




C-489-502  
POR: 01/01/13 - 12/31/13  
Public Document  
Office III: JL, JC, EBG

**DATE:** March 31, 2015

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** Gary Taverman   
Associate Deputy Assistant Secretary  
Antidumping and Countervailing Duty Operations

**RE:** Decision Memorandum for the Preliminary Results of  
Countervailing Duty (CVD) Administrative Review: Circular  
Welded Carbon Steel Pipes and Tubes from Turkey

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## I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order (CVD) order on circular welded carbon steel pipes and tubes (hereinafter referred to as steel pipe or pipe and tube) from the Republic of Turkey (Turkey). The period of review (POR) is January 1, 2013, through December 31, 2013. We preliminarily determine that the Borusan Group, Borusan Holding, A.S. (Borusan Holding), Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan), Borusan Istikbal Ticaret T.A.S. (Istikbal), and Borusan Lojistik Dagitim Pepolama Tasimacilik ve Tic A.S. (Borusan Lojistik) (collectively, the Borusan Companies) received countervailable subsidies during the POR.<sup>1</sup>

## II. 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.<sup>2</sup> On March 3, 2014, the Department published a notice of opportunity to request an administrative review of this CVD order.<sup>3</sup> On March 31, 2014, we received a request from the Borusan Companies to conduct an administrative review of the countervailing duty order on steel pipes from Turkey. On March 31, 2014, we received a request from United States Steel Corporation (U.S. Steel), a producer of the domestic like product, to review the following companies:

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<sup>1</sup> As explained in the "Attribution" section below, we found that Borusan and Istikbal are cross-owned, and thus, we collectively refer to the companies as the Borusan Companies.

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

<sup>3</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 79 FR 11757 (March 3, 2014).



- 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)
- Guven Steel Pipe (also known as Guven Celik Boru San. Ve Tic. Ltd.) (Guven)
- Toscelik Profil ve Sac Endustrisi A.S. (Toscelik Profil), Toscelik Metal Ticaret AS., and Tosyali Dis Ticaret AS. (Tosyali) (collectively, the Toscelik Companies)
- Umran Celik Born Sanayii A.S. (also known as Umran Steel Pipe Inc.) (Umran)
- 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, the Yucel Companies)

Additionally, U.S. Steel requested a review of the following members of the Borusan Companies: the Borusan Group, Borusan, Borusan Holding AS., and Borusan Lojistik Dagitim Pepolama Tasimacilik ve Tic A.S.

On March 31, 2014, 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: Erbosan and the Toscelik Companies. Additionally, Wheatland requested a review of the following members of the Borusan Companies: the Borusan Group, Borusan, and Istikbal.

On April 30, 2014, the Department initiated an administrative review of the *Order* for the period January 1, 2013, through December 31, 2013, covering the Borusan Companies, Erbosan, the Toscelik Companies, Guven, Umran, and Yucel.<sup>4</sup>

On May 14, 2014, 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 Customs and Border Protection (CBP) database for calendar year 2013.<sup>5</sup> We requested that interested parties submit comments regarding the use of CBP data within seven calendar days of the date of that memorandum. On May 21, 2014, Wheatland and the Toscelik Companies submitted comments concerning the CBP Query Results Memorandum. On June 18, 2014, the Department issued a memorandum limiting the number of respondents selected for individual examination to the Borusan Companies.<sup>6</sup>

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<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 79 FR 24398 (April 30, 2014).

<sup>5</sup> See Memorandum to the File from Eric Greynolds, Program Manager, AD/CVD Operations, Office III “Release of CBP Query Results,” (CBP Query Results Memorandum) dated May 14, 2014, a proprietary document of which a public summary is available *via* Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS), in the Central Records Unit (CRU) in the main Commerce Building, Room 7046.

<sup>6</sup> See Memorandum from John Conniff, International Trade Analyst, AD/CVD Operations, Office III, through Eric B. Greynolds, Program Manager, AD/CVD Operations, Office III, to Melissa G. Skinner, Director, AD/CVD Operations, Office III, “Countervailing Duty Administrative Review of Circular Welded Carbon Steel Pipes and Tubes from Turkey: Respondent Selection,” dated June 5, 2014, in which we named Borusan as the mandatory respondent. However, in the Department’s June 5, 2014, initial questionnaire, the Department instructed Borusan to respond on behalf of itself as well as Istikbal, due to the fact that the Department previously found Borusan and Istikbal to be cross- owned.

On May 5 and June 27, 2014, Erbosan and Yucel, respectively, submitted letters to the Department timely certifying that they had no sales, shipments, or entries, directly or indirectly, of subject merchandise to the United States during the POR.<sup>7</sup> Petitioners did not comment on Erbosan's and Yucel's claims of no sales, shipments, or entries. On May 19 and July 14, 2014, we transmitted "No-Shipment Inquiries" to U.S. Customs and Border Protection (CBP) regarding these companies. We did not receive any information from CBP contrary to Erbosan's and Yucel's claims of no sales, shipments, or entries of subject merchandise to the United States during the POR.

On June 18, 2014, the Department issued the initial questionnaire to the Borusan Companies and the Government of Turkey (GOT). On August 13, 2014, and August 15, 2014, we received initial questionnaire responses from the GOT and the Borusan Companies, respectively. We issued a supplemental questionnaire to the GOT on September 25, 2014, and the GOT submitted its response on October 17, 2014.

We issued supplemental questionnaires to the Borusan Companies on September 16, 2014 and November 5, 2014, to which they responded on October 14, 2014 and November, 12, 2014, respectively. On October 22, 2014, the Department extended the deadline for the preliminary results of this administrative review until March 31, 2015.<sup>8</sup>

On August 8, 2014, Wheatland submitted a letter requesting that the Department conduct verification of the questionnaire responses submitted by the GOT and the Borusan Companies.

On August 27, 2014, Petitioner timely submitted a new subsidy allegation (NSA) in the above-referenced CVD review,<sup>9</sup> alleging that the GOT provided hot-rolled steel (HRS) for less than adequate remuneration (LTAR) to Turkish pipe producers. On November 6, 2014, the Department initiated an investigation of this allegation<sup>10</sup> and issued a NSA questionnaire to the Borusan Companies and the GOT. On December 11, 2014, we received NSA initial questionnaire responses from the GOT and the Borusan Companies. The Borusan Companies' December 11, 2014, response also contained HRS benchmark information.<sup>11</sup>

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<sup>7</sup> See Welded Carbon Steel Pipe & Tube Products from Turkey; Notification of no Shipments, dated May 6, 2013; Welded Carbon Steel Pipe & Tube Products from Turkey; Notification of no Shipments, dated May 17, 2013; Welded Carbon Steel Pipe & Tube Products from Turkey; Notification of no Shipments, dated June 4, 2013.

<sup>8</sup> 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, 2014 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," (October 22, 2014).

<sup>9</sup> U.S. Steel and Wheatland submitted the NSA together in one filing. Therefore, we use the term Petitioners to refer collectively to U.S. Steel and Wheatland.

<sup>10</sup> See New Subsidy Allegation Memorandum to Melissa G. Skinner, Director, AD/CVD Operations, Office III, from Eric B. Greynolds, Program Manager, AD/CVD Operations, Office III, regarding Administrative Review of the Countervailing Duty Order on Welded Carbon Steel Pipes and Tubes from Turkey; 2013, dated November 6, 2014(NSA Memorandum).

<sup>11</sup> See Borusan Companies' December 11, 2014, Submission (Borusan Companies' Initial Benchmark Submission).

We issued NSA supplemental questionnaires to the GOT on December 29, 2014, and the GOT submitted its response on January 12, 2015. We issued NSA supplemental questionnaires to the Borusan Companies and received its response on January 23, 2015.

On December 22, 2014, Petitioners filed factual information regarding the GOT's alleged provision of HRS for LTAR from the administrative record of countervailing duty investigation of Certain Oil Country Tubular Goods from the Republic of Turkey (C-489-817) (*OCTG from Turkey*).<sup>12</sup> On December 29, 2014, the Borusan Companies countered the factual information submitted by Wheatland by filing a rebuttal submission.<sup>13</sup>

On February 9, 2015 the Department placed data from the Global Trade Information Service (GTIS) data regarding international prices of HRS during calendar year 2013.<sup>14</sup>

From February 10, through February 19, 2015, the Department conducted verifications of the questionnaire responses submitted by the Borusan Companies and the GOT. We verified the information upon which we relied in making our preliminary findings.<sup>15</sup> On February 18, 2015, the Department received minor corrections submitted at the CVD verification of the Borusan Companies.

On February 26, 2015, the Borusan Companies submitted benchmark data to rebut the Department's February 9, 2015 data submission.<sup>16</sup>

### **III. Intent to Rescind the 2013 Administrative Review, in Part**

As discussed above, Erbosan and Yucel 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 Erbosan and Yucel 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, we preliminarily determine to rescind the review for Erbosan and Yucel.<sup>17</sup>

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<sup>12</sup> See Petitioners' December 22, 2014, submission (Petitioners' Factual Submission).

<sup>13</sup> See Borusan Companies' December 29, 2014, submission (Borusan Companies' Rebuttal Submission).

<sup>14</sup> See Memorandum to the File from John Conniff, Trade Analyst, Antidumping and Countervailing Duty Operations, Office III, regarding Countervailing Duty Administrative Review: Circular Welded Carbon Steel Pipes and Tubes from Turkey: Calendar Year 2013.

<sup>15</sup> See Memorandum to Eric B. Greynolds, Program Manager, AD/CVD Operations, Office III, from John Conniff, Senior International Trade Analyst and Jolanta Lawska, Senior International Trade Analyst regarding, "Verification of Information submitted by the GOT" (GOT's Verification Report) (March 31, 2015), and Memorandum to Eric B. Greynolds, Program Manager, AD/CVD Operations, Office III, from John Conniff, Senior International Trade Analyst and Jolanta Lawska, Senior International Trade Analyst regarding "Verification of the Questionnaire Responses Submitted by Verification of the Questionnaire Responses submitted by Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan), and Borusan Istikbal Ticaret T.A.S. (Istikbal) (collectively, the Borusan Companies)" (Borusan Companies' Verification Report) (March 31, 2015).

<sup>16</sup> See Borusan Companies' February 26, 2015, submission (Borusan Companies' Second Benchmark Submission).

<sup>17</sup> 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).

#### **IV. 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.

#### **V. Subsidies Valuation Information**

##### **A. 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.

##### **B. 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. 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 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:

{T}he 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>18</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 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>19</sup>

### *Borusan Companies*

Borusan 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.<sup>20</sup> Borusan 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 Borusan. Additionally, Borusan and Istikbal exported subject merchandise to non-U.S. locations during the POR.<sup>21</sup> 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 Borusan and Istikbal, net of intra-company sales. In accordance with 19 CFR 351.525(b)(6)(i), we attributed subsidies received by Borusan to the consolidated sales of Borusan and Istikbal.

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<sup>18</sup> See *Countervailing Duties; Final Rule*, 63 FR 65347, 65401 (November 25, 1998) (*CVD Preamble*).

<sup>19</sup> See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>20</sup> See Borusan Companies’ August 15, 2014, QR at 3. Our approach in this regard is consistent with our practice. See, e.g., *Circular Welded Carbon Steel Pipe and Tube Products From Turkey: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2012 and Intent To Rescind Countervailing Duty Administrative Review, in Part (Turkey Pipe 2012 Prelim Results)* and accompanying Preliminary Issues and Decision Memorandum at 5, unchanged in *Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012 and Rescission of Countervailing Duty Administrative Review, in Part*, 79 FR 51140 (August 27, 2014) (*Turkey Pipe 2012 Final Results*), and accompanying Issues and Decision Memorandum at 2.

<sup>21</sup> See Borusan Companies’ August 15, 2014, QR at 2.

## C. 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.<sup>22</sup> The Borusan Companies reported receiving loans from the subsidy programs under examination that were denominated in U.S. Dollars. Therefore, in its August 15, 2014, questionnaire response (QR) at Exhibit 24, 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 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.

## VI. 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.<sup>23</sup> 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 an above-*de minimis* net subsidy rate for the Borusan Companies for the POR. Therefore, in keeping with our practice of basing the non-selected rate on the above-*de minimis* net subsidy rate(s) calculated for the mandatory respondent(s), we used the net subsidy rate

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<sup>22</sup> See 19 CFR 351.505(a)(2)(ii).

<sup>23</sup> See, e.g., *Certain Pasta from Italy: Final Results of the 13<sup>th</sup> (2008) Countervailing Duty Administrative Review*, 75 FR 37386, 37387 (June 29, 2010) (*2008 Review of Pasta from Italy*).

calculated for the Borusan Companies as the non-selected rate applicable to the Toscelik Companies, Guven, and Umran.<sup>24</sup>

## **VII. Analysis of Programs Preliminarily Determined To Be Countervailable**

### **A. Deduction from Taxable Income for Export Revenue**

Addendum 4108 of Article 40 of Turkey's 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>25</sup> This deduction is to cover the expenditures without documentation incurred from exports, construction, maintenance, assembly, and transportation activities abroad.<sup>26</sup> The deduction for export earnings may be taken as a lump sum on a company's annual income tax return.<sup>27</sup> Under this program, marketing, selling, and distribution expenses are deductible expenditures for tax purposes.

Consistent with prior determinations, we preliminarily find that this tax deduction is a countervailable subsidy.<sup>28</sup> The income tax deduction provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, in the form of 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, Borusan and Istikbal reported receiving the deduction for export earnings with respect to their 2012 tax returns filed during the POR.<sup>29</sup> In addition to its fiscal year 2012 income tax return filed in 2013, Borusan also filed an amended 2011 tax return in 2013 in which it claimed the remaining amount of its lump sum deduction under this program. This additional amount was not claimed on the 2011 tax return by Borusan because of the company's dispute with tax authorities regarding whether this lump sum amount was permissible.<sup>30</sup> The Borusan Companies reported that Borusan challenged the tax authorities and won the appeal. Therefore, Borusan claimed this amount on the amended 2011 tax return filed in 2013 and, thus, we preliminarily find that Borusan received this benefit during the POR, consistent with 19 CFR 351.509(b).<sup>31</sup>

The Department normally treats a tax deduction as a recurring benefit in accordance with 19

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<sup>24</sup> See, e.g., *2008 Review of Pasta from Italy*, 75 FR at 37387.

<sup>25</sup> See GOT's initial QR dated August 13, 2014, at II-4.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> See, e.g., *Turkey Pipe 2012 Preliminary Result and accompanying Issues and Decision Memorandum at 7 unchanged in Turkey Pipe 2012 Final Results*.

<sup>29</sup> See Borusan Companies' August 15, 2014, QR at 14.

<sup>30</sup> *Id.* at 16.

<sup>31</sup> *Id.*



CFR 351.524(c)(1).<sup>32</sup> The amount of the benefit is equal to the amount of tax that would have been paid absent the program. For Borsuan and Istikbal, we divided their combined tax savings by the total consolidated exports of Borusan and Istikbal, net of intra-company sales. We included in our calculation the benefit from the 2011 amended tax return which was filed during the POR.

On this basis, we preliminarily determine the net countervailable subsidy for this program to be 0.20 percent *ad valorem* for the Borusan Companies.

## B. Short-Term Pre-Shipment Rediscount Program

The “Short Term Pre-Shipment Rediscount Program” (SPRP) is administered by the Export Credit Bank of Turkey (Export Bank).<sup>33</sup> The SPRP is designed to provide financial support to Turkish exporters, manufacturer-exporters and manufacturers supplying exporters.<sup>34</sup> This program is contingent upon an export commitment. The SPRP requires a minimum loan amount of USD 50,000 per company.<sup>35</sup> 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 Turkish Lira (TL) equivalent of the principal by using the exchange rate determined by the Export Bank.<sup>36</sup> During the POR, Borusan and Istikbal paid interest on U.S. dollar pre-shipment rediscount loans under this program.<sup>37</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 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 Borusan 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.<sup>38</sup>

Pursuant to 19 CFR 351.505(a)(1), we calculated the benefit as the difference between the payments that Borusan 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 BBorusan 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

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<sup>32</sup> See e.g., *Turkey Pipe 2012 Final Results*, and accompanying Issues and Decision Memorandum at 6.

<sup>33</sup> See GOT’s QR dated August 13, 2014, at II-49 and Exhibit 27.

<sup>34</sup> *Id.*, at II-49.

<sup>35</sup> *Id.*, at II-51.

<sup>36</sup> *Id.*, at II-52-53.

<sup>37</sup> *Id.*, at Exhibit 11; see also Borusan Companies’ August 15, 2014, QR at Exhibit 21.

<sup>38</sup> See *Turkey Pipe 2011 Preliminary Results* and accompanying Issues and Decision Memorandum at 9, unchanged in *Turkey Pipe 2012 Final Results*.

Department's practice.<sup>39</sup> We then divided that amount by the amount of total consolidated export sales of Borusan and Istikbal, net of intra-company sales. On this basis, we preliminarily determine that the net countervailable subsidy for this program is 0.22 percent *ad valorem* for the Borusan Companies.

### C. Investment Encouragement Program (IEP): Customs Duty Exemptions

The GOT provides certificates through the IEP that qualified recipients use to import items at reduced duty rates. The Council of Ministers' Decision NO. 2009/15199, which was replaced with Decree No. 2012/3305 in June 2012, provides certain producers with Investment Encouragement Certificates to receive customs duty and value added tax (VAT) exemptions on equipment imported for use.<sup>40</sup> Under Article 3.2 of Decree No. 2009/15199, the customs duty and VAT exemption program is limited to firms that make an investment in excess of 50 million Turkish Lira.<sup>41</sup> Additionally, the decree limits such exemptions for iron and steel investment to certain regions.<sup>42</sup> The Ministry of Economy administers this program.<sup>43</sup>

Consistent with previous determinations, we preliminarily find that duty reductions received under exemption certificates granted after January 1, 2009, 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 section 771(5)(E) of the Act in the amount of tax savings. Further, we preliminarily find that this program is limited to firms making investments in excess of 50 million Turkish Lira.<sup>44</sup> Thus, the program is specific under section 771(5A)(D)(i) of the Act.

Borusan reported using this program during the POR.<sup>45</sup> Specifically Borusan reported holding an IEP certificate during the POR that allowed it to import equipment at a reduced duty rate.<sup>46</sup> Borusan reported that the receipt of duty exemptions on this certificate was contingent upon the firm using the equipment to produce subject and non-subject merchandise.<sup>47</sup> Borusan 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). Borusan reported that the investment encouragement certificate held by Borusan during the POR related to capacity increase and modernization of the Gemlik ERW plant, which produces subject and non-subject merchandise.<sup>48</sup>

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<sup>39</sup> See *Turkey Pipe 2011 Preliminary Results* and accompanying Issues and Decision Memorandum at 9, unchanged in *Turkey Pipe 2012 Final Results*.

<sup>40</sup> See GOT's QR dated August 13, 2014, at II-72-73.

<sup>41</sup> *Id.*, at Exhibit 36.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*, at II-72.

<sup>44</sup> See *Turkey Pipe 2011 Final Results*, and accompanying Issues and Decision Memorandum at 16.

<sup>45</sup> See Borusan Companies' August 15, 2104, QR at 30; see also GOT's August 13, 2014, QR at II-74.

<sup>46</sup> *Id.*, at 31 and Borusan Companies' December 14, 2014, QR at Exhibit 43.

<sup>47</sup> See Borusan Companies' December 14, 2014, QR at Exhibit 43.

<sup>48</sup> *Id.*, at 10.

Based on review of the record, we find that the certificate was received after January 1, 2009. As a result, we find that Borusan received benefits from this program pursuant to the post-2008 modified IEP regime. Thus, based on the analysis described above, we preliminarily determine that the Borusan Companies received countervailable benefits under this program.

Based on review of the IEP certificate, we preliminarily determine that the benefit Borusan received on this certificate was not tied to the production of any particular products. Thus, we attributed benefits under this program to the total sales of the Borusan Companies. To calculate the benefit, we measured the difference in the amounts of customs duties and VAT paid by Borusan during the POR under the program and the amounts otherwise payable during the POR absent the program. We then divided the benefit amount by the total consolidated sales of Borusan and Istikbal, net of intra-company sales during the POR. On this basis, we preliminarily determine that the net countervailable subsidy for this program is 0.03 percent *ad valorem* for the Borusan Companies.

#### D. Provision of HRS for LTAR

As noted above, on November 6, 2014, we initiated an investigation into whether the GOT provided HRS for LTAR to Turkish steel pipe producers during the POR. Thus, we investigated whether Eregli Demir ve Celik Fabrikalari T.A.S. (Erdemir) and its subsidiary, Iskenderun Iron & Steel Works Co (Isdemir) provided the Borusan Companies with HRS for LTAR during the POR.<sup>49</sup> The Borusan Companies reported purchasing HRS from Erdemir (produced and sold by Erdemir, and produced by Isdemir and sold by Erdemir) during the POR.<sup>50</sup>

The GOT provided information on Erdemir, Isdemir, and Ordu Yardımlaşma Kurumu (OYAK), the Turkish military pension fund that is a shareholder of Erdemir and Isdemir. During the POR, OYAK, the Turkish military pension fund, owned 49.29 percent of Erdemir's share through a wholly-owned holding company, Ataer Holding A.S.<sup>51</sup> During the POR, Esdemir owned 95.07 percent of Isdemir.<sup>52</sup>

The law establishing OYAK, which was enacted on January 3, 1961, states that the GOT created OYAK "as an institution related to the Ministry of National Defense."<sup>53</sup> Information in the GOT's NSA questionnaire responses indicates the GOT's significant involvement in OYAK. For example, OYAK's Representative Assembly comprises 50 to 100 members of the Turkish Armed Forces "designated by their respective commanders or superiors."<sup>54</sup> The Representatives Assembly, in turn, elects 20 of the 40 members of OYAK's General Assembly.<sup>55</sup> Of the General Assembly's other 20 members, 17 are by statute government officials (*e.g.*, Ministers of Finance and Defense). Members of the General Assembly elect the eight-person Board of Directors.<sup>56</sup>

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<sup>49</sup> See NSA Memorandum.

<sup>50</sup> See Borusan Companies' NSA QR dated December 10, 2014, at 2 and Borusan Companies' NSA QR dated January 23, 2015, at Exhibit NSA-8.

<sup>51</sup> See the GOT's NSA QR dated December 10, 2014, at 3 and Exhibit 4.

<sup>52</sup> *Id.*, at Exhibit 4 at 4.

<sup>53</sup> See GOT's NSA QR dated December 10, 2014 at Article 1 of Exhibit 4G 11.

<sup>54</sup> *Id.*, at Article 3 of Exhibit G 11.

<sup>55</sup> *Id.*, at Article 4 of Exhibit 4G-11.

<sup>56</sup> *Id.*, at Articles 5 and 8 of Exhibit 4G-11 (Law No. 205).

Also, OYAK's property has, by law, the "same rights and privileges of state property," OYAK is exempt from corporate and other taxes, and members of the armed forces must by law contribute part of their salaries to OYAK.<sup>57</sup>

Record evidence indicates that the GOT's significant involvement in OYAK extends to Erdemir and Isdemir. For example, Erdemir's 2013 Annual Report states, "Through . . . flat steel sales to exporting industries," Erdemir "made a major contribution to the 4.6% increase in Turkey's manufacturing exports in 2013" . . . and "continues to create value added for Turkish industry through its initiatives to increase the use of domestic sources of raw materials."<sup>58</sup> Also, the GOT explained that the Turkish Privatization Administration (TPA) holds veto power over any decisions related to the closedown, sale, merger, or liquidation of both Erdemir and Isdemir.<sup>59</sup> Further, Erdemir's 2013 Annual Report indicates that OYAK and the TPA both have members on Erdemir's Board of Directors.<sup>60</sup>

We preliminarily determine that the record evidence cited above indicates that the GOT exercises meaningful control over Erdemir and Isdemir through its control of OYAK. Therefore, consistent with the final CVD determination in *OCTG Turkey CVD Final*,<sup>61</sup> we preliminarily determine that Erdemir and Isdemir are public bodies, and hence "authorities," pursuant to section 771(5)(B) of the Act. Consequently, we preliminarily find that the HRS Erdemir and Isdemir supplied to Borusan and Toscelik is a financial contribution in the form of a governmental provision of a good under section 771(5)(D)(iii) of the Act.

Regarding the specificity of HRS for LTAR, the GOT provided a list of the industries that purchased HRS in Turkey during the POR.<sup>62</sup> Specifically the GOT identified the following industries as purchasers of HRS during the POR: Construction, Automotive, Machinery Industry, Domestic Appliances, Agricultural, Shipbuilding, Steel Pipe and Profile, and Rerolling Producers.<sup>63</sup> Consistent with the Department's determination in *OCTG from Turkey Investigation*, we preliminarily determine that the financial contribution provided by the GOT under this program is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the number of industries or enterprises using HRS is limited in number.<sup>64</sup>

Finally, regarding benefit, the Department identifies appropriate market-determined benchmarks for measuring the adequacy of remuneration for government-provided goods or services, in accordance with 19 CFR 351.511(a)(2). This section of the Department's regulations specifies potential benchmarks in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or

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<sup>57</sup> *Id.*, at Articles 18, 35, and 37 of Exhibit 4G-11.

<sup>58</sup> See GOT's December 10, 2014, NSA Questionnaire Response at Exhibit 4-C (Erdemir 2013 Annual Report at 35 and 18, respectively).

<sup>59</sup> *Id.*, at Exhibit 4 a (Erdemir's Articles 21, 22, 27 of Association).

<sup>60</sup> *Id.*, at Exhibit 4 c (Erdemir 2013 Annual Report, pages 65-66).

<sup>61</sup> See *Certain Oil Country Tubular Goods from the Republic of Turkey: Final Determination in the Countervailing Duty Determination and Final Affirmation Critical Circumstances Determination*, 79 FR 41964 (July 18, 2014) (*OCTG from Turkey*), and accompanying Issues and Decision Memorandum (*OCTG from Turkey Decision Memorandum*) at Comment 1.

<sup>62</sup> See GOT's NSA QR dated December 10, 2014 at 12.

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

<sup>64</sup> See *OCTG from Turkey* and *OCTG from Turkey Decision Memorandum* at 20-26.

competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As provided at 19 CFR 351.511(a)(2), the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation.<sup>65</sup> This is because such prices generally reflect most closely the prevailing market conditions of the purchaser under investigation.

Based on this hierarchy, we must first determine whether there are market prices from actual sales transactions involving Turkish buyers and sellers that can be used to determine whether Erdemir and Isdemir sold HRS to the respondents for LTAR. Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where the Department finds that the government owns or controls the majority or a substantial portion of the market for the good or service, the Department will consider such prices to be significantly distorted and not an appropriate basis of comparison for determining whether there is a benefit.<sup>66</sup>

We obtained production and consumption data for HRS during the POR and the previous two years from the GOT.<sup>67</sup> The GOT's information indicates that Erdemir's and Isdemir's collective share of the domestic supply of HRS during 2011, 2012, and 2013 accounted for 49.7 percent, 47.2 percent, and 46.5 percent, respectively, of the total domestic supply of HRS (inclusive of imports and internally-consumed production) in Turkey.<sup>68</sup> Thus, based on this information, we preliminarily find that Erdemir's and Isdemir's production accounted for a substantial portion of the domestic supply during the POR and previous years.<sup>69</sup>

Therefore, we preliminarily determine that Erdemir and Isdemir, the producers we are finding to be "authorities" pursuant to section 771(5)(B) of the Act, account for a substantial portion of the market of HRS production in Turkey. Given these facts, we preliminarily find that the level of government involvement in the market was such that prices would be significantly distorted.<sup>70</sup> Accordingly, we preliminarily find that actual transaction prices in Turkey are not appropriate to use as a benchmark for the HRS purchased by respondents during the POR because they reflect significant distortion resulting from the government's involvement in the market.<sup>71</sup> As we explained in *Softwood Lumber from Canada*:

Where the market for a particular good or service is so dominated by the presence

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<sup>65</sup> See, e.g., *Notice of Affirmative Countervailing Duty Determination and Final Negative Critical Determination: Certain Softwood Lumber Products from Canada*, (*Softwood Lumber from Canada*) 67 FR 15545 (April 2, 2002) and accompanying Issues and Decision Memorandum at "Market Based Benchmark."

<sup>66</sup> See *CVD Preamble*, 63 FR at 65277.

<sup>67</sup> See the GOT's December 10, 2014, NSA Questionnaire response at page 10.

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

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

<sup>70</sup> The facts available on the record indicate that Erdemir and Isdemir accounted for a substantial portion of the domestic production of HRS during the POI, and domestic production accounted for a majority of the total supply (inclusive of imports) of HRS during the POI. Therefore, a reasonable conclusion to draw from these facts is that, at a minimum, Erdemir and Isdemir account for "a substantial portion of the market." See *CVD Preamble*, 63 FR at 65277.

<sup>71</sup> See *Softwood Lumber from Canada*, and accompanying Issues and Decision Memorandum at "There are no market-based internal Canadian benchmarks" section.

of the government, the remaining private prices in the country in question cannot be considered to be independent of the government price. It is impossible to test the government price using another price that is entirely, or almost entirely, dependent upon it. The analysis would become circular because the benchmark price would reflect the very market distortion which the comparison is designed to detect.<sup>72</sup>

For these reasons, we preliminarily find that HRS prices stemming from transactions within Turkey – either from domestic purchases or from imports into the country (*i.e.*, tier one prices) – cannot be considered to be independent of the government price. Therefore, use of these prices does not meet the statutory and regulatory requirement for the use of market-determined prices to measure the adequacy of remuneration.

Because we preliminarily find that tier one prices for HRS cannot serve as appropriate benchmarks, we next evaluated information on the record to determine whether tier two, or world market, prices were available to producers of subject merchandise in Turkey. The Department placed monthly export prices from various countries from Global Trade Information Services (GTIS) on the record of the review.<sup>73</sup> The Borusan Companies submitted additional GTIS data which, in addition to mirroring the data contained in the GTIS Memorandum, also contained additional GTIS price series.<sup>74</sup> Specifically, the GTIS data from the Borusan Companies contained price data for additional HTS codes that cover HRS that is less than 3 millimeters in thickness. Thus, the Borusan Companies Second Benchmark Submission contains GTIS data that includes the prices series data from the GTIS Memorandum plus prices series data for additional HTS codes.<sup>75</sup> Additionally, the Borusan Companies submitted POR price series data from American Metal Market (AMM) (SteelBenchmarker), Metal Bulletin, MEPS (International) Ltd., Steel Business Briefing (SBB), and Steel Orbis.<sup>76</sup> Petitioners and the GOT did not submit any world market HRS prices on the record of the review.

We have not relied on the MEPS (International) Ltd. data, which contain HRS prices for India and the Commonwealth of Independent States (CIS), as submitted by the Borusan Companies, because we have preliminarily determined that the price series data reflect domestic prices in specific countries and not export “free, on board” (FOB) prices.<sup>77</sup> Our decision in this regard is based on our finding that the MEPS information does not contain the specific terms of the prices contained therein and, therefore, we are unable to determine that they reflect export FOB prices consistent with the other data upon which the Department is relying for its HRS benchmark. Further, our approach in this regard is consistent with our treatment of MEPS data in *OCTG from Turkey*.<sup>78</sup> We have not relied on the Steel Orbis “ex-Romania CFR” prices series, as submitted by the Borusan Companies, because we preliminarily determine that these prices include freight

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<sup>72</sup> *Id.*, and accompanying Issues and Decision Memorandum at 38-39.

<sup>73</sup> See the Department’s February 9, 2015, memorandum to the File, “Global Trade Information Services Data” (GTIS Memorandum).

<sup>74</sup> See Borusan Companies’ Second Benchmark Submission at Exhibit 48.

<sup>75</sup> *Id.*

<sup>76</sup> See, e.g., Borusan Companies Second Benchmark Submission at Exhibit 49, which contains a summary of the price series data the Borusan Companies placed on the record of the review.

<sup>77</sup> See Borusan Companies’ Second Benchmark Submission at Exhibit 49.

<sup>78</sup> *Id.*, see also *OCTG from Turkey* Decision Memorandum at 25.

and other costs and, thus, would result in the double counting of certain freight costs when merged with the other prices series that comprise the HRS tier-two, world market price benchmark.<sup>79</sup> We have also preliminarily determined to not rely on the AMM and Metal Bulletin “World Export Market” price series, as submitted by the Borusan Companies, because, based on the titles of these prices series (*i.e.*, “World Export Market”), they appear to include prices for imports into Turkey.<sup>80</sup> As explained above, we preliminarily determine that HRS prices stemming from transactions within Turkey – either from domestic purchases or from imports into the country (*i.e.*, tier one prices) – do not meet the requirement for the use of market-determined prices to measure the adequacy of remuneration. Therefore, we have not included the “World Export Market” prices series from the AMM and the Metal Bulletin in the HRS benchmark because they may include prices for imports into Turkey. In these preliminary results, we have also not relied on the “SBB CbnStl HRC FOB Blk Sea” export price series, as submitted by the Borusan Companies, because we do not have information on the record specifying the countries in this series that use the Black Sea ports.<sup>81</sup> As explained below, such country information is necessary in order to construct a specific unit price for the weighted-average benchmark methodology used here.

Instead, for these preliminary results, we are relying on the following 2013 data sources: GTIS POR monthly export prices (as submitted by the Borusan Companies, which include the additional HTS categories for HRS),<sup>82</sup> Metal Bulletin price series data for Latin America,<sup>83</sup> Metal Bulletin price series data for the CIS,<sup>84</sup> Metal Bulletin price series data for India,<sup>85</sup> Steel Orbis price series data for Russia,<sup>86</sup> Steel Orbis price series data for Ukraine,<sup>87</sup> SBB prices series data for Brazil,<sup>88</sup> and SBB price series data for Russia.<sup>89</sup> Concerning our use of SBB prices series data in these preliminary results, we acknowledge that in prior CVD proceedings the Department has refrained from using certain SBB price series because information on the record of those proceedings indicated that the SBB data reflected domestic and not export prices.<sup>90</sup> In contrast, we find that the information concerning the SBB prices series data for Brazil and Russia that are on the record of the instant review indicate that they reflect export prices and, thus, we have preliminarily determined to include these prices in our HRS benchmark.<sup>91</sup>

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<sup>79</sup> See Borusan Companies’ Second Benchmark Submission at Exhibit 49.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*, see also Borusan Companies’ Initial Benchmark Submission at Exhibit NSA-5, which indicates that the price series includes prices from Ukraine, Russia, Romania, and Bulgaria as well as unspecified countries “not on the Black Sea, but using the Black Sea ports for export.”

<sup>82</sup> See Borsuan Companies’ Second Benchmark Submission at Exhibit 48; see also Borusan Companies Verification Report at 7 and 9, which discusses their purchases of HRS that fall under the additional HTS categories contained in the GTIS data submitted by Borsuan Companies’.

<sup>83</sup> See Borsuan Companies’ Second Benchmark Submission at Exhibit 49.

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

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> See, e.g., *OCTG from Turkey* Decision Memorandum at 25.

<sup>91</sup> See Borusan Companies’ Second Benchmark Submission at 49, which indicates that the SBB price series for Brazil and Russia are for “export, FOB” prices.

Section 351.511(a)(2)(ii) of the Department's regulations states that where there is more than one commercially-available world market price, the Department will average the prices to the extent practicable. Therefore, we are weight averaging the GTIS data on the record while continuing to utilize the data from the list of non-GTIS sources discussed above.<sup>92</sup> Specifically, we first calculated simple averages across data sources per country or region (*e.g.*, Latin America) to determine an average unit value for each country or region. Then, we weight averaged those country- and region-specific unit prices to create single monthly weighted-average benchmark prices for HRS. By weight averaging the GTIS unit prices in this instance, and furthermore, by continuing to include the other, non-GTIS data on the record, we maintain the most robust world market price possible that reflects the spectrum of conceivable prices available under market principles.<sup>93</sup>

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier one or tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Regarding delivery charges, we added to the monthly benchmark prices ocean freight and inland freight charges that would be incurred to deliver HRS from a Turkish port to the companies' facilities. Concerning ocean freight, the Borsuan Companies submitted several price series for coaster freight during the POR.<sup>94</sup> Our review of the record indicates that Petitioners did not submit any ocean freight rates. Therefore, in these preliminary results, we have utilized the data from the Borusan Companies for purposes of calculating the ocean freight to be added to the tier-two HRS benchmark. For inland freight, we used the freight rates supplied by the Borusan Companies.<sup>95</sup> Specifically, we calculated the inland freight that was added to the HRS benchmark as the POR average inland freight rate paid by each of the Borusan Companies' relevant factories.<sup>96</sup> We also added the applicable VAT and import duties, at the rates reported by the GOT.<sup>97</sup> Additionally, the Borusan Companies reported that for both imported and domestically purchased HRS, the Borusan Companies incurred a standard per-MT charge for unloading the HRS.<sup>98</sup> The Borusan Companies also reported that a fixed customs clearance fee is charged on its HRS imports.<sup>99</sup> Thus, in these Preliminary Results, we have included the unloading charges in the HRS prices the Borsuan Companies paid on its purchases from Erdemir and Isdemir and added such charges to the tier-two benchmark prices. We have also preliminarily determined to add the customs clearance fee to the tier-two benchmark price.

We then compared the monthly benchmark prices to the Borusan Companies' actual purchase prices for HRS, including taxes and delivery charges, as appropriate. For instances in which the

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<sup>92</sup> In addition, as discussed above, we have removed exports from and imports to Turkey from the GTIS data.

<sup>93</sup> See the Borusan Companies' Preliminary Calculation Memorandum.

<sup>94</sup> See the Borusan Companies' Initial Benchmark Submission at NSA-6.

<sup>95</sup> *Id.*, at NSA-2.

<sup>96</sup> See the Borusan Companies' Preliminary Calculation Memorandum.

<sup>97</sup> See the GOT's December 10, 2014, NSA Questionnaire Response at Exhibit 2. Because the GOT reported that duties on HRS range between zero and 15 percent depending on the subheading of the Harmonized Tariff System classification for HRS, we are using the average of these numbers (*i.e.*, 7.5 percent) as the import duty rate in the benchmark.

<sup>98</sup> See the Borsuan Companies' Initial Benchmark Submission at 4 and Exhibit NSA-3; see also the Borusan Companies' Verification Report at 9-10 and Verification Exhibits (VE) 5-9 and 14-17.

<sup>99</sup> *Id.*, at 4 and Exhibit NSA-4.



Borusan Companies paid to Erdemir and Isdemir a lower unit price than the benchmark unit price, we multiplied the difference by the quantity of HRS that the company purchased to calculate the benefit. Under this methodology, we preliminarily find that the Borusan Companies received a benefit to the extent that the prices they paid for HRS produced by Erdemir and Isdemir were for LTAR.<sup>100</sup>

To calculate the net subsidy rate attributable to the Borusan Companies, we divided the benefit by the total consolidated sales of Borusan and Istikbal during the POR, net of intra-company sales.

On this basis, we find that the Borusan Companies received a countervailable subsidy of 3.73 percent *ad valorem*.

## **VIII. Programs Preliminary Determined Not To Confer Countervailable Benefits**

### **A. Inward Processing Certificate Exemption**

The Ministry of Economy is the authority responsible for administering the Inward Processing Certificate program (IPC).<sup>101</sup> 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.<sup>102</sup> 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.<sup>103</sup>

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.<sup>104</sup> 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.<sup>105</sup> 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.<sup>106</sup> During the POR, Borusan 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.<sup>107</sup>

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<sup>100</sup> See sections 771(5)(D)(iv) and 771(5)(E)(iv) of the Act.

<sup>101</sup> See the GOT's August 13, 2014, QR at II-38.

<sup>102</sup> 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's QR dated August 13, 2014, at Exhibit 19.

<sup>103</sup> See the GOT's QR dated August 13, 2014, at II-39-40.

<sup>104</sup> See the GOT's QR dated August 13, 2014, at II-41.

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

<sup>106</sup> *Id.* at II-41-42.

<sup>107</sup> See the Borusan Companies' August 15, 2014, QR at 28-29 and at Exhibit 27; see also the GOT's August 13, 2014, QR at II-42.

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 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.<sup>108</sup> 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.<sup>109</sup> 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, Borusan 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 2012 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 Borusan 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,<sup>110</sup> we preliminarily determine that the tax and duty exemptions, which Borusan 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 Borusan 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 Borusan 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.

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<sup>108</sup> 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.

<sup>109</sup> *Id.*; see also *See Circular Welded Carbon Steel Pipes and Tubes From Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012 and Rescission of Countervailing Duty Administrative Review, in Part*, 79 FR 51140 (August 27, 2014) (*Turkey Pipe 2012 Final Results*) and accompanying Issues and Decision Memorandum at Comment 8.

<sup>110</sup> See, e.g., *Turkey Pipe 2012 Final Results* and accompanying Issues and Decision Memorandum at 4.

## **IX. 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:

### **Programs Preliminarily Determined to Not Be Used**

- Post-Shipment Export Loans
- Pre-Export Credits
- Pre-Shipment Export Credits
- Export Credit Bank of Turkey Buyer Credits
- Foreign Trade Companies Short Term Export Credits
- Law 5084: Withholding of Income Tax on Wages and Salaries
- Law 5084: Incentives for Employers' Share in Insurance Premiums
- Law 5084: Allocation of Free Land and Purchase of Land for LTAR
- Law 5084: Energy Support
- Subsidized Turkish Lira Credit Facilities
- Subsidized Credit for Proportion of Fixed Expenditures
- Subsidized Credit in Foreign Currency
- Regional Subsidies
- VAT Support System (Incentive Premium on Domestically Obtained Goods)
- Investment Encouragement Program (IEP): Reductions in Corporate Taxes
- IEP: Interest Support
- IEP: Social Security Premium Support
- IEP: Land Allocation
- National Restructuring Program
- Regional Incentive Scheme (RIS): Reduced Corporate Tax Rates
- RIS: Social Security Premium Contribution for Employees
- RIS: Allocation of State Land
- RIS: Interest Support
- Organized Industrial Zones (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"
- OIZ: Exemption from Building and Construction Charges
- OIZ: Exemption from Amalgamation and Allotment Transaction Charges
- OIZ: Exemption for Property Taxes
- Corporate Income Tax Exemption under the Free Zones Law
- Stamp Duties and Fees Exemptions under the Free Zones Law
- Customs Duty Exemptions Under the Free Zones Law
- Value Added Tax Exemptions Under the Free Zones Law

- Provision of Building and Land Use Rights for Less than Adequate Remuneration under the Free Zones Law

**X. 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  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

31 MARCH 2015  
Date