




C-489-825  
Investigation  
POI: 01/01/2014 – 12/31/2014  
**Public Document**  
AD/CVD/Office II: RK/BCS

**DATE:** December 18, 2015

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

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

**SUBJECT:** Countervailing Duty Investigation of Heavy Walled Rectangular  
Welded Carbon Steel Pipes and Tubes from the Republic of  
Turkey: Decision Memorandum for the Preliminary  
Determination

## I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of heavy walled rectangular welded carbon steel pipes and tubes (HWR pipes and tubes) from the Republic of Turkey (Turkey), as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

## II. BACKGROUND

### A. Case History

On July 21, 2015, the Department received a countervailing duty (CVD) petition concerning imports of HWR pipes and tubes from Turkey, filed on behalf of Atlas Tube, a division of JMC Steel Group, Bull Moose Tube Company, EXLTUBE, Hannibal Industries, Inc., Independence Tube Corporation, Maruichi American Corporation, Searing Industries, Southland Tube, and Vest, Inc. (collectively, the petitioners).<sup>1</sup> On August 10, 2015, the Department initiated a CVD investigation of HWR pipes and tubes from Turkey.<sup>2</sup> Supplements to the petition and our consultations with the Government of Turkey (GOT) are described in the Initiation Checklist.<sup>3</sup>

<sup>1</sup> See Petitions for the Imposition of Antidumping and Countervailing Duties: Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes (July 21, 2015) (Petition).

<sup>2</sup> See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Initiation of Countervailing Duty Investigation, 80 FR 49207 (August 17, 2015) (Initiation Notice).

<sup>3</sup> See “Enforcement and Compliance Office of AD/CVD Operations CVD Investigation Initiation Checklist: Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey” (August 10, 2015) (Initiation Checklist).



In the “Respondent Selection” section of the Initiation Notice, the Department stated that it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for entries of HWR pipes and tubes from Turkey during the period of investigation (POI) made under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7306.61.1000.<sup>4</sup> Accordingly, on August 20, 2015, the Department released the CBP data to all interested parties under an administrative protective order (APO), and requested comments regarding the data and respondent selection.<sup>5</sup> The Department received no comments from interested parties. On September 8, 2015, we selected MMZ Onur Boru Profil uretim San Ve Tic. A.S. (MMZ), and Ozdemir Boru Profil San ve Tic. Ltd Sti. (Ozdemir) as mandatory respondents, pursuant to section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2).<sup>6</sup>

On September 9, 2015, we issued the Initial CVD Questionnaire to the GOT.<sup>7</sup> MMZ and Ozdemir submitted initial questionnaire responses in September (Section III: Identifying Affiliated Companies) and October (remaining sections of the questionnaire).<sup>8</sup> The GOT submitted its initial questionnaire response on October 28, 2015.<sup>9</sup>

In November, the Department issued supplemental questionnaires to the GOT, MMZ and Ozdemir.<sup>10</sup> Responses to these questionnaires were received between November 27 and 30, 2015.<sup>11</sup>

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<sup>4</sup> Id., 80 FR at 49209. As noted in the Initiation Notice, though the scope of the investigation also references HTSUS number 7306.61.3000, we did not rely on that HTSUS number for purposes of respondent selection because it includes non-subject merchandise. Id. at 49209 n.29.

<sup>5</sup> See Letter from Irene Darzenta Tzafolias, Program Manager, AD/CVD Operations, Office II, to All Interested Parties (August 20, 2015).

<sup>6</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Respondent Selection for the Countervailing Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey” (September 8, 2015) (Respondent Selection Memorandum).

<sup>7</sup> See Letter from Irene Darzenta Tzafolias, Program Manager, AD/CVD Operations, Office II, “Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Countervailing Duty Questionnaire” (September 9, 2015) (Initial CVD Questionnaire).

<sup>8</sup> See MMZ Affiliated Company Response (September 21, 2015) (MACR), and Initial CVD Questionnaire Response (October 30, 2015) (MIQR), and Ozdemir Affiliated Company Response (September 22, 2015) (OACR), and Initial CVD Questionnaire Response (October 30, 2015) (OIQR).

<sup>9</sup> See GOT Initial CVD Questionnaire Response (October 28, 2015) (GIQR).

<sup>10</sup> See Letter from Irene Darzenta Tzafolias, Program Manager, AD/CVD Operations, Office II, to the GOT, “Countervailing Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey” (November 12, 2015), Letter from Irene Darzenta Tzafolias, Program Manager, AD/CVD Operations, Office II, to MMZ, “Countervailing Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey” (November 18, 2015), and Letter from Irene Darzenta Tzafolias, Program Manager, AD/CVD Operations, Office II, to Ozdemir, “Countervailing Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey” (November 18, 2015).

<sup>11</sup> See GOT Supplemental Questionnaire Response (November 27, 2015) (GSQR), MMZ Supplemental Questionnaire Response (November 30, 2015) (MSQR), and Ozdemir Supplemental Questionnaire Response (November 30, 2015) (OSQR).

On October 7, 2015, based on a request from the petitioners, the Department postponed the deadline for this preliminary determination until December 18, 2015.<sup>12</sup>

On November 23, 2015, the petitioners filed a request that the Department align the final determination of this CVD investigation with the companion antidumping (AD) investigation of HWR pipes and tubes from Turkey.<sup>13</sup>

#### B. Period of Investigation

The POI is January 1, 2014, through December 31, 2014.

### III. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations, and as noted in the Initiation Notice, we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the Initiation Notice.<sup>14</sup> We did not receive any comments concerning the scope of this investigation.

### IV. SCOPE OF THE INVESTIGATION

The products covered by this investigation are certain heavy walled rectangular welded steel pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. The merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A-500, grade B specifications, or comparable domestic or foreign specifications.

Included products are those in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.0 percent of nickel, or
- 0.30 percent of tungsten, or

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<sup>12</sup> See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Postponement of Preliminary Determination in the Countervailing Duty Investigation, 80 FR 62023 (October 15, 2015); see also Letter from the petitioners, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey: Request to Extend Deadline for Preliminary Countervailing Duty Determination" (September 30, 2015).

<sup>13</sup> See Letter from the petitioners, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey: Request for Alignment" (November 23, 2015) (Request for Alignment).

<sup>14</sup> See Antidumping Duties: Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997); see also Initiation Notice.

- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

The subject merchandise is currently provided for in item 7306.61.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under HTSUS 7306.61.3000. While the HTSUS subheadings and ASTM specification are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

## V. ALIGNMENT

The companion AD investigation to this CVD investigation has the same scope with regard to the merchandise covered. On November 23, 2015, the petitioners submitted a letter, in accordance with section 705(a)(1) of the Act, requesting alignment of the final CVD determination with the final determination in the companion AD investigation.<sup>15</sup> Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), we are aligning the final CVD determination with the final determination in the companion AD investigation of HWR pipes and tubes from Turkey. The final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than May 3, 2016, unless postponed.<sup>16</sup>

## VI. RESPONDENT SELECTION

Section 777A(e)(1) of the Act directs the Department to determine an individual countervailing subsidy rate for each known exporter or producer of the subject merchandise. The Department, however, may limit its examination to a reasonable number of exporters or producers under section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2), if it determines that it is not practicable to determine individual countervailable subsidy rates because of the large number of exporters or producers involved in the investigation.

After careful consideration, as noted above, on September 8, 2015, the Department determined that it was not practicable to examine more than two respondents in this investigation.<sup>17</sup> Based on the CBP data, the Department selected the two publicly identifiable producers/exporters with the largest volume of subject imports as mandatory respondents, *i.e.*, MMZ and Ozdemir.<sup>18</sup>

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<sup>15</sup> See Request for Alignment.

<sup>16</sup> See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Mexico, and the Republic of Turkey: Postponement of Preliminary Determinations of Antidumping Duty Investigations, 80 FR 76269 (December 8, 2015).

<sup>17</sup> See Respondent Selection Memorandum.

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

## VII. INJURY TEST

Because Turkey is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a U.S. industry. On September 4, 2015, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of HWR pipes and tubes from Korea, Mexico, and Turkey.<sup>19</sup>

## VIII. SUBSIDIES VALUATION

### A. Allocation Period

The Department normally allocates the benefits from non-recurring subsidies over the average useful life (AUL) of renewable physical assets used in the production of subject merchandise.<sup>20</sup> The Department finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s 1977 Class Life Asset Depreciation Range System, as revised.<sup>21</sup> The Department notified the respondents of the 15-year AUL in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period.

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

### B. Attribution of Subsidies

The Department’s regulations at 19 CFR 351.525(b)(6)(i) state 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) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

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 regulation states that

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<sup>19</sup> See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Korea, Mexico, and Turkey: Inv. Nos. 701-TA-539 and 731-TA-1280-1282 (Preliminary) (September 2015); and Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Korea, Mexico, and Turkey: Determinations, 80 FR 54802 (September 11, 2015).

<sup>20</sup> See 19 CFR 351.524(b).

<sup>21</sup> See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>22</sup>

### MMZ

MMZ reported that it is a privately held company with three shareholders, and that it had no affiliated companies during the POI.<sup>23</sup> Accordingly, MMZ responded to the Initial CVD Questionnaire only with regard to itself. Pursuant to 19 CFR 351.525(b)(6)(i), we attributed subsidies received by MMZ to the sales of MMZ.

### Ozdemir

Ozdemir reported that it has no parent companies or subsidiaries, and that it had no cross-owned affiliates during the POI.<sup>24</sup> Accordingly, Ozdemir responded to the Initial CVD Questionnaire only with regard to itself. Pursuant to 19 CFR 351.525(b)(6)(i), we attributed subsidies received by Ozdemir to the sales of Ozdemir.

## C. Denominators

In accordance with 19 CFR 351.525(b), when selecting an appropriate denominator for use in calculating the ad valorem subsidy rate, the Department considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator. Similarly, where the program has been found to be countervailable as an export subsidy, we used the recipient's total export sales as the denominator. In the sections below, we describe the denominators we used to calculate the countervailable subsidy rates for the various subsidy programs.

## D. Benchmark Interest Rates

We are investigating export loans and non-recurring, allocable subsidies that the respondents received.<sup>25</sup> In the section below, we discuss the derivation of the benchmarks and discount rates for the POI and previous years.

### Short-Term Benchmarks

To determine whether government-provided loans under investigation conferred a benefit, the Department uses, where possible, company-specific interest rates for comparable commercial

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<sup>22</sup> See *Fabrique de Fer de Charleroi SA v. United States*, 66 F. Supp. 2d 593, 603 (CIT 2001).

<sup>23</sup> See MACR, at 4; see also MIQR, at 1 and 4.

<sup>24</sup> See OACR, at 1-4.

<sup>25</sup> See 19 CFR 351.524(b)(1).

loans.<sup>26</sup> When loans are denominated in a foreign currency, 19 CFR 351.505(a)(2)(i) directs us to use a benchmark denominated in the same foreign currency as the loan. Ozdemir submitted weighted-average interest rates, along with the underlying data, that it paid on comparable short-term commercial loans.<sup>27</sup> Consistent with 19 CFR 351.505(a)(2)(ii), we are preliminarily using the interest rates that Ozdemir submitted on comparable short-term loans as the benchmark.

### Long-Term Benchmark

As discussed above, to determine whether government-provided loans under investigation conferred a benefit, the Department uses, where possible, company-specific interest rates for comparable commercial loans.<sup>28</sup> Where such benchmark rates are unavailable, consistent with 19 CFR 351.505(a)(3)(ii), we use lending rate data from the International Monetary Fund's International Financial Statistics as our national average benchmark.<sup>29</sup>

### Discount Rates

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

## **IX. ANALYSIS OF PROGRAMS**

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

### A. Programs Preliminarily Determined To Be Countervailable

#### 1. Provision of Hot-Rolled Steel (HRS) for Less than Adequate Remuneration (LTAR)

We initiated an investigation into whether Ereğli Demir ve Çelik Fabrikaları T.A.S. (Erdemir) and Iskenderun Iron & Steel Works Co. (Isdemir) provided respondents with HRS for LTAR.<sup>30</sup> MMZ reported purchasing HRS from Erdemir during the POI, while Ozdemir reported purchasing HRS from both Erdemir and Isdemir.<sup>31</sup> In the GOT's initial questionnaire response,

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<sup>26</sup> See 19 CFR 351.505(a)(2)(ii).

<sup>27</sup> See OIQR, at Exhibit 12(b).

<sup>28</sup> See 19 CFR 351.505(a)(2)(ii).

<sup>29</sup> See Circular Welded Carbon Steel Pipes and Tubes From Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2011, 78 FR 64916 (October 30, 2013), and accompanying Issues and Decision Memorandum (IDM) at "Benchmarks and Interest Rates."

<sup>30</sup> See Initiation Checklist, at 7.

<sup>31</sup> See Letter from MMZ, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Public Treatment of Raw Material Supplier Name" (December 3, 2015); OIQR, at 10; and Letter from Ozdemir, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey; Supplemental information in response to phone call" (December 3, 2015).

the GOT provided information on Erdemir, Isdemir, and Ordu Yardımlaşma Kurumu (OYAK), the Turkish military pension fund that is the majority shareholder of Erdemir and Isdemir.<sup>32</sup>

In its initial questionnaire response, the GOT responded to the Input Producer Appendix for Erdemir and Isdemir.<sup>33</sup> In addition, we asked the GOT to submit certain documents relevant to the Turkish flat steel industry.<sup>34</sup> The GOT claimed it could not submit these documents under its confidentiality agreements with the European Union.<sup>35</sup> The GOT, however, previously provided limited public summaries of the contents of these documents.<sup>36</sup>

According to the GOT's response, Erdemir owns 95 percent of Isdemir.<sup>37</sup> Further, OYAK, the Turkish military pension fund, holds 49 percent of the outstanding shares of Erdemir through a wholly-owned holding company, Ataer Holding A.S.<sup>38</sup> The law establishing OYAK in 1961 states that the GOT created OYAK as "an institution related to the Ministry of National Defense."<sup>39</sup> Information in the GOT's responses, the Petition, and other submissions on the record shows extensive GOT 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>40</sup> The Representative Assembly, in turn, elects 20 of the 40 members of OYAK's General Assembly.<sup>41</sup> Of the General Assembly's other 20 members, 17 are by statute government officials (e.g., Ministers of Finance and Defense).<sup>42</sup> Members of the General Assembly elect the eight-person Board of Directors.<sup>43</sup> Also, because OYAK's property has by law the "same rights and privileges as 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>44</sup>

Record evidence shows that the government'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>45</sup>

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<sup>32</sup> See GIQR, at 18.

<sup>33</sup> Id., at Exhibit 8.

<sup>34</sup> Specifically, we requested that the GOT provide the National Restructuring Plan for the Turkish Steel Industry (National Restructuring Plan), including any annexes and revisions. See Letter from the Department to the GOT, "Countervailing Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey" (November 12, 2015).

<sup>35</sup> See GSQR, at 4.

<sup>36</sup> See Memorandum to the File, "Countervailing Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Additional Information," dated concurrently with this memorandum (Additional Information Memorandum), at Attachment 1.

<sup>37</sup> See GIQR, at Exhibit 8.

<sup>38</sup> The GOT sold its 49.93 percent stake in Erdemir to OYAK in 2006. See GIQR, at 21, and Exhibit 8; see also Initiation Checklist at 7-8.

<sup>39</sup> See GIQR, at Exhibits 8 and 8-G.

<sup>40</sup> See GIQR, at Exhibit 8-G.

<sup>41</sup> Id.

<sup>42</sup> Id.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> See GIQR, at Exhibit 8-C (Erdemir 2013 Annual Report at pages 18 and 35).



Moreover, 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>46</sup> Further, Erdemir's 2013 Annual Report shows that OYAK and the TPA both have members on Erdemir's Board of Directors.<sup>47</sup>

The record evidence cited above shows that the GOT exercises meaningful control over Erdemir and Isdemir through its control of OYAK. Therefore, consistent with the final CVD determinations in OCTG from Turkey and WLP from Turkey,<sup>48</sup> we determine that Erdemir and Isdemir are public bodies, and hence "authorities," pursuant to section 771(5)(B) of the Act. Consequently, we find that the HRS Erdemir and Isdemir supplied to the respondents 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 nine industries that purchased HRS in Turkey during the POI: steel pipe and profile, rerolling producers, machinery, construction, domestic appliances, automotive, shipbuilding, agricultural equipment, and pressure purposes.<sup>49</sup> Therefore, consistent with past determinations, we find that the provision of HRS is specific pursuant to section 771(5A)(D)(iii)(I) of the Act because the number of industries or enterprises using the program is limited.<sup>50</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 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>51</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

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<sup>46</sup> See GIQR, at Exhibits 8 and 8-A.

<sup>47</sup> See GIQR, at Exhibit 8-C.

<sup>48</sup> See Certain Oil Country Tubular Goods from the Republic of Turkey: Final Determination in the Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination, 79 FR 41964 (July 18, 2014) (OCTG from Turkey), and accompanying IDM at Comment 1, and Welded Line Pipe From the Republic of Turkey: Final Affirmative Countervailing Duty Determination, 80 FR 61371 (October 13, 2015) (WLP from Turkey), and accompanying IDM.

<sup>49</sup> See GIQR, at 17; see also GSQR, at 6.

<sup>50</sup> See, e.g., OCTG from Turkey, and accompanying IDM at "Provision of HRS for LTAR"; and WLP from Turkey, and accompanying IDM at "Provision of HRS for LTAR."

<sup>51</sup> See, e.g., Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products From Canada, 67 FR 15545 (April 2, 2002) (Softwood Lumber from Canada), and accompanying IDM at "Market-Based Benchmark."

Erdemir and Isdemir sold HRS to MMZ and Ozdemir 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>52</sup>

Consistent with the Department's final CVD determination in WLP from Turkey, we preliminarily determine that the record evidence in this investigation does not support a finding that the Turkish HRS market is so distorted that it cannot serve as a source for an appropriate benchmark.<sup>53</sup> On that basis, we preliminarily determine that the respondents' reported prices for domestic HRS (other than from Erdemir and Isdemir) and imported HRS can serve as tier one benchmarks. Accordingly, pursuant to 19 CFR 351.511(a)(2)(i), we used the respondents' actual domestic and import prices for HRS to calculate the benefit from their respective purchases of HRS from Erdemir and Isdemir, where applicable, during the POI.

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. Because the import and domestic prices paid by the respondents are reported exclusive of the delivery charges and value added tax (VAT) paid, we included this information for benchmarking purposes where appropriate.

We then compared the monthly benchmark prices to the respondent's actual purchase prices for HRS, including taxes and delivery charges, as appropriate. For instances in which either respondent paid to Erdemir or 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.<sup>54</sup> Under this methodology, we find that MMZ and Ozdemir received a benefit to the extent that the prices they paid for HRS produced by Erdemir and/or Isdemir, respectively, were for LTAR.<sup>55</sup>

To calculate the net subsidy rates attributable to MMZ and Ozdemir, we divided the benefits received by the respective company's POI sales value, as described in the "Subsidies Valuation Information – Attribution of Subsidies" section above.

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<sup>52</sup> See Countervailing Duties; Final Rule, 63 FR 65347, 65377 (November 25, 1998).

<sup>53</sup> According to the GOT, Erdemir's and Isdemir's collective share of the domestic supply of HRS during 2012, 2013, and 2014 accounted for 43.47 percent, 40.81 percent, and 44.76 percent, respectively, of the total domestic supply of HRS (inclusive of imports and internally-consumed production) in Turkey. See GIQR, at 14-15; see also WLP from Turkey, and accompanying IDM at "Provision of HRS for LTAR."

<sup>54</sup> See Memorandum to Irene Darzenta Tzafolias, Program Manager, AD/CVD Operations, Office II, "Preliminary Determination Calculations for MMZ Onur Boru Profil uretim San Ve Tic. A.S.," dated concurrently with this memorandum (MMZ Preliminary Calculation Memorandum); and Memorandum to Irene Darzenta Tzafolias, Program Manager, AD/CVD Operations, Office II, "Preliminary Determination Calculations for Ozdemir Boru Profil San ve Tic. Ltd Sti.," dated concurrently with this memorandum (Ozdemir Preliminary Calculation Memorandum).

<sup>55</sup> See sections 771(5)(D)(iv) and 771(5)(E)(iv) of the Act.

On this basis, we find that MMZ received a countervailable subsidy of 7.57 percent ad valorem, and Ozdemir received a countervailable subsidy of 0.34 percent ad valorem.<sup>56</sup>

## 2. Provision of Land for LTAR

According to the GOT, support is provided in the form of allocation of land to firms operating in provinces as set forth in Article 2 of Law No. 5084 (February 6, 2004), including (previously) non-allocated parcels in Organized Industrial Zones (OIZs) in provinces subject to clause (b) of Article 2.<sup>57</sup> The GOT further states that this program is used to promote investment and to increase employment in selected provinces where the development level is relatively low.<sup>58</sup>

The GOT reported that Ozdemir used this program before the POI.<sup>59</sup> Ozdemir states that it did not receive free land pursuant to Law 5084.<sup>60</sup> Instead, Ozdemir asserts that it purchased land from the Zonguldak OIZ in May 2008.<sup>61</sup> According to the GOT, the program is administered by the Ministry of Science, Industry and Technology, Directorate General of Industrial Zones, a national government authority, and implemented in each industrial zone by the respective OIZ, in this case the Zonguldak OIZ.<sup>62</sup>

We find for purposes of this preliminary determination that the Zonguldak OIZ land sold to Ozdemir in 2008 constitutes a financial contribution within the meaning of section 771(5)(E)(iv) of the Act, and it is specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in provinces designated as priority regions for development.<sup>63</sup> We further preliminarily determine that the program confers a benefit to the extent that the land in question was sold to Ozdemir for LTAR as described under section 771(5)(E)(iv) of the Act. The Department's findings in this regard are consistent with its prior determinations.<sup>64</sup>

For this preliminary determination, we relied upon the land benchmark data used in WLP from Turkey. Specifically, we used as our benchmark publicly available information concerning industrial land prices in Turkey for purposes of calculating a comparable commercial benchmark price for land available in Turkey.<sup>65</sup> We preliminarily find that these land prices serve as comparable commercial benchmarks under 19 CFR 351.511(a)(2)(i).

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<sup>56</sup> See MMZ Preliminary Calculation Memorandum and Ozdemir Preliminary Calculation Memorandum.

<sup>57</sup> See GIQR, at 25-31, and Exhibits 9 and 10. In particular, Exhibit 10 shows Zonguldak listed among the provinces in which land allocation is provided, as stipulated under clause (b) of Article 2 of Law No. 5084.

<sup>58</sup> *Id.*, at 25 and Exhibit 9.

<sup>59</sup> *Id.*, at 27.

<sup>60</sup> See OIQR, at 16; see also OSQR, at 6.

<sup>61</sup> See OIQR, at 13-16; see also OSQR, at 6.

<sup>62</sup> See GIQR, at 26; see also GSQR, at 9.

<sup>63</sup> See GIQR, at 26, and Exhibits 9 and 10. In this case, the land obtained by Ozdemir was a (previously) non-allocated parcel in an OIZ (Zonguldak) located in a province subject to clause (b) of Article 2 of Law No. 5084.

<sup>64</sup> See WLP from Turkey, and accompanying IDM at "Provision of Land for LTAR"; see also OCTG from Turkey, and accompanying IDM at "Provision of Land for LTAR."

<sup>65</sup> See Additional Information Memorandum, at Attachments 2-3; see also Ozdemir Preliminary Calculation Memorandum.

To determine whether Ozdemir's acquisition of land from the OIZ entity constitutes the provision of land for LTAR, we multiplied the area of land Ozdemir purchased from the GOT in 2008 by the unit benchmark land price discussed above. Next, we divided the benefit amount received in 2008 by Ozdemir's total sales for 2008 and found that the resulting ratio exceeded 0.5 percent. Therefore, we allocated a portion of the benefit to the POI using the Department's standard grant allocation formula.<sup>66</sup> We lack either: 1) company-specific information concerning interest rates charged to Ozdemir on long-term, Turkish lira-denominated debt which originated in 2008; or 2) information from the GOT concerning long-term interest rates in Turkey for 2008. Therefore, in accordance with 19 CFR 351.505(a)(3)(ii), we used the national average discount rate in Turkey for 2008 as the long-term discount rate utilized in the grant allocation formula. See the "Benchmark Interest Rates" section above for a description of the source of this rate.

To calculate the net subsidy rate, we divided the amount of the subsidy allocated to the POI by Ozdemir's POI sales value. On this basis, we preliminarily determine Ozdemir's net subsidy rate under this program to be 0.55 percent ad valorem.<sup>67</sup>

### 3. Deductions from Taxable Income for Export Revenue

Addendum 4108 of Article 40 of the Income Tax Law Number 193, effective June 2, 1995, allows taxpayers engaged in export activities to claim a lump-sum deduction from gross income resulting from exports, construction, maintenance, assembly, and transportation activities abroad in an amount not to exceed 0.5 percent of the taxpayer's foreign-exchange earnings from such activities.<sup>68</sup> This deduction is to cover the expenditures without documentation incurred from exports, construction, maintenance, assembly, and transportation activities abroad.<sup>69</sup> The deduction for export earnings may either be taken as a lump sum on a company's annual income tax return or be shown within the company's marketing, selling and distribution expense account of the income statement.<sup>70</sup> Under this program, expenses (e.g., marketing, selling, and distribution expenses) are deductible expenditures for tax purposes.<sup>71</sup> The Ministry of Finance is responsible for administering the program.<sup>72</sup>

Consistent with prior determinations, we preliminarily find that this tax deduction is a countervailable subsidy.<sup>73</sup> The income tax deduction provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, because it represents revenue forgone by the GOT. The deduction provides a benefit in the amount of the tax savings to the company pursuant to section 771(5)(E) of the Act. It is also specific under section 771(5A)(B) of the Act because its

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<sup>66</sup> See 19 CFR 351.524(d).

<sup>67</sup> See Ozdemir Preliminary Calculation Memorandum.

<sup>68</sup> See GIQR, at 34.

<sup>69</sup> Id.

<sup>70</sup> See GIQR, at Exhibit 12.

<sup>71</sup> See GIQR, at 34.

<sup>72</sup> See GIQR, at 34.

<sup>73</sup> See, e.g., Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review, 77 FR 46713 (August 16, 2012), and accompanying IDM at "Deduction from Taxable Income for Export Revenue"; OCTG from Turkey, and accompanying IDM at "Deduction from Taxable Income for Export Revenue;" and WLP from Turkey, and accompanying IDM at "Deduction from Taxable Income for Export Revenue."

receipt is contingent upon export earnings.<sup>74</sup> During the POI, Ozdemir reported receiving the deduction for export earnings with respect to its 2013 tax return filed during the POI.<sup>75</sup>

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

To calculate the countervailable subsidy rate for Ozdemir, we divided its tax savings by its total export sales value for the POI. On this basis, we preliminarily determine the net countervailable subsidy for this program to be 0.32 percent ad valorem for Ozdemir.

#### 4. Export Financing

Ozdemir reported receiving benefits under the Rediscount Program<sup>76</sup> during the POI.

##### Rediscount Program

The Rediscount Program was established in 1999 and is administered by the Export Credit Bank of Turkey (Turk Eximbank).<sup>77</sup> The Rediscount Program was designed to provide financial support to Turkish exporters, manufacturer-exporters, and manufacturers supplying exporters.<sup>78</sup> This program is contingent upon an export commitment.<sup>79</sup> Under the Rediscount Program, there is a minimum loan amount of 200,000 U.S. dollars per company.<sup>80</sup> Loan payments shall be made within the credit period or at maturity to the Turk Eximbank.<sup>81</sup> Companies can repay either in the foreign currency in which the loan was obtained or in a Turkish-lira equivalent of the principal and interest based on exchange rates determined by the Turk Eximbank.<sup>82</sup> Ozdemir reported that it used one rediscount loan from Turk Eximbank under this program during the POI.<sup>83</sup>

We preliminarily find that this loan confers a countervailable subsidy within the meaning of section 771(5) of the Act. This loan constitutes a financial contribution in the form of a direct transfer of funds from the GOT under 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1) equal to the difference between the amount of interest paid by the company for this loan during the POI and the amount the company would have paid on a comparable commercial loan. The program is also specific in accordance with

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<sup>74</sup> See GIQR, at 37.

<sup>75</sup> See OIQR, at 18 and Exhibit 2.

<sup>76</sup> In the Initiation Checklist, we referred to this program as the “Short-Term Pre-Shipment Rediscount Program.” See Initiation Checklist, at 13. According to the GOT, however, this was the previous name of the program now called “Rediscount Program.” See GIQR, at 43.

<sup>77</sup> See GIQR, at 43-44.

<sup>78</sup> Id.

<sup>79</sup> Id.

<sup>80</sup> See GIQR, at Exhibit 13.

<sup>81</sup> See GIQR, at 47 and Exhibit 13.

<sup>82</sup> Id.

<sup>83</sup> See OIQR, at 22; see also GIQR, at 45.

section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance. The Department's finding in this regard is consistent with its practice.<sup>84</sup>

In calculating the benefit pursuant to section 771(6)(A) of the Act and 19 CFR 351.505(a)(1), we applied a discounted benchmark interest rate because a borrower pays the interest due upfront when the loan is received. In accordance with section 771(6)(A) of the Act, we subtracted the fees that Ozdemir paid for guarantees required for receipt of the loans from the benefit calculation.

To calculate the countervailable subsidy rate, we divided Ozdemir's adjusted benefit amount by its total export sales value for the POI. On this basis, we preliminarily determine that the net countervailable subsidy rate for this program to be 0.14 percent ad valorem.

##### 5. Investment Encouragement Program (IEP) Customs Duty and VAT Exemptions

The GOT provides certificates through the IEP that qualified recipients use to import items duty free.<sup>85</sup> The Council of Ministers' Decision No. 2012/3305, which has been in force since June 2012, provides producers investment encouragement certificates to receive customs duty and VAT exemptions on equipment and machinery imported for use.<sup>86</sup> According to the GOT, this program is administered by the Ministry of Economy and the Ministry of Customs and Trade.<sup>87</sup> The GOT reported that MMZ and Ozdemir had investment incentive certificates under this program which were effective during the POI.<sup>88</sup> MMZ reported receiving exemptions under this program in 2012, 2013, and 2014 for machinery.<sup>89</sup> Ozdemir reported receiving exemptions under the program in 2009, 2010, and 2011 for equipment.<sup>90</sup>

Consistent with previous determinations,<sup>91</sup> we preliminarily find that benefits received under exemption licenses granted after January 1, 2009, constitute a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act in the amount of the tax savings. We further find that the respondents benefitted under this program pursuant to section 771(5)(E) of the Act in the amount of the tax savings. Additionally, consistent with previous determinations, we preliminarily find that this program is limited to firms making investments in excess of 50 million Turkish lira.<sup>92</sup> Accordingly, we preliminarily find that this program is specific under section 771(5A)(D)(i) of the Act.

To calculate the benefit, we derived the amount of exemptions that MMZ and Ozdemir would have paid absent the program. We first analyzed whether these exemptions on imports of capital

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<sup>84</sup> See, e.g., OCTG from Turkey, and accompanying IDM at 11-12; and WLP from Turkey, and accompanying IDM at 22-23.

<sup>85</sup> See GIQR, at 66, and Exhibit 18.

<sup>86</sup> See GIQR, at 62-66, and Exhibit 18.

<sup>87</sup> See GIQR, at 64-65.

<sup>88</sup> See GIQR, at 63.

<sup>89</sup> See MIQR, at 19-20, and Exhibits 9, 11, and 12.

<sup>90</sup> See OIQR, at 27-28, and Exhibits 14 and 15.

<sup>91</sup> See, e.g., WLP from Turkey, and accompanying IDM at "Comment 7: Specificity and Countervailability of the IEP: Customs Duty and VAT Exemption."

<sup>92</sup> Id.

equipment during the applicable year of import were allocable as non-recurring subsidies.<sup>93</sup> MMZ's exemptions during the applicable years of import (i.e., 2012, 2013, and 2014) were less than 0.5 percent of its sales in those years. Therefore, we expensed the benefit to the year of receipt.<sup>94</sup> To calculate the total net subsidy amount for this program for MMZ, we divided the portion of MMZ's benefit expensed in the POI by MMZ's total POI sales. On this basis, we determine that MMZ received a countervailable subsidy rate of 0.02 percent ad valorem under this program.<sup>95</sup>

As Ozdemir's exemptions during the applicable years of import (i.e., 2009, 2010, and 2011) were less than 0.5 percent of its sales in those years, we expensed the benefit to the year of receipt.<sup>96</sup>

## 6. Law 6486: Social Security Premium Incentive

This program was not alleged by the petitioners, but MMZ reported receiving benefits under this program in its initial questionnaire response.<sup>97</sup> The GOT also provided a response with respect to this program.<sup>98</sup>

According to the GOT, this program was established in May 2013 under Law 6486 as a provision added to Law 5510; under Turkish law, the program took effect on January 1, 2013.<sup>99</sup> The Social Security Institution of the GOT administers this program.<sup>100</sup> The purpose of this program, as set forth in Article 1 of the Annex to Decree No. 2013/4966, is to support production and employment levels in certain provinces by reducing the cost of the insurance premiums paid by employers to thereby reduce unregistered employment.<sup>101</sup> Companies employing at least 10 workers and operating in the provinces determined by the Council of Ministers are eligible for this program.<sup>102</sup> Employers can benefit from this program by not paying the employers' share of long-term social security insurance premiums.<sup>103</sup>

MMZ reported that it received benefits under this program during the POI because of its location in Düzce, which is an eligible province.<sup>104</sup>

Consistent with WLP from Turkey,<sup>105</sup> we preliminarily find that MMZ's exemption from paying its share of insurance premiums under this program during the POI constitutes a financial

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<sup>93</sup> See 19 CFR 351.524(c).

<sup>94</sup> See 19 CFR 351.524(b)(2); see also MMZ Preliminary Calculation Memorandum.

<sup>95</sup> See MMZ Preliminary Calculation Memorandum.

<sup>96</sup> See 19 CFR 351.524(b)(2); see also Ozdemir Preliminary Calculation Memorandum.

<sup>97</sup> See MIQR, at 27-28.

<sup>98</sup> See GIQR, at 84-90.

<sup>99</sup> See GIQR, at 84-85.

<sup>100</sup> See GIQR, at 85.

<sup>101</sup> See GIQR, at 84-85; see also GIQR, at Exhibit 20.

<sup>102</sup> See GIQR, at 84.

<sup>103</sup> According to the GOT, the Treasury will cover six percent of the employer's social security premiums if the employer's operations are in one of the provinces selected by the Council of Ministers, pursuant to Law 6486. See GIQR, at 86.

<sup>104</sup> See MIQR, at 27-30, and MSQR, at 13-14; see also GIQR, at 85-86.

<sup>105</sup> See WLP from Turkey, and accompanying IDM at "Law 6486: Social Security Premium Incentive."

contribution in the form of revenue forgone to the GOT within the meaning of section 771(5)(D)(ii) of the Act. We further determine that MMZ benefitted under this program pursuant to section 771(5)(E) of the Act in the amount of the insurance premiums that MMZ did not pay. We also preliminarily find that this program is regionally-specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in the eligible provinces.

To calculate the benefit MMZ received under the program, we summed the total amount of insurance premium savings reported by MMZ during the POI. To calculate the net subsidy rate, we divided the benefit by MMZ's total sales value during the POI. On this basis, we preliminarily determine MMZ's net subsidy rate under this program to be 0.10 percent ad valorem.<sup>106</sup>

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

1. Provision of Electricity for LTAR
2. Provision of Lignite for LTAR
3. Tax Incentives for Research & Development (R&D) Activities
  - a. Tax Benefits for R&D Activities
  - b. Product Development R&D Support-UFT
4. Pre-Export Credit Program
5. Export Insurance Provided by Turk Eximbank<sup>107</sup>
6. Large Scale Investment Incentives
  - a. VAT and Customs Duty Exemptions
  - b. Tax Reductions
  - c. Income Tax Withholding
  - d. Social Security and Interest Support
  - e. Land Allocation
7. Strategic Investment Incentives
  - a. VAT and Customs Duty Exemptions
  - b. Tax Reductions
  - c. Income Tax Withholding
  - d. Social Security and Interest Support
  - e. Land Allocation
8. Law 5084: Withholding of Income Tax on Wages and Salaries
9. Exemption from Property Tax
10. Law 5084: Incentive for Employer's Share in Insurance Premiums

#### **X. ITC NOTIFICATION**

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business

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<sup>106</sup> See MMZ Preliminary Calculation Memorandum.

<sup>107</sup> Although MMZ had a short-term export credit insurance policy with the Turk Eximbank during the POI, both the GOT and MMZ reported that MMZ did not receive any payment under this program during the POI. On this basis, we preliminarily find that MMZ did not use this program during the POI. See GIQR, at 54, and MIQR, at 17.



proprietary information pertaining to this case, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

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

## **XI. DISCLOSURE AND PUBLIC COMMENT**

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.<sup>108</sup> Case briefs may be submitted to Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the final verification report is issued in this proceeding. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.<sup>109</sup>

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>110</sup> This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must do so in writing within 30 days after the publication of this preliminary determination in the Federal Register.<sup>111</sup> Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.<sup>112</sup> Electronically-filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time on the due dates established above.<sup>113</sup>

## **XII. VERIFICATION**

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

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<sup>108</sup> See 19 CFR 351.224(b).

<sup>109</sup> See 19 CFR 351.309.

<sup>110</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>111</sup> See 19 CFR 351.310(c).

<sup>112</sup> See 19 CFR 351.303(b)(2)(i).

<sup>113</sup> See 19 CFR 351.303(b)(1).

**XIII. CONCLUSION**

We recommend that you approve the preliminary findings described above.

✓  
Agree

\_\_\_\_\_  
Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

18 DECEMBER 2015  
(Date)