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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Director, Office II
Antidumping and Countervailing Duty Operations

RE: Decision Memorandum for the Preliminary Results of
Countervailing Duty (CVD) Administrative Review: Circular
Welded Carbon Steel Pipe and Tube Products from Turkey

SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order (CVD) order on circular welded carbon steel pipe and tube products (steel pipe) from the Republic of Turkey (Turkey). The review covers 15 named companies but only one producer/exporter of the subject merchandise as a mandatory respondent: Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (BMB), and Borusan Istikbal Ticaret T.A.S. (Istikbal), (collectively, the Borusan Companies)¹. The period of review (POR) is January 1, 2012, through December 31, 2012. We preliminarily determined that the Borusan Companies received countervailable subsidies during the POR but that the total net subsidy rate is less than 0.5 percent *ad valorem* and, therefore, *de minimis*.

Background

On March 7, 1986, the Department published in the *Federal Register* the CVD order on certain welded carbon steel pipe and tube products from Turkey.² On March 1, 2013, the Department published a notice of opportunity to request an administrative review of this CVD order.³ On March 29, 2013, we received a request from Wheatland Tube Company (Wheatland), a domestic producer of circular welded carbon steel pipes and tubes to review the following companies:

¹ As explained in the “Attribution” section below, we found that BMB and Istikbal are cross-owned, and thus, we collectively refer to the companies as the Borusan Companies.

² See *Countervailing Duty Order: Certain Welded Carbon Steel Pipe and Tube Products from Turkey*, 51 FR 7984 (March 7, 1986) (*the Order*).

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 78 FR 13858 (March 1, 2013).



BMB, Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan AS) and Erbosan Erciyas Pipe Industry and Trade Co. Kayseri Free Zone Branch (Erbosan FZB), (collectively Erbosan), and Tosyali dis Ticaret A.S. (Tosyali) and Toscelik Profil ve Sac Endustrisi A.S. (Toscelik Profil), (collectively, Toscelik).⁴ On April 1, 2013, we received a request from United States Steel Corporation (U.S. Steel), a producer of the domestic like product, to review the following companies: the Borusan Companies, Erbosan AS., Guven Steel Pipe (also known as Guven Celik Born San. Ve Tic. Ltd.) (Guven), Toscelik, Umran Celik Born Sanayii A.S. (also known as Umran Steel Pipe Inc.) (Umran), and Yucel Group and all affiliates including Yucel Boru ye Profil Endustrisi A.S, Yucelboru Ihracat Ithalat ye Pazarlama A.S, and Cayirova Born Sanayi ye Ticaret A.S.) (collectively, Yucel).

On May 1, 2013, at the request of domestic interested parties, the Department initiated an administrative review of the *Order* for the period January 1, 2012, through December 31, 2012, covering the Borusan Companies, Erbosan, Toscelik, Guven, Umran, and Yucel.⁵

Yucel, Umran, and Guven submitted letters to the Department on May 6, 2013, May 17, 2013, and June 4, 2013, respectively, certifying that they had no sales, shipments, or entries, directly or indirectly, of subject merchandise to the United States during the POR.⁶ Petitioners did not comment on Yucel's, Umran's, and Guven's claims of no sales, shipments, or entries.

We issued "no shipments inquiry" messages to U.S. Customs and Border Protection (CBP), for Yucel, Umran, and Guven. CBP posted the messages on May 28, May 29, and June 18, 2013, respectively. We did not receive any information from CBP contrary to Yucel's, Umran's and Guven's claims of no sales, shipments, or entries of subject merchandise to the United States during the POR.

On May 7, 2013, the Department placed on the record and released to interested parties a memorandum indicating that it intended to limit the number of companies individually examined during the POR and attached the proprietary results of a query performed on the CBP database for calendar year 2012.⁷ We requested that interested parties submit comments regarding the use of CBP data within seven calendar days of the date of that memo. On May 13, 2013, respondents the Borusan Companies and Toscelik Profil submitted comments concerning the

⁴ We found that Erbosan AS and Erbosan FZB are cross-owned, and thus, we collectively refer to the companies as Erbosan. Similarly, we found that Tosyali and Toscelik Profil are cross-owned, and thus, we collectively refer to the companies as Toscelik. For additional information, see the "Attribution" section below.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 25418 (May 1, 2013).

⁶ See Yucel's letter, "Welded Carbon Steel Pipe & Tube Products from Turkey; Notification of no Shipments," dated May 6, 2013; Umran's letter, "Welded Carbon Steel Pipe & Tube Products from Turkey; Notification of no Shipments," dated May 17, 2013; and Guven's letter, "Welded Carbon Steel Pipe & Tube Products from Turkey; Notification of no Shipments," dated June 4, 2013.

⁷ See Memorandum to the File from Jolanta Lawska International Trade Compliance Analyst, through Melissa Skinner, Office Director, Office 8 AD/CVD Operations, "Customs and Border Protection Data for Selection of Respondents," (CBP Query Memorandum), a proprietary document of which a public summary is available via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (IA ACCESS), in the Central Records Unit (CRU) in the main Commerce Building, Room 7046.

CBP Query Memorandum. On May 28, 2013, the Department issued a memorandum limiting the number of respondents selected for individual examination to BMB.⁸

On July 30, 2013, Wheatland withdrew its request for this administrative review. Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. Although Wheatland timely withdrew its review request, because U.S. Steel did not withdraw its request for review, and U.S. Steel's request covered those companies that were also covered by Wheatland's now-withdrawn request, among others, we are not rescinding the review in response to Wheatland's withdrawal of its review request.

On June 5, 2013, the Department issued the initial questionnaire to the Borusan Companies and the Government of Turkey (GOT). On July 31, 2013, and August 1, 2013, we received initial questionnaire responses from the GOT and the Borusan Companies, respectively. We issued a supplemental questionnaire to the GOT on August 16, 2013, and the GOT submitted its response on September 4, 2013. We issued supplemental questionnaires to the Borusan Companies on August 9, 2013, and January 17, 2014, to which they responded on August 29, 2013, and January 24, 2014, respectively.

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, 2013.⁹ Therefore, all deadlines in this segment of the proceeding were extended by 16 days. Because the new deadline fell on a non-business day, in accordance with the Department's practice, the deadline became the next business day. Pursuant to the Tolling Memorandum, on October 22, 2013, the Department issued a memorandum extending the time period for issuing the preliminary results of this administrative review from December 2, 2013, to December 17, 2013.¹⁰

⁸ See Memorandum from Jolanta Lawska, International Trade Analyst, AD/CVD Operations, Office 8, through Eric B. Greynolds, Program Manager, AD/CVD Operations, Office 8, to Melissa G. Skinner, Director, AD/CVD Operations, Office 8, "Countervailing Duty Administrative Review of Circular Welded Carbon Steel Pipes and Tubes from Turkey: Respondent Selection," dated May 28, 2013, in which we named BMB as the mandatory respondent. However, in the Department's June 5, 2013, initial questionnaire, the Department instructed BMB to respond on behalf of itself as well as Istikbal, due to the fact that the Department previously found BMB and Istikbal to be cross-owned.

⁹ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated October 18, 2013.

¹⁰ See Memorandum from Jolanta Lawska, Trade Analyst, Antidumping and Countervailing Duty Operations 3, to Eric Greynolds, Program Manager, Antidumping and Countervailing Duty Operations 3, regarding Countervailing Duty Administrative Review: Circular Welded Carbon Steel Pipes and Tubes from Turkey: Calendar Year 2012: Extension of Deadline for Preliminary Results (October 22, 2013).

On December 2, 2013, the Department extended the deadline for the preliminary results of this administrative review until April 17, 2013.¹¹

Intent to Rescind the 2012 Administrative Review, in Part

As discussed above, Yucel, Umran, and Guven each claimed no shipments during the POR and CBP did not provide any contradictory information. Therefore, based on our analysis of record evidence, we preliminarily determine that Yucel, Umran, and Guven did not ship subject merchandise to the United States during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3), and consistent with our practice,¹² we preliminarily determine to rescind the review for Yucel, Umran, and Guven.

Scope of the Order

The products covered by this order are certain welded carbon steel pipe and tube with an outside diameter of 0.375 inch or more, but not over 16 inches, of any wall thickness (pipe and tube) from Turkey. These products are currently provided for under the Harmonized Tariff Schedule of the United States (HTSUS) as item numbers 7306.30.10, 7306.30.50, and 7306.90.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Subsidies Valuation Information

Allocation Period

Under 19 CFR 351.524(b), non-recurring subsidies are allocated over a period corresponding to the average useful life (AUL) of the renewable physical assets used to produce the subject merchandise. Pursuant to 19 CFR 351.524(d)(2), there is a rebuttable presumption that the AUL is the AUL listed in the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (IRS Tables), as updated by the Department of Treasury. For the subject merchandise, the IRS Tables prescribe an AUL of 15 years. No interested party claimed and established that the IRS Tables do not reasonably reflect the AUL for the industry under investigation. Further, for non-recurring subsidies, we applied the "0.5 percent expense test" described in 19 CFR 351.524(b)(2). Under this test, we compare the amount of subsidies approved under a given program in a particular year to sales (total sales or total export sales, as appropriate) for the same year. If the amount of subsidies is less than 0.5 percent of the relevant sales, then the benefits are allocated to the year of receipt rather than allocated over the AUL period.

¹¹ See Memorandum from John Conniff, International Trade Compliance Analyst, Office III, Antidumping and Countervailing Duty Operations through Melissa G. Skinner, Office Director, Office III, Antidumping and Countervailing Duty Operations, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, dated December 2, 2013 regarding Countervailing Duty Administrative Review: Circular Welded Carbon Steel Pipes and Tubes from Turkey: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," (December 2, 2013).

¹² See, e.g., *Aluminum Extrusions from the People's Republic of China: Notice of Partial Rescission of Countervailing Duty Administrative Review*, 79 FR 2635 (January 15, 2014).

Attribution of Subsidies

19 CFR 351.525(b)(6)(i) states that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy.

BMB and its affiliated foreign trading company, Istikbal, are both part of the Borusan Companies and are cross-owned under 19 CFR 351.525(b)(vi) by virtue of common ownership.¹³ BMB produces subject merchandise for both the home and export markets. During the period of review (POR), all subject merchandise exported to the United States was exported from Turkey by BMB. Additionally, BMB and Istikbal exported subject merchandise to non-U.S. locations during the POR.¹⁴ Consistent with 19 CFR 351.525(c), in these preliminary results, as in past reviews, we continue to attribute any subsidies received by Istikbal to the sales of BMB and Istikbal, net of intra-company sales. In accordance with 19 CFR 351.525(b)(6)(i), we attributed subsidies received by BMB to the sales of BMB.

In prior segments of this proceeding, we found that Erbosan AS and Erbosan FZB (collectively referred to as Erbosan) are cross-owned, as defined under 19 CFR 351.525(b)(vi). Similarly, in prior segments of this proceeding, we found that Tosyali and Toscelik Profil (collectively, Toscelik) are cross-owned, as defined under 19 CFR 351.525(b)(vi).¹⁵

Benchmark Interest Rates

Short-Term Benchmark

To determine whether government-provided loans under review conferred a benefit, the Department uses, where possible, company-specific interest rates for comparable commercial loans obtained by the company.¹⁶ In its August 1, 2013, questionnaire response (QR) at Exhibit 25, the Borusan Companies submitted information regarding company-specific short-term interest rates on its comparable commercial loans. Thus, we calculated benchmark interest rates for short-term U.S. dollar and Turkish Lira denominated loans based on the data reported by the Borusan Companies consistent with 19 CFR 351.505(a)(2)(ii). To calculate the short-term benchmark rates for the Borusan Companies, we derived an annual average of the interest rates on comparable commercial loans that the Borusan Companies obtained during the years in which the government loans were issued, weighted by the principal amount of each loan.

Where no comparable commercial company-specific benchmark interest rates are available, the Department's regulations direct us to use a national average interest rate as the benchmark.¹⁷ However, according to the Government of Turkey (GOT), there is no official national average

¹³ See the Borusan Companies' August 1, 2013, Questionnaire Response at 3. Our approach in this regard is consistent with our practice. See, e.g., *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) (*Turkey Pipe 2011 Final Results*), and accompanying Issues and Decision Memorandum at 2.

¹⁴ See the Borusan Companies' August 1, 2013, Questionnaire Response at 2.

¹⁵ See *Turkey Pipe 2011 Final Results*, and accompanying Issues and Decision Memorandum at 2–3.

¹⁶ See 19 CFR 351.505(a)(2)(ii).

¹⁷ See 19 CFR 351.505(a)(3)(ii).

short-term interest rate available in Turkey.¹⁸ Therefore, consistent with our past practice in Turkey CVD proceedings, where necessary we used short-term interest rate data reported by *The Economist* to calculate benchmark interest rates for short-term Turkish Lira denominated loans.¹⁹ For U.S. dollar-denominated interest rates, we used lending rate data from *International Financial Statistics*, a publication of the International Monetary Fund (IMF). For Euro-denominated interest rates, we used prime lending rate data from Moneyrate, an online statistical database operated by the *Wall Street Journal*.

Non-Selected Rate

The Tariff Act of 1930, as amended (the Act) and the Department's regulations do not address the establishment of a rate to be applied to respondents not selected for individual examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, when determining the rate for such respondents in an administrative review, the Department looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 705(c)(5)(A)(i) of the Act instructs the Department to use the average of the individually calculated rates as the all-others rate, excluding rates which are zero, *de minimis* or based entirely on facts available. Accordingly, the Department's usual practice in administrative reviews for determining the rate for respondents not selected for individual examination has been to average the weighted-average net subsidy rates for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.²⁰ However, section 705(c)(5)(A)(ii) of the Act provides that, where all the individually calculated rates are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the all-others rate, including averaging the estimated weighted-average net subsidy rates determined for the exporters and producers individually investigated.

As indicated in the notice of preliminary results to be published in the *Federal Register* and dated concurrently with this accompanying Issues and Decision Memorandum, we preliminarily determine that the Borusan Companies received a *de minimis* net subsidy rate during the POR.

In past reviews, the Department determined that a "reasonable method" to use when all the rates of selected mandatory respondents are zero or *de minimis* is to assign non-selected respondents the average of the most recently determined rates that are not zero, *de minimis*, or based entirely on facts available.²¹ However, if a non-selected respondent has its own calculated rate that is contemporaneous with or more recent than such previous rates, the Department found it

¹⁸ See GOT's Initial Questionnaire Response, dated June 28, 2011, at 17.

¹⁹ See *Carbon and Certain Alloy Steel Wire Rod from Turkey: Final Negative Countervailing Duty Determination*, 67 FR 55815 (August 30, 2002) (*Wire Rod*) and accompanying Issues and Decision Memorandum at "Benchmark Interest Rates;" see also *Preliminary Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 72 FR 62837, 62838 (November 7, 2007), unchanged in *Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 73 FR 12080 (March 6, 2008).

²⁰ See, e.g., *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386, 37387 (June 29, 2010).

²¹ See *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 47191, 47194-95 (September 15, 2009).

appropriate to apply that calculated rate to the non-selected respondent, even when that rate is zero or *de minimis*.²²

In the *Turkey Pipe 2011 Final Results*, the most recently completed administrative review, the Department calculated a *de minimis* net subsidy rate for Erbosan and a net subsidy rate of 0.83 percent *ad valorem* for Toscelik.²³ Therefore, consistent with the Department's practice, as described above, the Department is assigning rates of 0.83 percent for Toscelik and *de minimis* for Erbosan for these Preliminary Results, based on the individual rates calculated for those companies in the prior review.

Analysis of Programs

I. Programs Preliminarily Determined To Be Countervailable

A. Deduction 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 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.²⁴ This deduction is to cover the expenditures without documentation incurred from exports, construction, maintenance, assembly, and transportation activities abroad.²⁵ The deduction for export earnings may be taken as a lump sum on a company's annual income tax return.²⁶ Under this program, marketing, selling, and distribution expenses are deductible expenditures for tax purposes. The Ministry of Finance is responsible for administering the program.²⁷

Consistent with prior determinations, we preliminarily find that this tax deduction is a countervailable subsidy.²⁸ 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. In this review, no new information or evidence of changed circumstances has been submitted to warrant reconsideration of the Department's prior finding of countervailability for this program. During the POR, BMB and Istikbal reported receiving the deduction for export earnings with respect to their 2011 tax returns filed during the POR.²⁹

²² *Id.*

²³ See *Turkey Pipe 2011 Final Results*, and accompanying Issues and Decision Memorandum at Comment 1.

²⁴ See GOT's initial questionnaire response dated July 31, 2013, at II-4.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ See, e.g., *Turkey Pipe 2011 Final Results*, and accompanying Issues and Decision Memorandum at 4.

²⁹ See the Borusan Companies' August 1, 2013, Questionnaire Response at 15.

The Department normally treats a tax deduction as a recurring benefit in accordance with 19 CFR 351.524(c)(1).³⁰ The amount of the benefit is equal to the amount of tax that would have been paid absent the program. For BMB and Istikbal, we divided their combined tax savings by the total exports of BMB and Istikbal, net of intra-company sales.

On this basis, we preliminarily determine the net countervailable subsidy for this program to be 0.02 percent *ad valorem* for the Borusan Companies.

B. Pre-Export Credits

The Pre-Export Credit program is administered by the Export Credit Bank of Turkey (Export Bank). Financing under the program meets the working capital needs of exporters, manufacturers, and manufacturers supplying exporters, except for Foreign Trade Working Companies and Sectoral Foreign Trade Companies classified exporters, which are ineligible to receive credits under this program.³¹ The program provided loans denominated in foreign currency since 1994 and in Turkish Lira (TL) since 1997.³² Under the program, there is a limit of USD 15 million per company.³³ The loans typically have a maximum maturity of 540 days.³⁴ To qualify for a pre-export loan, along with the necessary application documents, a company must provide a written export commitment and a bank letter of guarantee.³⁵ During the POR, BMB paid interest on short-term pre-export loans under this program.³⁶

Consistent with previous determinations, we find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act.³⁷ The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT, under section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act in the amount of the difference between the payments that BMB made on the loans during the POR and the payments the company would have made on comparable commercial loans. The program is specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance.

Consistent with our practice, we are treating benefits under this program as untied export subsidies and, thus, benefits under this program are countervailable regardless of whether or not the loans were used for exports to the United States.³⁸ Pursuant to 19 CFR 351.505(a)(1), we calculated the benefit as the difference between the payments that BMB made on its pre-export loans during the POR and the payments the company would have made on comparable commercial loans. In accordance with section 771(6)(A) of the Act, we subtracted from the

³⁰ See, e.g., *Turkey Pipe 2011 Final Results*, and accompanying Issues and Decision Memorandum at 6.

³¹ See GOT's July 31, 2013, Questionnaire response at II-21 and Exhibit 12.

³² *Id.*, at II-21.

³³ *Id.*, at II-23.

³⁴ *Id.*, at II-24.

³⁵ *Id.*, at II-23.

³⁶ *Id.*, at Exhibit 11; see also the Borusan Companies' August 1, 2013, Questionnaire Response at Exhibit 22.

³⁷ See, e.g., *Circular Welded Carbon Steel Pipes and Tubes From Turkey: Final Results of Countervailing Duty Administrative Review*, 77 FR 46713 (August 6, 2013) (*Turkey Pipe 2010 Final Results*) and accompanying Issues and Decision Memorandum at 6.

³⁸ See *Turkey Pipe 2010 Final Results* and accompanying Issues and Decision Memorandum at 6.

benefit amount the fees which BMB paid to commercial banks for the required letters of guarantee. Our approach in this regard is consistent with the Department's practice.³⁹ We then divided the resulting benefit by BMB's total export value for the POR. On this basis, we find that the net countervailable subsidy for this program is 0.18 percent *ad valorem* for the Borusan Companies.

C. Short-Term Pre-Shipment Rediscount Program

The "Short Term Pre-Shipment Discount Program" (SPRP) is administered by the Export Credit Bank of Turkey (Export Bank).⁴⁰ The SPRP program is designed to provide financial support to Turkish exporters, manufacturer-exporters and manufacturers supplying exporters.⁴¹ This program is contingent upon an export commitment. The SPRP requires a minimum loan amount of USD 200,000 per company.⁴² Loan payments must be made within the credit period or at maturity to the Export Bank. Companies can repay these loans either in the foreign currency in which the loan was obtained or in TL equivalent of the principal by using the exchange rate determined by the Export Bank.⁴³ During the POR, BMB and Istikbal paid interest on pre-shipment rediscount export credit loans under this program.⁴⁴

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 section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act in the amount of the difference between the payments that BMB and Istikbal made on the loans during the POR and the payments the company would have made on comparable commercial loans. The program is specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance. These findings are consistent with the Department's prior findings regarding this program.⁴⁵

Pursuant to 19 CFR 351.505(a)(1), we calculated the benefit as the difference between the payments that BMB and Istikbal made on its short-term pre-shipment rediscount loans during the POR and the payments the companies would have made on comparable commercial loans.

After computing the benefit amount, we subtracted from the benefit amount the fees which BMB and Istikbal paid to commercial banks for the required letters of guarantee, as provided under section 771(6)(A) of the Act. Our approach in this regard is consistent with the Department's practice.⁴⁶ We then divided that amount by the total exports of BMB and Istikbal, net of intra-company sales. On this basis, we preliminarily determine that the net countervailable subsidy for this program is 0.12 percent *ad valorem* for the Borusan Companies.

³⁹ See, e.g., *Turkey Pipe 2011 Final Results*, and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁰ See GOT's Initial Questionnaire Response dated July 31, 2013, at II-51 and Exhibit 28.

⁴¹ *Id.*, at II-52.

⁴² *Id.*, at II-55.

⁴³ *Id.*

⁴⁴ *Id.* at Exhibit 11; see also the Borusan Companies' August 1, 2013, Questionnaire Response at Exhibit 22.

⁴⁵ See *Turkey Pipe 2011 Final Results*, and accompanying Issues and Decision Memorandum at 6-7.

⁴⁶ See, e.g., *id.*, and accompanying Issues and Decision Memorandum at Comment 1.

D. Investment Encouragement Program (IEP): Customs Duty Exemptions

The GOT provides IEP licenses that qualified recipients can use to import items duty free. In past CVD proceedings, the Department found this program not countervailable because benefits were found not specific.⁴⁷ However, based on new information first submitted in the *Turkey Pipe 2010 Final Results*, the Department examined certain changes to the program applicable to licenses issued after January 1, 2009, under which the benefits were limited by the express inclusion of certain enterprises or industrial sectors and the express exclusion of others, as well as restricted to certain investments in designated regions, thus rendering the program specific under sections 771(5A)(D)(i) and (iv) of the Act.⁴⁸ For example, the decree governing the post-2008 iteration of the IEP program limits the duty and value-added tax (VAT) exemptions to firms that make investments in excess of TL 50 million, a threshold that the Borusan Companies met.⁴⁹ Additionally, the decree limits such exemptions for iron and steel investments to certain regions.⁵⁰

BMB reported using this program during the POR.⁵¹ Specifically, BMB reported holding an IEP license during the POR that allowed it to import equipment at a reduced duty rate.⁵² BMB reported that the receipt of duty exemptions on this license was contingent upon the firm using the equipment to produce subject and non-subject merchandise.⁵³ BMB reported that it has two plants at Gemlik, one that produces subject and non-subject merchandise (*e.g.*, oil country tubular goods) (hereinafter referred to as the Gemlik ERW plant), and one that started production in the second half of 2012 and exclusively produces non-subject merchandise (hereinafter referred to as the Gemlik HSAW plant). BMB reported that the investment encouragement certificate held by BMB during the POR related to capacity increase and modernization of the Gemlik ERW plant, which produces subject and non-subject merchandise.⁵⁴

Based on review of the record, we find that the license was received after January 1, 2009. As a result, we find that BMB received benefits from this program pursuant to the post-2008 modified IEP regime. We find that the duty and VAT exemptions BMB received in connection with its IEP license for the POR constitute a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act and confer a benefit within the meaning of 771(5)(E) of the Act in the amount of the tax savings. Further, based on the information contained in the legislation that governs the IEP program, we find that this program is limited to firms making investments in excess of TL 50 million, as well as to firms located in certain geographic regions and, thus, is specific under sections 771(5A)(D)(i) and (iv) of the Act, respectively.

⁴⁷ See *Turkey Pipe 2011 Final Results*, and accompanying Issues and Decision Memorandum at 16.

⁴⁸ See *Turkey Pipe 2010 Final Results*, and accompanying Issues and Decision Memorandum at 19.

⁴⁹ See Borusan's August 1, 2013, Questionnaire Response at 33 and at Exhibit 31.

⁵⁰ See the Borusan Companies' August 1, 2013, Questionnaire Response Exhibit 31.

⁵¹ See *id.* at 32; see also GOT's July 31, 2013, Questionnaire Response at II-76.

⁵² See the Borusan Companies' January 24, 2014, questionnaire response at Exhibit 39.

⁵³ *Id.*

⁵⁴ *Id.*, at 1.

Based on review of the IEP license, we preliminarily determine that the benefit BMB received on this license was not tied to the production of any particular products. Thus, we attributed benefits under this program to the total sales of BMB. To calculate the benefit, we measured the difference in the amounts of customs duties and VAT paid by BMB during the POR under the program and the amounts otherwise payable during the POR absent the program. We then divided the benefit amount by BMB's total sales during the POR. On this basis, we preliminarily determine that the net countervailable subsidy for this program is 0.00 percent *ad valorem* for the Borusan Companies.

II. Preliminary Determined To Not Confer Countervailable Benefits

- Inward Processing Certificate Exemption

The Ministry of Economy is the authority responsible for administering the Inward Processing Certificate program (IPC).⁵⁵ Under the IPC program, companies are exempt from paying customs duties and VAT on raw materials and intermediate unfinished goods that are imported and used in the production of exported goods.⁵⁶ Companies may choose whether to be exempt from the applicable duties and taxes upon importation (*i.e.*, the Suspension System) or have the duties and taxes reimbursed after exportation of the finished goods (*i.e.*, the Drawback System). Under both systems, companies provide a letter of guarantee that is returned to them upon fulfillment of the export commitment.⁵⁷

To participate in this program, a company must hold an IPC, which lists the amount of raw materials/intermediate unfinished goods to be imported and the amount of product to be exported.⁵⁸ To obtain an IPC, an exporter must submit an application, which provides information about the goods to be produced and the raw materials to be imported.⁵⁹ There are two types of IPCs: (1) D-1 certificate for imported raw materials or intermediate unfinished goods used in the production of exported goods, and (2) D-3 certificate for imported raw materials or intermediate unfinished goods used in the production of goods sold in the domestic market.⁶⁰ During the POR, BMB used D-1 certificates for the importation of raw materials used in the production of exported pipe and tube. The Borusan Companies did not use a D-3 certificate during the POR.⁶¹

Concerning D-1 certificates, pursuant to 19 CFR 351.519(a)(1)(ii), a benefit exists to the extent that the exemption extends to inputs that are not consumed in the production of the exported product, making normal allowances for waste, or if the exemption covers charges other than import charges that are imposed on the input. With regard to the VAT exemption granted under this program, pursuant to 19 CFR 351.517(a), in the case of the exemption upon export of

⁵⁵ See the GOT's July 31, 2014, Initial Questionnaire Response (GOT Initial QNR Response) at II-37.

⁵⁶ During the POR, the IPC was implemented under Resolution No. 2005/8391. A copy of this resolution was submitted by the GOT in the GOT Initial QNR Response at Exhibit 20.

⁵⁷ See GOT Initial QNR Response at II-39-40.

⁵⁸ *Id.*, at II-41.

⁵⁹ *Id.*

⁶⁰ *Id.* at II-38

⁶¹ See the Borusan Companies' August 1, 2013, Questionnaire Response at 28-29 and at Exhibit 27; see also the GOT's Questionnaire Response at II-41.

indirect taxes, a benefit exists to the extent that the Department determines that the amount exempted exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption.

In prior reviews, the Department found that, in accordance with 19 CFR 351.519(a)(4)(i), the GOT has a system in place to confirm which inputs, and in what amounts, are consumed in the production of the exported product, and that the system is reasonable for the purposes intended.⁶² The Department also found that the exemption granted on certain methods of payments used in purchasing imported raw materials under this program does not constitute a subsidy pursuant to 19 CFR 351.517(a), because the tax exempted upon export does not exceed the amount of tax levied on like products when sold for domestic consumption.⁶³ No new information is on the record of this review to warrant a reconsideration of the Department's earlier findings.

During the POR, under D-1 certificates, BMB received duty and VAT exemptions on certain imported inputs used in the production of steel pipes and tubes exported to the United States. Consistent with the Department's findings in *Turkey Pipe 2011 Final Results* and based on our review of the information supplied by the respondents regarding this program, we preliminarily find no evidence on the record of this review indicating that the amounts of VAT and duty exemptions on inputs BMB imported under the program were excessive or that the company used the imported inputs for any other product besides those exported, respectively.

Therefore, consistent with past cases,⁶⁴ we preliminarily determine that the tax and duty exemptions, which BMB received on imported inputs under D-1 certificates of the IPC program, did not confer countervailable benefits as the exemptions were applied only to the imported inputs consumed in the production of the exported product, making normal allowance for waste. We further preliminarily find that the VAT exemption did not confer countervailable benefits to BMB because the exemption does not exceed the amount levied with respect to the production and distribution of like products when sold for domestic consumption. Further, because BMB did not import any goods under a D-3 certificate during the POR, we preliminarily determine that this aspect of the IPC program was not used by the Borusan Companies.

III. Programs Preliminarily Determined to Not Be Used

We examined and preliminarily determine that the Borusan Companies did not apply for or receive benefits under these programs during the POR:

- Stamp Duties and Fees Exemptions under the Free Zones Law
- Law 5084: Withholding of Income Tax on Wages and Salaries
- Law 5084: Incentive for Employers' Share in Insurance Premiums
- Law 5084: Allocation of Free Land and Purchase of Land for less than Adequate Remuneration (LTAR)

⁶² See, e.g., *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 at 12 – 19; see also GOT Initial QNR Response at II-37 – 43 and Exhibits 20 – 22.

⁶³ *Id.*; see also *Wire Rod* and accompanying Issues and Decision Memorandum at Comment 8.

⁶⁴ See, e.g., *Turkey Pipe 2011 Final Results* and accompanying Issues and Decision Memorandum at 17-19.

- Law 5084: Energy Support
- Corporate Income Tax Exemption under the Free Zones Law
- Deductions on Social Security Payments Program under Law 5510
- Deductions on Social Security Payments Program under Law 5921
- Customs Duties and Value-Added Tax (VAT) Exemptions under the Free Zones Law
- Provision of Buildings and Land Use Rights for LTAR under the Free Zones Law
- Post-Shipment Export Loans
- Export Credit Bank of Turkey Buyer Credits
- Subsidized Turkish Lira Credit Facilities
- Subsidized Credit for Proportion of Fixed Expenditures
- Subsidized Credit in Foreign Currency
- Regional Subsidies
- VAT Support Program (Incentive Premium on Domestically Obtained Goods)
- IEP: VAT Exemptions
- IEP: Reductions in Corporate Taxes
- IEP: Interest Support
- IEP: Social Security Premium Support
- IEP: Land Allocation
- National Restructuring Program
- Regional Incentive Scheme: Reduced Corporate Tax Rates
- Regional Incentive Scheme: Social Security Premium Contribution for Employees
- Regional Incentive Scheme: Allocation of State Land
- Regional Incentive Scheme: Interest Support
- Organized Industrial Zone (OIZ): Exemption from Property Tax
- OIZ: Waste Water Charges
- OIZ: Exemptions from Customs Duties, VAT, and Payments for Public Housing Fund, for Investments for which an Income Certificate is Received
- OIZ: Credits for Research and Development Investments, Environmental Investments, Certain Technology Investments, Certain Regional Development” Investments, and Investments Moved from Developed regions to “Regions of Special Purpose
- Foreign Trade Companies Short Term Export Credits
- Pre-shipment Export Credits
- OIZ: Exemption from Building and Construction Charges
- OIZ: Exemption from Amalgamation and Allotment Transaction Charges

IV. Recommendation

Recommendation

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the preliminary results of the review in the *Federal Register*.

Agree

Disagree

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Date