit, JMC Steel Group, and United States Steel Corporation (US Steel) (collectively, domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers, producers, or wholesalers in the United States of a domestic like product.

On July 5, 2011, we received a request from the Government of the Republic of Turkey (GOT) for an extension of time to file a substantive response.[6] On July 12, 2011, we extended

[6] See Submission from the GOT regarding "Time Extension Request," (July 5, 2011).

the deadline for the submission of substantive responses from all interested parties to this review until August 10, 2011.[7]

On August 10, 2011, we received adequate substantive responses from the domestic interested parties. The domestic interested parties stated that they actively participated in the investigation and subsequent proceedings under the order, including the concurrent 2010 administrative review.[8] On August 10, 2011, we also received a response from the GOT, expressing its intent to participate in this review as the government of the country in which subject merchandise is produced and exported. The GOT noted that it participated in the CVD investigation as well as the subsequent administrative, new shipper, and sunset reviews.[9] On August 17, 2011, we received rebuttal comments from only a domestic interested party.[10]

The Department did not receive any substantive responses from Turkish producers or exporters of the subject merchandise. Based on the fact that a government's response alone, normally, is insufficient for a full sunset review in which the underlying investigation was not done on an aggregate basis, we determined to conduct an expedited (120-day) sunset review of this order. See section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), see also letter to Catherine DeFilippo, Director, Office of Investigations, International Trade Commission, from Barbara E. Tillman, Director, AD/CVD Operations, Office 6, regarding "Sunset Reviews Initiated on July 1, 2011," (August 22, 2011). This approach is consistent with Department's practice. See, e.g., Certain Pasta From Turkey: Final Results of Expedited Five-Year ("Sunset") Review of the Countervailing Duty Order, 72 FR 5269 (February 5, 2007), and accompanying Issues and Decision Memorandum; and Certain Carbon Steel Products From Sweden: Final Results of Expedited Sunset Review of Countervailing Duty Order, 65 FR 18304 (April 7, 2000).

The Department did not conduct a hearing because a hearing was not requested.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the CVD order would likely lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, the Department shall consider the net countervailable subsidy determined in the investigation and subsequent reviews, and whether any change in the programs, which gave rise to the net countervailable subsidy, has occurred that is likely to affect that net countervailable subsidy. Pursuant to section 752(b)(3) of the Act, the Department shall provide to the International Trade Commission (the ITC) the net countervailable subsidy likely to prevail if the order is revoked. In addition, consistent with section 752(a)(6) of the Act, the Department shall provide to the ITC information concerning the nature of the subsidy and whether it is a subsidy

[7] See Memorandum to the File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding "Extension of Time for the Submission of Substantive Responses," (July 12, 2011).

[8] See Allied Tube and Conduit, TMK IPSCO Tubulars, Leavitt Tube Company, Northwest Pipe Company, Western Tube and Conduit, and JMC Steel Group's Substantive Response at 3 (August 10, 2011), and US Steel's Substantive Response at 3 (August 10, 2011).

[9] See GOT's Substantive Response at 2 (August 10, 2011).

[10] See US Steel's Rebuttal Submission (August 17, 2011). The Department extended the deadline line for the submission of rebuttal comments by two days.

described in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (ASCM).

Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

Interested Parties' Comments

The domestic interested parties discuss that since the last sunset review the Department completed several reviews and found that benefits continue to be provided under the programs identified in prior sunset reviews (e.g., Pre-Shipment Export Credits and Deduction from Taxable Income for Export Revenues) in addition to other subsidy programs, (i.e., Foreign Trade Companies Short-Term Export Credits and Pre-Export Credits). Because actionable programs continue to exist and provide benefits to Turkish producers and exporters of the subject merchandise, they argue that the Department should find that revocation of the order would likely to lead to the continuation or recurrence of countervailable subsidies.

The GOT states that since the imposition of the order it has eliminated or limited certain subsidy programs and that any benefits provided have declined to de minimis rates. Specifically, the GOT notes that, since the fourth administrative review (1997 POR), the Department has calculated a de minimis subsidy rate for each reviewed Turkish company. Additionally, the GOT states that, during the current sunset review period, the Department reviewed several programs and found that the programs did not confer countervailable benefits (i.e., Investment Allowance under Article 19 of Law 4842, Inward Processing Certificate Exemption, and Export Credit Insurance).

The GOT adds that between 2005-2010, approximately 99 percent of the subject merchandise was exported by four Turkish companies that have de minimis net subsidy rates. Therefore, the GOT asserts that the revocation of the order would not adversely affect US producers.

In rebuttal, US Steel reiterates that the continued existence of countervailable subsidy programs examined in prior sunset reviews and identification of new programs in the current sunset review period are more than sufficient to establish that revocation of the order would likely lead to a continuation or recurrence of countervailable subsidies.

Department's Position

Since the final results of the second sunset review (expedited), the Department completed four administrative reviews and a new shipper review of the CVD order. See "History of the Order," above. The GOT has provided no evidence to the Department that the programs found to confer countervailable subsidies to Turkish producers and exporters of the subject merchandise have been terminated. In fact, record evidence demonstrates that countervailable subsidy programs from the prior sunset reviews, as well as additional subsidy programs discovered and countervailed by the Department during the current sunset review period, continue to exist and provide benefits to Turkish producers and exporters of the subject merchandise.

The continued existence of countervailable subsidy programs and the addition of new countervailable subsidy programs are sufficient to establish that revocation would result in the continuation or recurrence of countervailable subsidies. See Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871, 18874 (April 16, 1998) (Policy Bulletin).

Specifically, in both the first and second sunset reviews, the Department found that it was likely that countervailable subsidies would continue to be conferred on Turkish producers and exporters through the following five programs: (1) Pre-Shipment Export Credits, (2) Deduction from Taxable Income for Export Revenue, (3) Foreign Exchange Loan Assistance, (4) Investment Allowance under the GIP, and (5) VAT Support Program (Incentive Premium on Domestically Obtained Goods under the GIP). In its substantive response, the GOT addresses only one of these five programs, the VAT Support Program, asserting that this program was found to be terminated. While the VAT Support Program was found to be terminated in another case, the Department also found that the program provided residual benefits and, therefore, continues to exist.[11]

We acknowledged in the first and second sunset review that the GOT terminated certain programs.[12] However, the termination of those programs along with the VAT Support Program, does not detract from the fact that other subsidy programs continue. In the administrative reviews conducted during the current sunset review period, we found that the following programs continue to exist and provide benefits to Turkish producers and exporters: Deduction from Taxable Income for Export Revenue and Pre-Shipment Export Credits.

Moreover, we found, since the last sunset review, that two additional programs – Foreign Trade Companies Short-Term Export Credits and Pre-Export Credits – provide countervailable subsidies (i.e., preferential short-term export financing) to Turkish producers and exporters of the subject merchandise. See Turkey Pipe Decision Memorandum at "Foreign Trade Companies Short-Term Export Credits" and "Pre-Export Credits."

To the GOT's argument about de minimis rates, we acknowledge that there has been a decline in the subsidy rates calculated for Turkish producers and exporters of subject merchandise. However, as discussed above, various subsidy programs, many of which are prohibited export subsidies, continue to exist and provide benefits. Further, the fact that almost 99 percent of the subject merchandise exported to the United States is from four Turkish companies that have de minimis net subsidy rates is insufficient to demonstrate an absence of likelihood of continuation or recurrence of countervailable subsidies. See Final Results of Sunset Review: Countervailing Duty Order on Certain Pasta From Italy, 66 FR 51640 (October 10, 2001), and accompanying Issues and Decision Memorandum (Italy Pasta Sunset Decision Memorandum) at Comment 3. This is because the various subsidy programs remain available to the Turkish pipe industry. Moreover, as noted in the history of this order, most of the programs continue to exist. As stated in the SAA, at 888, the continuation or recurrence of a program is

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[11] Although we found this program to be terminated in wire rod from Turkey, residual payments for purchases made prior to the program's termination were permitted. See Final Negative Countervailing Duty Determination: Carbon and Certain Alloy Steel Wire Rod from Turkey, 67 FR 55815 (August 30, 2002), and accompanying Issues and Decision Memorandum at 11.

[12] Those programs are: Export and Supplemental Tax Rebate, RUSF, Deduction from Taxable Income for Export Revenue, Freight Program, Export Incentive Certificate Customs Duty and Other Tax Exemptions, and RUSP. See Preliminary Results of Full Sunset Review: Welded Carbon Steel Pipes and Tubes From Turkey, 64 FR 66895 (November 30, 1999), unchanged in the Turkey Pipe Final Sunset 2000.

highly probative of the likelihood of continuation or recurrence of countervailable subsidies.

On the basis of the above facts, it is reasonable to determine that countervailable subsidy programs continue to exist and are being utilized. Because the continuation of programs is highly probative of the likelihood of the continuation or recurrence of countervailable subsidies, we determine that revocation of the order would likely lead to continuation or recurrence of countervailable subsidies for Turkish producers and exporters of the subject merchandise.

2. Net Countervailable Subsidy Likely to Prevail

Interested Parties' Comments

The domestic interested parties state that the Department determined during the first sunset review that certain subsidy programs from the investigation had been terminated and, therefore, calculated new company-specific subsidy rates. See "History of the Order" for the rates. These new company-specific rates were reported by the Department to the ITC in both the first and second sunset reviews as the rates likely to prevail if the order was revoked. The domestic interested parties assert that there is no evidence that changes have been made to any of the previously identified Turkey subsidy programs since the second sunset review. Further, they add that the Department has found that Turkish producers and exporters benefited from additional subsidies in the current sunset review period. As such, they argue that the Department should determine that the subsidy rates that would be likely to prevail are, at minimum, the same rates that were calculated in the first sunset review.

The GOT states that because all programs for which subsidy rates were calculated in the investigation were terminated, the Department must adjust the net countervailable subsidy rates determined in the investigation to reflect the changes. The GOT discusses that since the imposition of the order, it has made significant changes regarding its subsidy programs that were found to confer benefits in the investigation and in the subsequent administrative reviews. For example, the GOT notes that the "Freight Program" and "VAT Support Program (Incentive Premium on Domestically Obtained Good)" were terminated. The GOT states that the remaining programs from which Turkish producers and exporters are receiving benefits are the Export Credit Bank of Turkey's (Eximbank) credits programs and the Deduction from Taxable Income from Export Revenue; the combined benefits from which the GOT notes have been de minimis. The GOT, therefore, asserts that if the order was revoked, the de minimis net subsidy rates would likely prevail.

In rebuttal, US Steel states that the GOT has failed to provide any evidence to show that the revocation of the order would not lead to the continuation or recurrence of countervailable subsidies above de minimis levels. US Steel adds that, where countervailable subsidy programs, which were found to benefit producers and exporters of the subject merchandise, continue to exist, the Department has rejected arguments regarding a decline in subsidies. See Italy Pasta Sunset Decision Memorandum at Comment 3.

Department's Position

We disagree with the GOT's argument that there is no record evidence to demonstrate that the subsidy rate would be above de minimis if the order was revoked because the combined benefits of the identified subsidy programs have never been above de minimis. See GOT Substantive Response at 7. As stated in the Policy Bulletin (63 FR at 18875):

> if the combined benefits of all programs considered by the Department for purposes of its likelihood determination have never been above de minimis at any time the order was in effect, and if there is no likelihood that the combined benefits of such programs would be above de minimis in the event of revocation or termination, the Department should determine that there is no likelihood of continuation or recurrence of countervailable subsidies.

The Department, however, has found that the combined benefits of all programs have been above de minimis for this order. See, e.g., Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe From Turkey: Final Results of Countervailing Duty Administrative Reviews, 62 FR 43984 (August 18, 1997) (Turkey Pipe Final 1995 Review). Moreover, for two programs examined in that review, the Department calculated above de minimis rates, i.e., 1.77 percent for Pre-Shipment Export Credits and 1.10 percent for Foreign Exchange Loan Assistance. As such, contrary to the GOT's assertion, the record evidence demonstrates that in the event of revocation, the subsidy rates likely to prevail could exceed de minimis levels.

When determining the net countervailable subsidy likely to prevail, the Policy Bulletin, states that the Department normally will select a rate from the investigation, because that is the only calculated rate which reflects the behavior of exporters and foreign governments without the discipline of an order in place. See Policy Bulletin, 63 FR at 18875. However, the Department notes that the rate from the investigation may not be the most appropriate rate if, for example, the rate was derived from subsidy programs which were found in subsequent reviews to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review. Id. at 18876.

As noted in the "History of the Order" section, we calculated company-specific rates in the first sunset review because the benefits of several countervailable subsidy programs from the investigation and administrative reviews had been eliminated, such as the Freight Program. Where company-specific rates are established in a sunset review, the Department may report those subsidy rates to the ITC as the estimate of the effect of revocation. Regarding the company-specific rates reported to the ITC in the prior sunset reviews, we find that there is no evidence that changes have been made to any of those underlying subsidy programs since the second sunset review. For example, with regard to the VAT Support Program (Incentive Premium on Domestically Obtained Goods under the GIP), the GOT has not provided any evidence that this program no longer provides residual benefits.

However, those company-specific rates do not reflect the two additional subsidy programs found countervailable in the current sunset review period. In the 2004 administrative review, we found that the Borusan Group received countervailable benefits under the Eximbank's export credit programs Foreign Trade Companies Short-Term Export Credits and Pre-Export Credits. See Turkey Decision Memorandum 2004 at "Foreign Trade Companies Short-Term Export Credits" and "Pre-Export Credits." No other respondent from the investigation was reviewed during the current sunset review. As such, it is necessary to adjust the rate for each of the companies and the "all others" rate to reflect those programs that were found countervailable. This approach is consistent with Department's established practice for computing company-specific rates in sunset reviews. See Hot-Rolled Carbon Steel Flat Products from Argentina, India, Indonesia, South Africa, and Thailand: Final Results of Expedited Five-Year (Sunset) Reviews of the Countervailing Duty Orders, 71 FR 70960 (December 7, 2006) (Hot-Rolled Sunset Final), and accompanying Issues and Decision Memorandum at "Net Countervailable Subsidy Likely to Prevail."

Additionally, consistent with the Department's practice outlined in the Hot-Rolled Sunset Final, we note that the rates for Bant Boru and ERBOSAN, which were reported in the first and second sunset reviews, did not reflect the rates for programs found to be countervailable subsequent to each company's last administrative review. Since Bant Boru was last reviewed by the Department in the first administrative review,[13] in addition to the Foreign Trade Companies Short-Term Export Credits and Pre-Export Credits programs, we found the following programs to be countervailable: Pre-Shipment Export Credits, Investment Allowance under the GIP, Foreign Exchange Loan Assistance, VAT Support Program (Incentive Premium on Domestically Obtained Goods under the GIP), and Deduction from Taxable Income for Export Revenue. Thus, Bant Boru's rate computed in this sunset review reflects the rates calculated for those programs. Concerning ERBOSAN, the company was last reviewed by the Department in the second review.[14] Since that review, we found the following programs to be countervailable: VAT Support Program (Incentive Premium on Domestically Obtained Goods under the GIP), and Deduction from Taxable Income for Export Revenue in addition to Foreign Trade Companies Short-Term Export Credits and Pre-Export Credits. ERBOSAN's rate computed in this sunset review, therefore, includes the rates calculated for those programs.

As such, based on the Department's program findings since the investigation, we have computed the following company-specific sunset rates for those companies examined in the investigation.[15] See Memorandum to the File from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding "Calculation of the Net Countervailable Subsidy Rates Likely to Prevail," dated concurrently with this memorandum.

Producer/Exporter	Net Countervailable Subsidy (percent)
Bant Boru	3.01
Borusan Group	0.79
ERBOSAN	3.01
Yucel Boru Group	0.95
All Others	3.01

3. Nature of the Subsidy

Consistent with section 752(a)(6) of the Act, the Department will provide the following information to the ITC concerning the nature of the subsidy, and whether the subsidy is a

[13] See Certain Welded Carbon Steel Pipe and Tube Products From Turkey; Final Results of Countervailing Duty Administrative Review, 53 FR 9791 (March 25, 1988).
[14] See Turkey Pipe Final 1995 Review.
[15] Because Toscelik was not a respondent in the investigation, we do not calculate a sunset rate for the company.

prohibited subsidy as described in Article 3 or Article 6.1 of the ASCM. We note that Article 6.1 of the ASCM expired effective January 1, 2000. Neither the domestic interested parties nor the GOT addressed this issue in their substantive responses.

The following are prohibited subsidies as described in Article 3 of the ASCM.

Foreign Trade Companies Short-Term Export Credits: Eximbank's Foreign Trade Company (FTC) loan program was implemented to assist large export trading companies with their export financing needs. This program benefits Foreign Trade Corporate Companies (FTCC) and Sectoral Foreign Trade Companies (SFTC). An FTCC is a company whose export performance was at least US $75 million in the previous year and an SFTC is a grouping of small- and medium-sized companies that operate together in a similar sector. Under this credit program, Eximbank directly extends short-term export credits based on FTCC's or SFTC's past export performance. The financing is provided in Turkish Lira and foreign currency and up to 100 percent of the f.o.b. export commitment is covered. The program's interest rates are set by Eximbank and the maturity of the loans is usually 180 days. See Turkey Decision Memorandum 2004 at "Foreign Trade Companies Short-Term Export Credits."

Pre-Export Credit: This program is similar to the FTC credit program; however, companies classified as either FTC or SFTC are not eligible for pre-export loans. Under the pre-export credit program, a company's past export performance is considered in evaluating its eligibility and establishing a credit limit. Like FTC loans, Eximbank sets the interest rates and directly extends to companies pre-export loans, which are denominated in either Turkish Lira or foreign currency and have a maturity of 180 days. Id. at "Pre-Export Credits."

Pre-Shipment Export Credit: Eximbank provides short-term pre-shipment export loans, denominated in Turkish Lira, to exporters through intermediary commercial banks. Loans are generally extended for a period of up to 180 days, and cover up to 100 percent of the f.o.b. export value. The interest rate charged on these pre-shipment loans is established by the Eximbank. See Turkey Pipe Final 1995 Review, 62 FR at 43985.

Deduction from Taxable Income for Export Revenue: In 1995, the Ministry of Finance amended the Income Tax Law to allow companies that export goods or services to deduct 0.5 percent of their foreign currency income derived from these export activities from their corporate income taxes. See Certain Welded Carbon Steel Pipe and Tube and Welded Carbon Steel Line Pipe From Turkey: Final Results and Partial Rescission of Countervailing Duty Reviews, 63 FR 18885, 18886 (April 16, 1998) (Turkey Pipe Final 1996 Review).

Foreign Exchange Loan Assistance: Resolution Number 94/5782 (Article 4) concerns the encouragement of exportation, allowing commercial banks to exempt certain fees provided that the loans are used in the financing of exportation and other foreign exchange earning activities. The exempted fees include a Resource Utilization Stabilization Fund fee of six percent of the loan principle, a Banking Insurance Tax equal to five percent of the interest paid, and a stamp tax equal to 0.6 percent of the principal. See Turkey Pipe Final 1995 Review, 62 FR at 43986.

The following programs do not fall within the meaning of Article 3 of the ASCM. However, they could be subsidies described in Article 6.1 of the ASCM if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the ASCM. They also could fall within the meaning of Article 6.1, if they constitute debt forgiveness or are subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record of this review for the Department to make such a determination. We, however, are providing the ITC with the following program descriptions.

Investment Allowance under the GIP: The purpose of the GIP is to increase investment and expand the Turkish economy. Under the GIP, companies may apply for investment incentive certificates which entitle them to a number of specified benefits, such as allowances related to an investment project. The investment allowance provides companies with a corporate tax exemption of between 30 and 100 percent of their total fixed investment depending upon the geographical location, sector, and the value of the investment. Id. at 43985.

VAT Support Program (Incentive Premium on Domestically Obtained Goods under the GIP): Companies holding investment incentive certificates under the GIP are eligible for a rebate of 15 percent VAT paid on locally-sourced machinery and equipment. Imported machinery and equipment are subject to the VAT and are not eligible for the rebate. See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe From Turkey: Preliminary Results and Partial Rescission of Countervailing Duty Reviews, 62 FR 64808, 64811 (December 9, 1997), unchanged in the Turkey Pipe Final 1996 Review, 63 FR at 18886.

Final Results of Review

We determine that revocation of the CVD order would likely lead to continuation or recurrence of a countervailable subsidy at the rates listed below:

Producer/Exporter	Net Countervailable Subsidy (percent)
Bant Boru	3.01
Borusan Group	0.79
ERBOSAN	3.01
Yucel Boru Group	0.95
All Others	3.01

Recommendation

Based on our analysis of the comments received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of this expedited sunset review in the Federal Register and notify the ITC of our determination.

AGREE: _____ DISAGREE: _____

____
Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

____
Date