



C-489-817

Investigation


**Public Document**

POI: 01/01/2012 – 12/31/2012

OI: Team

December 16, 2013

MEMORANDUM TO: Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Negative Preliminary  
Determination in the Countervailing Duty Investigation of Certain  
Oil Country Tubular Goods from the Republic of Turkey

---

## I. SUMMARY

The Department of Commerce ("Department") preliminarily determines that countervailable subsidies are not being provided to producers and exporters of certain oil country tubular goods ("OCTG") in the Republic of Turkey ("Turkey"), as provided in section 703 of the Tariff Act of 1930, as amended ("the Act").

## II. BACKGROUND

### A. Initiation and Case History

On July 2, 2013, Maverick Tube Corporation, United States Steel Corporation, Boomerang Tube, Energex Tube, a division of JMC Steel Group, Northwest Pipe Company, Tejas Tubular Products, TMK IPSCO, Vallourec Star, L.P., and Welded Tube USA Inc (collectively, "Petitioners") filed a petition with the Department seeking the imposition of antidumping and countervailing duties on OCTG from, *inter alia*, Turkey.<sup>1</sup> Supplements to the petition and our consultations with the Government of the Republic of Turkey ("GOT") are described in the Initiation Checklist.<sup>2</sup> On July 29, 2013, the Department published the initiation of a countervailing duty (CVD) investigation on OCTG from Turkey.<sup>3</sup>

---

<sup>1</sup> See Letter from Petitioners, "Petitions for the Imposition of Antidumping and Countervailing Duties on Certain Oil Country Tubular Goods from India, the Republic of Korea, the Republic of the Philippines, Saudi Arabia, Taiwan, Thailand, the Republic of Turkey, Ukraine, and the Socialist Republic of Vietnam," (July 2, 2013).

<sup>2</sup> See "Countervailing Duty Initiation Checklist: Certain Oil Country Tubular Goods from the Republic of Turkey," (July 22, 2013) ("Initiation Checklist").

<sup>3</sup> See *Certain Oil Country Tubular Goods From India and Turkey: Initiation of Countervailing Duty Investigations*, 78 FR 45502 (July 29, 2013) (*Initiation Notice*).



We stated in the *Initiation Notice* that we intended to base our selection of mandatory respondents on U.S. Customs and Border Protection (“CBP”) entry data for the Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings listed in the scope of the investigation. On July 24, 2013, the Department released the CBP entry data under administrative protective order (“APO”).<sup>4</sup>

We received respondent selection comments from Petitioners.<sup>5</sup> On August 21, 2013, we selected Borusan Istikbal Ticaret (“Istikbal”) and Borusan Mannesmann Boru Sanayi (“BMB”) (collectively, “Borusan”) as mandatory respondents.<sup>6</sup> On August 26, 2013, we requested that BMB and Istikbal explain their relationship, as the Department had previously found these companies to be affiliated under Section 771(33) of the Act in another countervailing duty proceeding.<sup>7</sup> On August 27, 2013, we sent our CVD questionnaire to the GOT.<sup>8</sup>

On August 29, 2013, BMB and Istikbal filed a joint response to our initial request to explain their corporate relationship.<sup>9</sup> They explained that “BMB and Istikbal are both part of the Borusan Group and share direct and/or indirect majority ownership by Borusan Holding.”<sup>10</sup> Moreover, BMB and Istikbal explained that they intended to respond together to the Department’s CVD questionnaire.<sup>11</sup> Based on this response, we determined the following: “Given that BMB and Istikbal have the same owner and are responding together to the Department’s questionnaire, we find that the office responsible for this investigation has the resources to investigate an additional separate mandatory respondent at this time.”<sup>12</sup> Therefore, we selected Tosyali Dis Ticaret A.S (“Tosyali”) as an additional mandatory respondent.<sup>13</sup>

We received timely responses to our initial CVD questionnaire from Borusan and Tosçelik Profil ve Sac Endustrisi A.S. (Toscelik Profil), on October 31, 2013, and November 11, 2013, respectively.<sup>14</sup> We received a timely initial CVD questionnaire response from the GOT on

<sup>4</sup> See Memorandum to the File regarding, “Release of Customs and Border Protection (CBP) Data,” dated July 24, 2013.

<sup>5</sup> See Letter from Petitioners to the Department, “*Certain Oil Country Tubular Goods from the Republic of Turkey: Respondent Selection Comments*,” (August 5, 2013).

<sup>6</sup> See Department Memorandum, “Countervailing Duty Investigation of Certain Oil Country Tubular Goods from the Republic of Turkey: Respondent Selection Memorandum,” (August 21, 2013). As explained in that memorandum, when faced with a large number of producers/exporters, the Department may determine that it is not practicable to examine all companies. In these circumstances, section 777A(e)(2)(A)(ii) of the Act and 19 CFR 351.204(c) give the Department discretion to limit its examination to a reasonable number of the producers/exporters accounting for the largest volume of the subject merchandise.

<sup>7</sup> See Letter from the Department to Istikbal and BMB dated August 27, 2013.

<sup>8</sup> See Letter from the Department to the GOT dated August 27, 2013.

<sup>9</sup> See Letter from Istikbal and BMB dated August 29, 2013, “Affiliated Company Questionnaire Response” (“BQR-1”).

<sup>10</sup> *Id.* at 7.

<sup>11</sup> *Id.*

<sup>12</sup> See Department Memorandum, “Countervailing Duty Investigation of Certain Oil Country Tubular Goods from the Republic of Turkey: Selection of Additional Mandatory Respondent,” (September 9, 2013) at 3.

<sup>13</sup> *Id.*

<sup>14</sup> See Letter from Borusan dated October 31, 2013, “Initial Questionnaire Response” (“BQR-2”), and questionnaire response from Tosçelik Profil dated November 11, 2013 (“TQR”). Tosyali is the affiliated foreign trading company of Toscelik. See TQR at 3. Toscelik Profil is the producer of subject merchandise. *Id.* at 2. “Toscelik” in this memorandum refers collectively to Toscelik Profil and Tosyali. For more information on the corporate structure of Toscelik, see the “Subsidies Valuation” section below.

November 6, 2013.<sup>15</sup> For reasons described in a letter to the GOT on November 19, 2013, the Department rejected the GOT's November 6, 2013, initial questionnaire response.<sup>16</sup> The GOT resubmitted a new version (the GQR) on November 22, 2013. Petitioners submitted comments on the initial questionnaire responses by Toscelik and the GOT on November 27, 2013. Petitioners also submitted factual information on November 18, 2013.<sup>17</sup> The Department sent supplemental questionnaires to Borusan and Toscelik on November 21, 2013, and November 22, 2013, respectively. Borusan submitted timely responses on December 2, 2013, and December 5, 2013,<sup>18</sup> and Toscelik submitted a timely response on December 2, 2013.<sup>19</sup>

On November 8, 2013, Petitioners submitted new subsidy allegations. The Department is currently reviewing these new subsidy allegations.

*Extension of Preliminary Deadline:* On September 5, 2013, the Department postponed the preliminary determination until November 29, 2013, in accordance with section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2).<sup>20</sup> Further, as explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.<sup>21</sup> Accordingly, all deadlines in this segment of the proceeding were extended by an additional 16 days. Because the new deadline, December 15, 2013, falls on a non-business day, in accordance with the Department's practice, the effective new deadline is the next business day. Therefore, the revised deadline for the preliminary determination of this investigation is December 16, 2013.

## **B. Period of Investigation**

The POI is January 1, 2012, through December 31, 2012.

## **III. SCOPE COMMENTS**

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and we encouraged all parties to submit comments within 20 calendar days of the signature date of that notice.<sup>22</sup> On August 12, 2013, WSP Pipe Co, Ltd. ("WSP"), a mandatory respondent in the antidumping duty (AD) investigation of OCTG from Thailand, asked the Department to clarify that the scope of this investigation does not include "billets with a chemical composition used to produce a variety

---

<sup>15</sup> See Letter from the GOT, "Initial Questionnaire Response" (November 22, 2013) ("GQR").

<sup>16</sup> See Letter to the GOT, "Countervailing Duty Investigation: Certain Oil Tubular Goods from the Republic of Turkey," (November 19, 2013).

<sup>17</sup> See Letter from Maverick Tube Corporation, "Submission of Factual Information," (November 18, 2013).

<sup>18</sup> See Letter from Borusan, "Supplemental Questionnaire Response," (December 2, 2013) ("BSQR1-A"); see also Letter from Borusan, "Supplemental Questionnaire Response," (December 5, 2013) ("BSQR1-B").

<sup>19</sup> See Letter from Toscelik, "Supplemental Questionnaire Response," (December 2, 2013) ("TSQR1").

<sup>20</sup> See *Certain Oil Tubular Goods from India and Turkey: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 78 FR 56865 (September 16, 2013).

<sup>21</sup> See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (October 18, 2013).

<sup>22</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997); see also *Initiation Notice*.

of products (including but not limited to OCTG), which have been pierced, but which have not been otherwise further processed prior to importation into the United States.”<sup>23</sup> Petitioners submitted rebuttal comments to this scope clarification request.<sup>24</sup>

We are evaluating WSP’s and Petitioner’s comments. We will issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigations, which are due for signature on February 13, 2014. We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determinations after considering any relevant comments submitted in case and rebuttal briefs.

#### **IV. SCOPE OF THE INVESTIGATION**

The merchandise covered by the investigation is certain oil country tubular goods (“OCTG”), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (e.g., whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (“API”) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the investigation also covers OCTG coupling stock.

Excluded from the scope of the investigation are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The merchandise subject to the investigation may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50,

---

<sup>23</sup> See Letter from WSP, “Comments on Scope of Investigations: Antidumping Duty Investigations of Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam: Countervailing Duty Investigation on Oil Country Tubular Goods from India and Turkey,” (August 12, 2013).

<sup>24</sup> See Letter from Petitioners, “Certain Oil Country Tubular Goods from India, Korea, Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine and Vietnam: Rebuttal Comments on Scope of Investigation” (August 23, 2013).

7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

## V. INJURY TEST

Because Turkey is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (“ITC”) is required to determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a U.S. industry. On August 16, 2013, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of OCTG from, *inter alia*, Turkey.<sup>25</sup>

## VI. SUBSIDIES VALUATION

### A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (“AUL”) of renewable physical assets used in the production of subject merchandise. The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System.<sup>26</sup> The Department notified the respondents of the 15-year AUL in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period.

Furthermore, for non-recurring subsidies, we have applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL.

### B. Attribution of Subsidies

**Cross Ownership:** In accordance with 19 CFR 351.525(b)(6)(i), the Department normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject

---

<sup>25</sup> See Certain Oil Country Tubular Goods from India, Korea, the Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam: Inv. No. 701-TA-499-500 and 731-TA-1215-1223 (Preliminary) (August 2013); *Certain Oil Country Tubular Goods From India, Korea, the Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam: Determinations*, 78 FR 52213 (August 22, 2013).

<sup>26</sup> See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to the Department's regulations further clarifies the Department's cross-ownership standard. According to the preamble, relationships captured by the cross-ownership definition include those where:

the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.<sup>27</sup>

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists.

The U.S. Court of International Trade ("CIT") has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>28</sup>

### *Borusan*

Borusan responded to the Department's questionnaire on behalf of BMB and one cross-owned affiliate: Istikbal. Borusan reported that Istikbal, an export sales company, exported subject merchandise produced by BMB to the United States during the POI.<sup>29</sup> Borusan reported that BMB and Istikbal are held by a holding company: Borusan Mannesmann Boru Yatirim Holding A.S. ("BMBYH"), which owns the majority of the two companies' equity share capital.<sup>30</sup> Borusan also reported that BMBYH, Istikbal, and BMB are majority owned by Borusan Holding A.S. ("Borusan Holding").<sup>31</sup>

---

<sup>27</sup> See *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998).

<sup>28</sup> See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>29</sup> See BQR-1 at 2-3.

<sup>30</sup> *Id.* at 2 and Exhibit 3

<sup>31</sup> *Id.* at 1-3 and Exhibits 1 and 3.

Based on Borusan's representations, we preliminarily find that BMB, Istikbal, BMBYH, and Borusan Holding are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of Borusan Holding's ultimate ownership of BMB, Istikbal, and BMBYH.

In a supplemental questionnaire dated November 21, 2013, we asked Borusan to provide responses on behalf of affiliates that met the cross-ownership standard under 19 CFR 351.525(b)(6)(vi) and one or more of the attribution standards under 19 CFR 351.525(b)(6)(ii)-(v).<sup>32</sup> This includes BMBYH, Borusan Holding, and several additional cross-owned companies. Borusan provided this response on December 5, 2013.<sup>33</sup> We intend to address this response in a post-preliminary analysis.

Consistent with 19 CFR 351.525(c), we are preliminarily cumulating the benefit from subsidies to Istikbal with the benefit from subsidies to BMB. In accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by BMB to the sales of Borusan.

#### *Toscelik*

Toscelik Profil responded to the Department's questionnaire on behalf of itself; Tosyali, the foreign trade company that is responsible for export sales of group products (including steel pipes produced by Toscelik Profil); Tosyali Elektrik Enerjisi Toptan Satış İth. A.Ş. ("Tosyali Electric"), an electricity wholesaler that supplied electricity to Toscelik Profil during the POI; and Tosyali Holding, the holding company for the entire group of companies (including Toscelik and Tosyali). Toscelik reported that three brothers, Mr. Fuat Tosyali, Mr. E. Ayhan Tosyali, and Mr. M. Fatih Tosyali, owned or controlled these four companies.

We preliminarily determine that Toscelik Profil, Tosyali, Tosyali Electric, and Tosyali Holding are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi) through the Tosyali family's common ownership and control of all four companies.

Toscelik reported that Tosyali Electric supplied electricity to Toscelik Profil.<sup>34</sup> Regardless of whether subsidies to Tosyali Electric are attributable to Toscelik Profil under 19 CFR 351.525(b)(6)(ii)-(v), we preliminarily find no record evidence indicating that Tosyali Electric benefited from countervailable subsidies during the POI.

As stated above, Tosyali is the foreign trade company of the group. Accordingly, we are preliminarily cumulating the benefit from subsidies to Tosyali with the benefit from subsidies to Toscelik Profil, in accordance with 19 CFR 351.525(c).

Tosyali Holding is the holding company for the Toscelik group of companies. Under 19 CFR 351.525(b)(6)(iii), subsidies to a parent or holding company are attributable to the consolidated

---

<sup>32</sup> See letter from the Department to Borusan dated November 21, 2013, "Supplemental Questionnaire for Borusan Group Companies in the Countervailing Duty Investigation of Certain Oil Country Tubular Goods from the Republic of Turkey."

<sup>33</sup> See letter from Borusan to the Department dated December 5, 2013, "Oil Country Tubular Goods from Turkey, Case No. C-489-817, Supplemental Questionnaire Response."

<sup>34</sup> See TQR at 4.

sales of the parent or holding company and its subsidiaries. However, we preliminarily find no record evidence indicating that Tosyali Holding benefited from countervailable subsidies during the POI.

In accordance with 19 CFR 351.525(b)(6)(i), we attributed subsidies received by Toscelik Profil to its own sales.

Toscelik reported seven additional affiliates. Five of these affiliates (Toscelik Sigorta, Toscelik Elektrik Enerjisi Uretim, Tosyali Denizcilik, Tosyali Metal Ambalaj, and Tosyali Toyo Kohan) were either dormant or not operational in the period of investigation.<sup>35</sup> Toscelik reported that a sixth affiliate, Toscelik Granul Sanayi A.S. (“Toscelik Granul”), is a producer of steel shot (used as an industrial abrasive).<sup>36</sup> Toscelik stated that steel shot is not an input to the production of OCTG, and that Toscelik did not buy steel shot from Toscelik Granul during the POI.<sup>37</sup> Regardless of cross-ownership between these six companies and Toscelik, we preliminarily find that these companies do not meet any of the conditions of 19 CFR 351.525(b)(6)(ii)-(v). Therefore, we have preliminarily not included these companies in our subsidy analysis.

Toscelik explained that the seventh affiliate, Tosyali Demir Celik San. A.S. (“Tosyali Demir”), produces steel angles, and I- and U- profiles from billets.<sup>38</sup> Toscelik also explained that Tosyali Demir supplied Toscelik Profil with steel scrap during the POI.<sup>39</sup> We requested that Toscelik provide a full questionnaire response on behalf of Tosyali Demir because scrap is an input in the production of subject merchandise.<sup>40</sup> Toscelik responded on December 2, 2013, and requested that the Department relieve it of the request to provide a complete questionnaire response on behalf of Tosyali Demir.<sup>41</sup> Toscelik argued that scrap is not primarily dedicated to the production of subject merchandise or steel pipes, and that Tosyali Demir is not an “input producer” as such.<sup>42</sup> Toscelik also requested an extension to the response deadline if the Department does not change its request for a response on behalf of Tosyali Demir.<sup>43</sup> As discussed in the “Programs and Issues That Require More Information” section below, we intend to address Tosyali Demir in a post-preliminary analysis.

## Denominators

In accordance with 19 CFR 351.525(b), the Department considers the basis for the respondents’ receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondents’

---

<sup>35</sup> See TQR at 2-6.

<sup>36</sup> See TQR at 3.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 2-3.

<sup>40</sup> See the Department’s November 22, 2013 supplemental questionnaire to Toscelik, “Countervailing Duty Investigation: Certain Oil Country Tubular Goods from the Republic of Turkey,” at 1.

<sup>41</sup> See letter from Toscelik to the Department dated December 2, 2013, “Toscelik Supplemental Questionnaire Response” (“TSR”) at 1.

<sup>42</sup> *Id.* at 2-4.

<sup>43</sup> See letter from Toscelik to the Department dated December 6, 2013, “Toscelik conditional extension request.”

export or total sales. In the sections below, we describe the denominators we used to calculate the countervailable subsidy rates for the various subsidy programs.<sup>44</sup>

### C. Benchmark Interest Rates

We are investigating export loans and non-recurring, allocable subsidies that the respondents received.<sup>45</sup> In the section below, we discuss the derivation of the benchmarks and discount rates for the POI and previous years.

#### Short-Term Benchmarks

To determine whether government-provided loans under investigation conferred a benefit, the Department uses, where possible, company-specific interest rates for comparable commercial loans.<sup>46</sup> When loans are denominated in a foreign currency, 19 CFR 351.505(a)(2)(i) directs us to use a benchmark denominated in the same foreign currency as the loan. Borusan and Toscelik submitted weighted-average interest rates, along with the underlying data, that they paid on comparable short-term commercial loans.<sup>47</sup> Consistent with 19 CFR 351.505(a)(2)(ii), we are preliminarily using the interest rates that Borusan and Toscelik submitted on comparable short-term loans as benchmarks.

Borusan reported it paid commission with regard to countervailable loans (e.g. Pre-Export Credit Program).<sup>48</sup> It is the Department's practice to normally compare effective interest rates rather than nominal rates in making the loan comparison.<sup>49</sup> "Effective" interest rates are intended to take account the actual cost of the loan, including the amount of fees, commissions, compensating balances, government charges, or penalties paid in addition to the "nominal" interest rate.<sup>50</sup>

#### Long-Term Benchmark

As discussed above, to determine whether government-provided loans under investigation conferred a benefit, the Department uses, where possible, company-specific interest rates for comparable commercial loans.<sup>51</sup> Where such benchmark rates are unavailable, consistent with 19 CFR 351.505(a)(3)(ii), we used lending rate data from the International Monetary Fund's

---

<sup>44</sup> See also Memorandum to the File from Joseph Shuler, regarding "Certain Oil Country Tubular Goods from the Republic of Turkey: Preliminary Determination, Calculation Memorandum for Toscelik," (December 16, 2013) ("Toscelik Prelim Calc Memo"), and Memorandum to the File from Jennifer Meek, regarding "Certain Oil Country Tubular Goods from the Republic of Turkey: Preliminary Determination, Calculation Memorandum for Borusan," (December 16, 2013) ("Borusan Prelim Calc Memo").

<sup>45</sup> See 19 CFR 351.524(b)(1).

<sup>46</sup> See 19 CFR 351.505(a)(2)(ii).

<sup>47</sup> See BQR-2 at 19 and Exhibit 16.

<sup>48</sup> *Id.* at 18 and Exhibit 15.

<sup>49</sup> See *Countervailing Duties; Final Rule*, 63 FR 65348, 65362 (November 25, 1998) ("Preamble").

<sup>50</sup> See *Circular Welded Carbon Steel Pipes and Tubes From Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2011*, 78 FR 64916 (October 30, 2013) ("CWP Turkey 2011 AR"), and accompanying Issues and Decision Memorandum at "Benchmarks and Interest Rates."

<sup>51</sup> See 19 CFR 351.505(a)(2)(ii).

*International Financial Statistics* as our national average benchmark.<sup>52</sup>

### Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), we have used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the government approved non-recurring subsidies.

## **VII. ANALYSIS OF PROGRAMS**

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following.

### **A. Programs Preliminarily Determined To Be Countervailable**

#### *1. Deductions from Taxable Income for Export Revenue*

Addendum 4108 of Article 40 of the Income Tax Law Number 193, effective June 2, 1995, allows taxpayers engaged in export activities to claim a lump sum deduction from gross income resulting from exports, construction, maintenance, assembly, and transportation activities abroad in an amount not to exceed 0.5 percent of the taxpayer's foreign-exchange earnings from such activities.<sup>53</sup> This deduction is to cover the expenditures without documentation incurred from exports, construction, maintenance, assembly, and transportation activities abroad.<sup>54</sup> The deduction for export earnings may either be taken as a lump sum on a company's annual income tax return or be shown within the company's marketing, selling and distribution expense account of the income statement.<sup>55</sup> Under this program, marketing, selling, and distribution expenses are deductible expenditures for tax purposes. The Ministry of Finance is responsible for administering the program.<sup>56</sup>

Consistent with prior determinations, we preliminarily find that this tax deduction is a countervailable subsidy.<sup>57</sup> The income tax deduction provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, because it represents revenue forgone by the GOT. The deduction provides a benefit in the amount of the tax savings to the company pursuant to section 771(5)(E) of the Act. It is also specific under section 771(5A)(B) of the Act because its receipt is contingent upon export earnings. During the POI, BMB, Istikbal, and Tosyali reported receiving the deduction for export earnings program with respect to the 2011 tax returns filed during the POI.<sup>58</sup>

---

<sup>52</sup> See *CWP from Turkey 2011 AR* Issues and Decision Memorandum at "Benchmarks and Interest Rates."

<sup>53</sup> See GQR at 33, 37.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at Exhibit 13.

<sup>56</sup> *Id.* at 37 and Exhibit 13.

<sup>57</sup> See, e.g., *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review*, 77 FR 46713 (August 16, 2012) ("*CWP Turkey 2010 AR*"), and accompanying Issues and Decision Memorandum at "Deduction from Taxable Income for Export Revenue."

<sup>58</sup> See BQR-2 at 26; see also TQR at 22.

The Department typically treats a tax deduction as a recurring benefit in accordance with 19 CFR 351.524(c)(1). The amount of the benefit is equal to the amount of tax that would have been paid absent the program.

To calculate the countervailable subsidy rate for Borusan, we divided BMB's and Istikbal's combined tax savings by Borusan's total export sales for the POI. For Tosyali, we divided its tax savings by Toscelik's total export sales for the POI. On this basis, we preliminarily determine the net countervailable subsidy for this program to be 0.01 percent *ad valorem* for Borusan and 0.06 percent *ad valorem* for Toscelik.

## 2. Export Financing

Respondents reported receiving benefits from two Export Financing programs, "Rediscount Program (Short-Term Pre-Shipment Rediscount Program)" and "Pre-Export Credit Program."

### *Rediscount Program (Short-Term Pre-Shipment Rediscount Program)*

The "Rediscount Program," known previously as the "Short-Term Pre-Shipment Rediscount Program," was established in 1999 and is administered by the Export Credit Bank of Turkey ("Turk Eximbank-TE").<sup>59</sup> The Rediscount Program was designed to provide financial support to Turkish exporters, manufacturer-exporters and manufacturers supplying exporters.<sup>60</sup> This program is contingent upon an export commitment.<sup>61</sup> Under the Rediscount Program, there is a minimum loan amount of USD 200,000 per company.<sup>62</sup> Loan payments shall be made within the credit period or at maturity to the Turk Eximbank-TE.<sup>63</sup> Companies can repay either in the foreign currency in which the loan was obtained or in a TL equivalent of principal and interest based on the exchange rates determined by the Turk Eximbank-TE.<sup>64</sup> Borusan and Toscelik reported that they had loans outstanding under this program during the POI.<sup>65</sup>

We preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT under 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1) equal to the difference between the amount paid by the company for the loans during the POI and the amounts the company would have paid on comparable commercial loans. The program is also specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance. The Department's finding in this regard is consistent with its practice.<sup>66</sup>

In calculating the benefit pursuant to section 771(6)(A) of the Act and 19 CFR 351.505(a)(1), we did not include fees paid to commercial banks for the required letters of guarantee in the benefit

---

<sup>59</sup> See GQR at 99-100.

<sup>60</sup> *Id.* at 99.

<sup>61</sup> *Id.* at 103, 105, and Exhibit 24.

<sup>62</sup> *Id.* at 103.

<sup>63</sup> *Id.* at 104.

<sup>64</sup> *Id.*

<sup>65</sup> See TQR at 16-17; see also BQR-2 at 16-17.

<sup>66</sup> See, e.g., CWP Turkey 2011 AR Issues and Decision Memorandum at 6-7.

calculation because we have no information regarding such fees in the benchmark. To calculate the countervailable subsidy rates, we divided each company's benefit amount by its respective total export sales for the POI. On this basis, we preliminarily determine that the net countervailable subsidy rates for this program are 0.28 percent *ad valorem* for Borusan and 0.05 percent *ad valorem* for Toscelik.

#### *Pre-Export Credit Program*

The Pre-Export Credit Program in TL ("PEC-TL") and the Pre-Export Credit Program in foreign currency ("PEC-FX") were established in 1997 and 1994, respectively.<sup>67</sup> This program is administered by the Turk Eximbank-TE. This program is designed to provide financial support to exporters, manufacturer-exporters and manufacturers supplying exporters, except Foreign Trade Corporate Companies and Sectoral Foreign Trade Companies without requiring any past export performance.<sup>68</sup> Companies must submit a written export commitment to receive the loan.<sup>69</sup>

Borusan and Toscelik reported that they had loans outstanding under this program during the POI.<sup>70</sup>

We preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT under 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1) equal to the difference between the amount paid by the company for the loans during the POI and the amount the company would have paid on comparable commercial loans. The program is also specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance. The Department's finding in this regard is consistent with its practice.<sup>71</sup>

In computing the benefit pursuant to section 771(6)(A) of the Act and 19 CFR 351.505(a)(1), we did not include the fees paid to commercial banks for required letters of guarantee in the benefit calculation because we have no information regarding such fees in the benchmark. To calculate the countervailable subsidy rates, we divided each company's benefit amount by its respective total export sales for the POI. On this basis, we preliminarily determine that the net countervailable subsidy rates for this program are 0.01 percent *ad valorem* for Borusan and 0.01 percent *ad valorem* for Toscelik.

---

<sup>67</sup> See GQR at 15.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 18.

<sup>70</sup> See BQR-2 at 16; see also TQR at 16-17.

<sup>71</sup> See CWP Turkey 2010 AR Issues and Decision Memorandum at "Pre-Export Credits."

3. Investment Encouragement Program ("IEP"): Customs Duty and Value Added Tax ("VAT") Exemptions

This program was not alleged by the Petitioners, but both mandatory respondents reported receiving exemptions under this program in response to our request that they report "other subsidies."<sup>72</sup> The GOT provided a response with respect to this program.

The GOT provides certificates through the IEP that qualified recipients use to import items duty free. The Council of Ministers' Decision No. 2009/15199, replaced with Decree No: 2012/3305 in June 2012, provides producers Investment Encouragement Certificates to receive customs and VAT exemptions on equipment imported for use.<sup>73</sup> Investments in excess of TL 50 million and within certain regions are eligible to benefit under this program.<sup>74</sup> Additionally, the decree limits such exemptions for iron and steel investments to certain regions.<sup>75</sup> The Ministry of Economy and the Ministry of Customs and Trade administers this program.<sup>76</sup> Borusan and Toscelik reported receiving certificates under this program after 2009 and receiving exemptions on imports of equipment under the program.<sup>77</sup>

Consistent with previous determinations,<sup>78</sup> we preliminarily find that benefits received under exemption licenses granted after January 1, 2009, constitute a financial contribution in the form of revenue forgone within the meaning of section 771(5)(E) of the Act in the amount of the tax savings. Further, we preliminarily find that this program is limited to firms making investments in excess of TL 50 Million and to firms located in certain geographic regions. Thus, the program is specific under sections 771(5A)(D)(i) and (iv) of the Act.

To calculate the benefit, we derived the amount of import duties and VAT that Borusan and Toscelik would have paid absent the program. We first analyzed whether the exemptions on imports of capital equipment during the POI were allocable as non-recurring subsidies.<sup>79</sup> Toscelik's exemptions during the POI exceeded 0.5 percent of its sales during the POI. Therefore, we allocated the benefit over the AUL, using the discount rates described in the "Benchmarks and Discount Rates" section above. Borusan's exemptions during the POI were less than 0.5 percent of its sales during the POI. Therefore, we expensed the benefit to the year of receipt (*i.e.*, the POI).<sup>80</sup>

To calculate the countervailable subsidy rates, we then divided the benefit amount by each company's total sales during the POI. On this basis, we preliminarily determine that the net

---

<sup>72</sup> See BQR-2 at 21-21 and Exhibits 19 and 20; *see also* TSQR1 at 7-8 and Exhibit 1.

<sup>73</sup> See GQR at 80, 83, 90 and Exhibits 22 and 23.

<sup>74</sup> *Id.* at Exhibits 22 and 23; *see also* BQR-2 at Exhibit 19.

<sup>75</sup> See BQR-2 at Exhibit 20

<sup>76</sup> See GQR at 80-81, 90.

<sup>77</sup> See BQR-2 at 24, 36, and Exhibit 20; *see* TSQR1 at 7-8 and Exhibit 1.

<sup>78</sup> See *CWP Turkey 2011 AR* Issues and Decision Memorandum at "Investment Encouragement Program (IEP): Customs Duty Exemptions."

<sup>79</sup> See 19 CFR 351.524(c).

<sup>80</sup> See 19 CFR 351.524(b)(2).

countervailable subsidy rates for this program are 0.07 percent *ad valorem* for Borusan and 0.09 percent *ad valorem* for Toscelik.

4. Provision of Electricity for Less Than Adequate Remuneration ("LTAR") / Law 5084: Energy Support

The Ministry of Economy, General Directorate of Incentives and Implementation and Foreign Investments administers the energy support program pursuant to Articles 2 and 6 of Law 5084.<sup>81</sup> According to the GOT, the main objective of this program is to reduce inter-regional disparities and to increase employment.<sup>82</sup> Specifically, all enterprises or industries established in the 49 provinces which have a GDP *per capita* equal to or less than 1,500 U.S. dollars (as determined by the State Institute of Statistics as of 2001) or which have a negative socio-economic development index value (as determined by the State Planning Organization as of 2003) can benefit from this program.<sup>83</sup> The GOT states that enterprises operating or investing in the designated provinces are eligible for support at rates ranging from 20 percent to 50 percent of the cost of electricity consumption depending on their existing employment levels and the number of new hires (not to exceed 50 percent support).<sup>84</sup>

Toscelik reported that it received a benefit under this program in the form of a grant.<sup>85</sup>

We preliminarily determine that this program provides a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act. We further preliminarily determine that the energy subsidies provided under the program confer a benefit with the meaning of section 771(5)(E) of the Act in that Toscelik received grants from the GOT to offset its electricity costs. We also preliminarily determine that this program is regionally-specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in the 49 eligible provinces. The Department's findings in this regard are consistent with its prior determinations.<sup>86</sup>

To calculate the benefit from the energy subsidies that Toscelik received under the energy support program, we summed the total amount of energy subsidies reported by Toscelik during the POI and treated it as a non-recurring grant. Next, in accordance with 19 CFR 351.524(b)(2), we determined whether to allocate the non-recurring benefit from the grant over the AUL by dividing the approved amount by Toscelik's total sales during the POI. Because the resulting ratio was less than 0.5 percent of Toscelik's total free on board sales, we allocated the benefit to the POI. On this basis, we determine Toscelik's net countervailable subsidy rate under this program to be 0.02 percent *ad valorem*.

5. Provision of Land for LTAR

---

<sup>81</sup> See GQR at 47 and Exhibit 17

<sup>82</sup> *Id.*

<sup>83</sup> See GQR at 47.

<sup>84</sup> *Id.*

<sup>85</sup> See TQR at 27, 28, and 30.

<sup>86</sup> See CWP Turkey 2011 AR Issues and Decision Memorandum at "Law 5084: Energy Support."

According to the GOT, all enterprises or industries established in the 49 provinces which have a GDP *per capita* equal to or less than 1,550 US dollars (as determined by the State Institute of Statistics as of 2001) or which have a negative socio-economic development index value (as determined by the State Planning Organization as of 2003) that are also located in Organized Industrial Zones (“OIZs”) can benefit from free land allocation support pursuant to Provisional Article 1 of Law 5084.<sup>87</sup> Further, this program is used to promote development and increase employment in selected provinces.<sup>88</sup>

Toscelik reported receiving land under this program in 2008.<sup>89</sup> Toscelik received free land in the Osmaniye OIZ under Law 5084 Provisional Article 1. With respect to companies in the OIZs, the GOT states that pursuant to Provisional Article 1, non-allocated parcels in the OIZs located in the provinces subject to clause (b) of Article 2 of Law 5084 can be allocated to real or legal entities free of charge.<sup>90</sup> For an investor to receive free land in the OIZs, the OIZ administration must approve the application, the investor must start production within two years, and the investor must employ at least ten people.<sup>91</sup>

The Department found this program to be countervailable in the *CWP Turkey 2011 AR*. Specifically, the Department found that this program constitutes a financial contribution in the form of land provided for LTAR within the meaning of section 771(5)(D)(iii) of the Act.<sup>92</sup> Further, the Department determined that OIZs constituted a government authority.<sup>93</sup> Consistent with *CWP Turkey 2011 AR*, information on the record of the instant review indicates that the OIZs themselves were established pursuant to Turkish law.<sup>94</sup> In addition, the text of Law 5084 states that its purpose is to:

Increase the investment and employment opportunities through implementing incentives for tax and insurance premiums in various provinces to provide . . . lands and plots free of charge for investments.<sup>95</sup>

Additionally, Article 7e of Law 5084 states that transactions that do not result in “additional capacity or employment increase” but are undertaken merely for “purposes of benefiting from incentives . . . shall not be entitled to incentives granted by this law.”<sup>96</sup> Further, Article 7i of Law 5084 states that the Ministries of Finance, Labor, Social Security, Industry and Commerce, and Undersecretariat of the Treasury are jointly authorized “to define the procedures and principles related with starting and completing any investment” subject to Law 5084.<sup>97</sup> Based on this record evidence, and consistent with *CWP Turkey 2011 AR*, we preliminarily find that the

---

<sup>87</sup> See GQR at 43-44 and Exhibits 15-16.

<sup>88</sup> *Id.* at Exhibit 16, Article 1.

<sup>89</sup> See TQR at 25.

<sup>90</sup> See GQR at 43.

<sup>91</sup> *Id.*

<sup>92</sup> See *CWP Turkey 2011 AR* Issues and Decision Memorandum at “Law 5084: Allocation of Free Land and Purchase of Land for LTAR.”

<sup>93</sup> *Id.*

<sup>94</sup> See GQR at Exhibit 16; see also *CWP Turkey 2011 AR* Issues and Decision Memorandum at “Law 5084: Allocation of Free Land and Purchase of Land for LTAR.”

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

OIZ is a GOT authority because it was created by the GOT and implements GOT guidelines and goals.<sup>98</sup> Thus, we preliminarily find that the allocation of free land to Toscelik by the OIZ authority constitutes a financial contribution under section 771(5)(D)(iii) of the Act.

In *CWP Turkey 2011 AR*, the Department also found that the program was regionally-specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in the 49 eligible provinces.<sup>99</sup> In addition, the Department determined that Toscelik benefitted from the provision of free land under this OIZ program pursuant to section 771(5)(E)(iv) of the Act in that it was able to obtain goods (*i.e.*, land) for less than it would otherwise pay in the absence of this subsidy.<sup>100</sup> Information on this case record, as described above, is consistent with the information cited in *CWP Turkey 2011 AR*. Therefore, consistent with *CWP Turkey 2011 AR*, we preliminarily find that the allocation of free land to Toscelik is specific under section 771(5A)(D)(iv) of the Act and confers a benefit under section 771(5)(E)(iv) of the Act.

For the preliminary determination, we are relying upon the land benchmark data used in *CWP Turkey 2011 AR*. Specifically, we have used as our benchmark publicly available information concerning industrial land prices in Turkey for purposes of calculating a comparable commercial benchmark price for land available in Turkey.<sup>101</sup> We preliminarily find that this land price serves as a comparable commercial benchmark under 19 CFR 351.511(a)(2)(i).

To calculate the benefit, we multiplied the area of land Toscelik obtained free of charge from the GOT by the unit benchmark land price discussed above. Next, we performed the 0.5 percent test by dividing the benefit by Toscelik's total sales in 2008. Because the resulting ratio exceeded 0.5 percent of Toscelik's total sales, we allocated a portion of the benefit to the POI using the Department's standard grant allocation formula.<sup>102</sup> We lack company-specific information concerning interest rates charged to Toscelik on long-term debt. We also lack information from the GOT concerning long-term interest rates in Turkey. Therefore, in accordance with 19 CFR 351.505(a)(3)(ii), we used the national average discount rate in Turkey for 2008 as the long-term discount rate utilized in the grant allocation formula. *See* the "Benchmark Interest Rates" section above for a description of the source of this rate.

We used the standard 15-year AUL described above in the "Allocation Period" section when conducting the grant allocation calculation. Our approach in this regard is consistent with the Department's approach in other land for LTAR programs involving the outright sale of land.<sup>103</sup> We divided the amount of the subsidy allocated to the POI by Toscelik's POI sales.

---

<sup>98</sup> *See CWP Turkey 2011 AR* Issues and Decision Memorandum at "Law 5084: Allocation of Free Land and Purchase of Land for LTAR."

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *See* Toscelik Prelim Calc Memo for the benchmark data from *CWP Turkey 2011 AR*.

<sup>102</sup> *See* 19 CFR 351.524(d).

<sup>103</sup> *See, e.g., Notice of Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From the Republic of Korea*, 67 FR 62102 (October 3, 2002), and accompanying Issues and Decision Memorandum at "Provision of Land at Asan Bay," in which the Department used the standard AUL for the steel industry, as indicated by the IRS tables, to allocate benefits received under a land for LTAR program to the period of investigation.

On this basis, we preliminarily determine Toscelik's net subsidy rate under this program to be 0.44 percent *ad valorem*.

6. Law 5084: Withholding of Income Tax on Wages and Salaries

The Ministry of Finance of the GOT administers the withholding of income tax on wages and salaries program pursuant to Article 2 and Article 3 of Law 5084. The purpose of this program under Law 5084, as set forth in Article 3, is to increase investments and employment opportunities in certain provinces of Turkey by canceling the income tax calculated on the wages and salaries of the workers.<sup>104</sup> According to the GOT, all enterprises or industries established in 49 specific provinces can benefit from this program.<sup>105</sup>

The GOT states that this program includes two levels of withholding based on where the enterprise is established in the 49 eligible provinces.<sup>106</sup> According to the GOT, firms whose premises are established in OIZs or Industrial Zones located in the 49 provinces can benefit from 100 percent cancellation of income tax calculated on the wages of all workers who have been hired by income or corporate tax payers hiring at least ten workers.<sup>107</sup> Companies whose premises are located at other areas of the 49 eligible provinces can benefit from 80 percent cancellation of income tax calculated on the wages of all workers who have been hired by income or corporate tax payers hiring at least ten workers.<sup>108</sup> The GOT further states that the total amount to be cancelled cannot exceed the sum determined on the basis of the above mentioned rates calculated on the value to be obtained by multiplying the number of employees and the income tax payable for the minimum wage.<sup>109</sup>

In addition, Article 7 of Law 5084 states that this program shall be applicable, for a period of five years, for any new investments completed by December 31, 2007, for four years for investments completed by December 31, 2008, and for three years for investments completed by December 31, 2009.<sup>110</sup> Hence, the last date which the investment can benefit from this tax incentive program is December 31, 2012.<sup>111</sup>

Toscelik reported that it received a benefit under this program during the POI with respect to its facility in the Osmaniye OIZ.<sup>112</sup> We preliminarily find that this program constitutes a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act because it relieves Toscelik of the obligation to pay income taxes on wages and salaries that it would have had to pay absent this program. We also find that this program is regionally-specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in the 49 eligible provinces. Further, we find that Toscelik benefitted from the withholding of income tax under this OIZ program pursuant to section 771(5)(E) of the Act in

---

<sup>104</sup> See GQR at 55.

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> See TQR at 32.

the amount of the income taxes on wages and salaries that it did not pay. The Department's findings in this regard are consistent with its practice.<sup>113</sup>

To calculate the benefit from the income tax relief that Toscelik received under the income tax withholding program, we summed the total amount of income tax savings reported by Toscelik during the POI. To calculate the net subsidy rate, we divided the benefit by Toscelik's total sales during the POI. On this basis, we determine Toscelik's net subsidy rate under this program to be 0.02 percent *ad valorem*.

#### 7. Exemption from Property Tax

The Turkish Ministry of Finance administers this program pursuant to Article 4 of Law No. 3365, which came into force on January 1, 1987.<sup>114</sup> The program's objective is to increase the investment opportunities in OIZs.<sup>115</sup> The GOT provides an exemption of property tax for the first five years following the completion date of the construction of buildings.<sup>116</sup> According to the GOT, there were 199 active OIZs in Turkey as of the end of the POI.<sup>117</sup>

Toscelik reported that it received an exemption from property tax during the POI with respect to its Osmaniye facilities because of its location in the OIZ.<sup>118</sup>

We preliminarily find that this program constitutes a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. We also determine that tax benefits under the program conferred a benefit under section 771(5)(E) of the Act. Further, we determine that this program is regionally-specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in the OIZ. Our findings in this regard are consistent with the Department's practice.<sup>119</sup>

To calculate the benefit from the tax relief that Toscelik received under the property tax exemption program, we summed the total amount of property tax savings reported by Toscelik during the POI and divided the amount of the benefit by Toscelik's total sales during the POI. On this basis, we determine Toscelik's net subsidy rate under this program to be 0.01 percent *ad valorem*.

#### 8. Law 5084: Incentive for Employers' Share in Insurance Premiums

The Social Security Institution of the GOT administers the incentive for the Employer's Share in

---

<sup>113</sup> See, e.g., *CWP Turkey 2011 AR Issues and Decision Memorandum* at "Law 5084: Withholding of Income Tax on Wages and Salaries."

<sup>114</sup> See GQR at 64.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.* at 68.

<sup>118</sup> See TQR at 34.

<sup>119</sup> See, e.g., *CWP Turkey 2011 AR Issues and Decision Memorandum* at "Organized Industrial Zone (OIZ): Exemption from Property Tax."

Insurance Premiums Program (Insurance Premiums Program) pursuant to Article 2 and Article 4 of Law 5084.<sup>120</sup> The purpose of this program, as set forth in Article 4 of Law 5084, is to increase investments and employment opportunities in certain provinces of Turkey by providing support for the employer's share of insurance premiums. According to the GOT, all enterprises or industries in the 49 provinces that hire at least 10 workers can benefit from this program.<sup>121</sup>

The GOT states that this program includes two levels of activity based on where the enterprise is established in the 49 eligible provinces.<sup>122</sup> According to the GOT, firms whose premises are established in OIZs or Industrial Zones located in the 49 provinces can benefit from a 100 percent undertaking for income tax or corporate taxpayers (employers) hiring at least ten workers.<sup>123</sup> Companies whose premises are located at other areas of the 49 eligible provinces can benefit from 80 percent undertaking for income tax or corporate taxpayers (employers) hiring at least ten workers.<sup>124</sup> The GOT further states that it will provide support if employers submit monthly premium and service documents to the Social Security Institution within the statutory periods in conformity with the Social Security Law No. 506, if they pay the amounts corresponding to the employees' share in the insurance premiums of all the insured, and if they pay the employers' share that is unmet by the Treasury.<sup>125</sup>

In addition, Article 7 of Law 5084 states that this program shall be applicable, for a period of five years, for any new investments completed by December 31, 2007, for four years for investments completed by December 31, 2008, and for three years for investments completed by December 31, 2009.<sup>126</sup> Hence, the last date which the investment can benefit from this tax incentive program is December 31, 2012.<sup>127</sup>

Toscelik reported that it received benefits under this program during the POR because its Osmaniye plant is located in an OIZ in the Osmaniye province, which is one of the 49 eligible provinces.<sup>128</sup>

We preliminarily find that the insurance premiums paid by the GOT on behalf of Toscelik under this program during the POI constitute a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act to the extent that it relieves Toscelik of the obligation to pay insurance premiums on wages and salaries that it would have had to pay absent this program. We further determine that Toscelik benefitted from the GOT paying insurance premiums under this OIZ program pursuant to section 771(5)(E) of the Act in the amount of the insurance premiums on wages and salaries that Toscelik did not pay. We also find that this program is regionally-specific under section 771(5A)(D)(iv) of the Act because it is

---

<sup>120</sup> See GQR at 72.

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> *Id.* at 73.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> See TQR at 37.

limited to companies located in the 49 eligible provinces. The Department's findings in this regard are consistent with its practice.<sup>129</sup>

To calculate the benefit Toscelik received under the program, we summed the total amount of insurance premium savings reported by Toscelik during the POI. To calculate the net subsidy rate, we divided the benefit by Toscelik's total sales during the POI. On this basis, we determine Toscelik's net subsidy rate under this program to be 0.18 percent *ad valorem*.

## **B. Programs Preliminarily Found Not To Be Used.**

1. Strategic Investment Incentives
  - a. Value Added Tax ("VAT") and Customs Duty Exemptions
  - b. Tax Reductions
  - c. Income Tax Withholding
  - d. Social Security and Interest Support
  - e. Land Allocation
2. Large Scale Investment Incentives
  - a. VAT and Customs Duty Exemptions
  - b. Tax Reductions
  - c. Income Tax Withholdings
  - d. Social Security and Interest Support
  - e. Land Allocation
3. Export Insurance Provided by Turk Eximbank
4. Preferential Tax Benefits for Turkish OCTG Producers Located in Free Zones
5. Incentives for Research and Development ("R&D") Activities
  - a. Product Development R&D Support-UFT
  - b. Tax Breaks

## **C. Programs and Issues That Require More Information**

1. Provisions of Hot-Rolled Steel (HRS) for LTAR

We initiated an investigation into whether Eregli Demir ve Celik Fabrikalari T.A.S. ("Erdemir") and its subsidiary, Iskenderun Iron & Steel Works Co ("Isdemir"), provided respondents with HRS for LTAR.<sup>130</sup> Borusan and Toscelik reported purchasing HRS from Erdemir and Isdemir during the POI.<sup>131</sup> In the GQR, the GOT provided information on Erdemir, Isdemir, and Ordu Yardimlasma Kurumu ("OYAK"), the Turkish military pension fund that is the majority shareholder of Erdemir and Isdemir.<sup>132</sup>

Based on information in the GOT's response, we intend to request additional information about OYAK. We intend to address this information and this alleged subsidy program in a post-preliminary analysis.

<sup>129</sup> See, e.g., *Turkey CWP 2011 AR* Issues and Decision Memorandum at "Law 5084: Incentive for Employers' Share in Insurance Premiums."

<sup>130</sup> See Initiation Checklist at 8.

<sup>131</sup> See BQR-2 at 12; see also TQR at 14.

<sup>132</sup> See GQR at 9-11 and Exhibits 4A-4I.

## 2. Additional Cross-Ownership and Attribution Issues

As indicated in the “Subsidies Valuation” section above, we are continuing to examine certain potential cross-ownership and attribution issues pertaining, *e.g.*, to a scrap supplier to Toscelik and a number of Borusan’s affiliates. We intend to gather additional information regarding these issues, which we intend to address in a post-preliminary analysis.

## **VIII. ITC NOTIFICATION**

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information pertaining to this case, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

## **IX. DISCLOSURE AND PUBLIC COMMENT**

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.<sup>133</sup> Case briefs or other written comments for all non-scope issues may be submitted to Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”) no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>134</sup>

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>135</sup> This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must do so in writing within 30 days after the publication of this preliminary determination in the *Federal Register*.<sup>136</sup> Requests should contain the party’s name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. Parties will be notified of the date and time of any hearing.

---

<sup>133</sup> See 19 CFR 351.224(b).

<sup>134</sup> See 19 CFR 351.309.

<sup>135</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>136</sup> See 19 CFR 351.310(c).

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using IA ACCESS.<sup>137</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,<sup>138</sup> on the due dates established above.

## **X. VERIFICATION**

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted in response to the Department's questionnaires.

## **XI. CONCLUSION**

We recommend that you approve the preliminary findings described above.

✓

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

*Ronald K. Lorentzen*

\_\_\_\_\_  
Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

*December 16, 2013*

\_\_\_\_\_  
(Date)

<sup>137</sup> See 19 CFR 351.303(b)(2)(i).

<sup>138</sup> See 19 CFR 351.03(b)(1).