



C-489-819

Administrative Review

POR: 9/15/2014 - 12/31/2014

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June 6, 2017

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

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

**SUBJECT:** Decision Memorandum for Final Results of Countervailing Duty  
2014 Administrative Review of Steel Concrete Reinforcing Bar  
from the Republic of Turkey

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## **I. Summary**

The Department of Commerce (the Department) has completed its administrative review of the countervailing duty (CVD) order on steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey) for the period September 15, 2014, through December 31, 2014. The mandatory respondents are Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas) and Kaptan Demir Celik Endustrisi ve Ticaret A.S. (Kaptan Demir) and Kaptan Metal Dis Ticaret ve Nakliyat A.S. (collectively, the Kaptan Demir Companies). After analyzing the issues raised by the interested parties in their briefs, we determine that the respondent companies each received a *de minimis* net countervailable subsidy rate during the period of review (POR).

## **II. Background**

On December 9, 2016, the Department published the *Preliminary Results* for this review.<sup>1</sup> We preliminarily found that additional information was needed for the “Purchase of Electricity for More Than Adequate Remuneration (MTAR) – Sales to Public Buyers” program. We issued a post-preliminary analysis memorandum for the program on March 6, 2017.<sup>2</sup>

On March 13, 2017, the Department received a case brief from the petitioner<sup>3</sup> and a collective

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<sup>1</sup> See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review and Intent to Rescind the Review in Part; 2014*, 81 FR 89057 (December 9, 2016) (*Preliminary Results*), and accompanying Decision Memorandum (Preliminary Decision Memorandum).

<sup>2</sup> See Memorandum, “Post-Preliminary Analysis,” dated March 3, 2017 (Post-Prelim Analysis).

<sup>3</sup> The petitioner is the Rebar Trade Action Coalition (RTAC). Members of RTAC are Byer Steel Corporation, Commercial Metals Company, Gerdau Ameristeel US Inc., and Nucor Corporation.



respondent case brief from Icdas and the Kaptan Demir Companies.<sup>4</sup> On March 20, 2017, the Department received a rebuttal brief from the petitioner and a collective respondent rebuttal brief from Icdas and the Kaptan Demir Companies.<sup>5</sup> On April 7, 2017, the Department held a public hearing as requested by the petitioner.<sup>6</sup>

On January 30, 2017, the Department extended the deadline for the final results of this review by 30 days until May 8, 2017.<sup>7</sup> On April 28, 2017, the Department extended the deadline for the final results by an additional 30 days until June 7, 2017.<sup>8</sup>

### **III. List of Comments**

We analyzed the comments submitted by the interested parties in their case and rebuttal briefs in the “Analysis of Comments” section of this memorandum. Below is a complete list of the issues raised in this administrative review for which we received comments.

- Comment 1: Whether the Purchase of Electricity for MTAR Is Countervailable
- Comment 2: Whether the Department Should Countervail the Provision of Lignite for Less Than Adequate Remuneration (LTAR)
- Comment 3: Whether the Department Should Countervail the Provision of Natural Gas for LTAR
- Comment 4: Whether the Assistance to Offset Costs Related to Antidumping (AD)/CVD Investigations Is Countervailable
- Comment 5: Whether the Department Should Have Required a Response from Kaptan Demir’s Cross-Owned Power Producer

### **IV. Scope of the Order**

The merchandise subject to this order is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade. The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010.

The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0015, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6085, 7228.20.1000, and 7228.60.6000. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.*, mill mark, size, or grade) and without being subject to an elongation test. HTSUS numbers are

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<sup>4</sup> See Petitioner’s Case Brief, dated March 13, 2017 (Petitioner’s Case Brief); and Icdas and Kaptan Demir Companies’ Turkish Respondents’ Case Brief, dated March 13, 2017 (Respondents’ Case Brief).

<sup>5</sup> See Petitioner’s Rebuttal Brief, dated March 20, 2017 (Petitioner’s Rebuttal Brief); and Icdas and Kaptan Demir Companies’ Turkish Respondents’ Rebuttal Case Brief, dated March 20, 2017 (Respondents’ Rebuttal Brief).

<sup>6</sup> See Petitioner’s Request for Hearing, dated January 9, 2017; and Hearing Transcript, placed on the record by Neal R. Gross and Co., Inc. on April 14, 2017.

<sup>7</sup> See Memorandum, “Extension of Deadline for Final Results of Countervailing Duty Administrative Review,” dated January 30, 2017.

<sup>8</sup> See Memorandum, “Extension of Deadline for Final Results of Countervailing Duty Administrative Review,” dated April 28, 2017.

provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

## **V. Subsidies Valuation Information**

### **A. Allocation Period**

The Department made no changes to, and interested parties raised no issues in their case briefs regarding, the allocation period or the allocation methodology used in the *Preliminary Results*. For a description of the allocation period and the methodology used for these final results, *see* the *Preliminary Results*.<sup>9</sup>

### **B. Attribution**

In its case brief, the petitioner raised an issue regarding Kaptan Demir's cross-owned electric power generation company, Çebi Enerji Elektrik Üretimi A.Ş. (Cebi Enerji).<sup>10</sup> However, after considering those arguments, the Department made no changes to the attribution of subsidies.<sup>11</sup> For a description of the methodologies used for these final results, *see* the *Preliminary Results*.<sup>12</sup>

### **C. Denominators**

The Department made no changes to, and interested parties raised no issues in their case briefs regarding, the denominators we used to calculate the countervailable subsidy rates for the subsidy programs described below. For information on the denominators used in these final results, *see* the *Preliminary Results* and the final results calculation memoranda.<sup>13</sup>

### **D. Loan Benchmarks and Discount Rates**

The Department made no changes to, and interested parties raised no issues in their case briefs regarding, the benchmark interest rates used to calculate the benefit for the “Rediscount Program.” For information on the short-term interest rate benchmarks used in these final results, *see* the *Preliminary Results* and the final results calculation memoranda.<sup>14</sup>

## **VI. Analysis of Programs**

Except for the “Assistance to Offset Costs Related to AD/CVD Investigations” program, the Department made no changes to the *Preliminary Results* or Post-Prelim Analysis with regard to

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<sup>9</sup> *See* Preliminary Decision Memorandum at 5.

<sup>10</sup> *See* Comment 5.

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

<sup>12</sup> *See* Preliminary Decision Memorandum at 5-8.

<sup>13</sup> *Id.*, at 8; and Memorandum, “Final Results Calculations for Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.,” dated concurrently with this memorandum (Icdas Final Calculations); and Memorandum, “Final Results Calculations for Kaptan Demir Celik Endustrisive Ticaret A.S., Kaptan Metal Dis Ticaret Ve Nakliyat A.S., and Kaptan Is Makinalari Hurda Alim Satim Ltd. Sti.,” dated concurrently with this memorandum (Kaptan Demir Companies Final Calculations).

<sup>14</sup> *Id.*

the countervailability of the programs under review.

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

### **1. Rediscount Program**

No issues were raised by interested parties regarding this program. For the description, analysis, and calculation methodology for this program, see the *Preliminary Results*.<sup>15</sup> The final program rates for the respondents remain unchanged as follows:

Icdas: 0.00 percent *ad valorem*.<sup>16</sup>

Kaptan Demir Companies: 0.02 percent *ad valorem*.<sup>17</sup>

### **2. Assistance to Offset Costs Related to AD/CVD Investigations**

In the *Preliminary Results*, we preliminarily found this program to be not countervailable because there was no evidence of a direct monetary contribution from the Government of Turkey (GOT) to the financial accounts of the Turkish Steel Exporter's Association (TSEA).<sup>18</sup> Specifically, we preliminarily found that there was no financial contribution from the GOT to Icdas through the assistance that the company received from TSEA in 2014 to offset legal costs related to the Department's AD and CVD rebar investigations.<sup>19</sup> Both Icdas and the petitioner submitted comments regarding the countervailability of this program (*see* Comment 4). Based on the arguments presented, we decided that a re-examination of the evidence on the record for this program was warranted.

The Turkish Exporters' Assembly (TEA) was statutorily created in 2009 under Law No. 5910, which places all exporter associations under the jurisdiction of the TEA and stipulates that they must carry out activities to defend the interests of their members.<sup>20</sup> Moreover, under Article 4 of the law and Article 6 of the related regulation,<sup>21</sup> exporters are legally bound to join such associations, pay various specified contributions, and comply with the decisions of the association.<sup>22</sup> The TEA works in conjunction with the Ministry of Economy to approve, audit, and oversee industry-specific exporter associations, such as the TSEA of which Icdas is a

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<sup>15</sup> See Preliminary Decision Memorandum at 9.

<sup>16</sup> See Icdas Final Calculations.

<sup>17</sup> See Kaptan Demir Companies Final Calculations.

<sup>18</sup> See Preliminary Decision Memorandum at 10.

<sup>19</sup> *Id.* For information on the assistance reported by Icdas, *see* Icdas Companies' April 7, 2016 Response to Section III of the CVD Questionnaire (Icdas Primary Response) at 36; Icdas Companies' June 15, 2016 Response to Part VI of the First Supplemental CVD Questionnaire (Icdas Part VI Response) at 14-16; and Icdas Companies' September 8, 2016 Response to Second Supplemental Questionnaire (Icdas September 8, 2016 Supplemental Questionnaire Response (SQR)) at 9-10.

<sup>20</sup> See GOT's September 1, 2016 Second Supplemental Questionnaire Response of the Government of Turkey in 2014 CVD Administrative Review on Imports of Steel Concrete Reinforcing Bar from Turkey (GOT September 1, 2016 SQR) at Exhibit 2 (*Law on the Foundation and Duties of the Turkish Exporters Assembly and the Exporters' Associations* (Law No. 5910)).

<sup>21</sup> *Id.*, at Exhibit 3 (*Regulation on Establishment and Duties of Turkish Exporters Assembly and Exporters Associations*).

<sup>22</sup> *Id.*, at Exhibits 2 and 3.

member.<sup>23</sup> During the POR, the “Directive on Financial Support for the Attorney/Legal Consultancy Fees Paid by Companies as Part of Investigations of Trade Policy Measures and Practices of Generalized System of Preferences” (Financial Support Directive), under the authority of the Ministry of Economy’s Under-Secretariat of the Prime Ministry for Foreign Trade, directed exporters’ associations to provide financial assistance to members for legal fees incurred by members as part of foreign trade remedy proceedings.<sup>24</sup>

The record indicates that the GOT did not directly contribute to the financial assistance provided to Icdas, as the funds were disbursed from TSEA membership dues.<sup>25</sup> Under section 771(5)(B)(iii) of the Tariff Act of 1930, as amended (the Act), however, a financial contribution is provided by a government authority or, alternatively, when a government authority entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from the practices normally followed by governments. Within the framework of Law No. 5910, and by operation of the related regulation and the Financial Support Directive, the GOT delegated its authority to assist exporters *via* exporters’ associations to which directives were issued.<sup>26</sup> As such, the GOT entrusted or directed its authority to provide a financial contribution to exporters (*i.e.*, reimbursement for legal fees) to the TEA and, through the TEA, to the exporters’ associations, including the TSEA, using funds from statutorily mandated contributions from members.<sup>27</sup> Accordingly, the authority to provide a financial contribution to exporters in the form of a direct transfer of funds, which would normally be vested in the GOT, was entrusted or directed to the private exporters’ associations, including the TSEA, using funds from statutorily mandated contributions from its members.

Based on our re-examination of the evidence, we now find this program to be countervailable. For the reasons described above, the financial assistance provided under this program is a subsidy as described under section 771(5)(B)(iii) of the Act because, under the combined force of Law No. 5910, the related regulation and the Financial Support Directive, the GOT, through the TEA, entrusted or directed Turkish exporters’ associations to make financial contributions to their members. Specifically, by reimbursing their members for AD/CVD legal costs, the exporters’ associations are providing a financial contribution in the form of a grant under section 771(5)(D)(i) of the Act. Because this program is only available to exporters, we determine that it is specific within the meaning of section 771(5A)(B) of the Act. The benefit received is equal to the amount of the financial assistance in accordance with 19 CFR 351.504(a).

We find that this program provides a non-recurring benefit under 19 CFR 351.524(c). To calculate a rate for this program, we first applied the “0.5 percent test,” pursuant to 19 CFR

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<sup>23</sup> *Id.*, at Exhibit 3.

<sup>24</sup> *Id.*, at Exhibit 6.

<sup>25</sup> See GOT’s June 13, 2016 First Supplemental Questionnaire Response of the Government of Turkey in 2014 CVD Administrative Review on Imports of Steel Concrete Reinforcing Bar from Turkey (GOT June 13, 2016 SQR) at 51; GOT September 1, 2016 SQR at 6-7 and Exhibit 5; and GOT’s September 19, 2016 Third Supplemental Questionnaire Response of the Government of Turkey in 2014 CVD Administrative Review on Imports of Steel Concrete Reinforcing Bar from Turkey (GOT September 19, 2016 SQR) at 1-2.

<sup>26</sup> See GOT September 1, 2016 SQR at Exhibit 2 (Law No. 5910).

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

351.524(b)(2). Because the total value of the assistance provided was less than 0.5 percent of total export sales, we expensed the grant to the year of receipt (*i.e.*, the POR). To calculate the subsidy rate, we divided the grant amount by Icdas' total export sales for the POR. On this basis, we determine a net countervailable subsidy rate of 0.01 percent *ad valorem* for Icdas.

## **B. Programs Determined To Not Be Countervailable**

The petitioner and the respondents submitted comments in their case and rebuttal briefs regarding the following listed programs, which are addressed at Comment 1. The Department made no changes to its preliminary findings that the programs are not countervailable. For more information, see the *Preliminary Results*<sup>28</sup> and the Post-Preliminary Analysis.<sup>29</sup>

1. Purchase of Electricity for MTAR – Sales on the Grid
2. Purchase of Electricity for MTAR – Sales to Public Buyers

## **C. Program Determined To Not Be Countervailable For a Respondent**

The petitioner and the respondents submitted comments in their case and rebuttal briefs regarding the “Provision of Natural Gas for LTAR,” which are addressed at Comment 3. The Department made no changes to its preliminary finding for this program. For more information, see the *Preliminary Results*.<sup>30</sup>

## **D. Programs Determined To Not Confer Countervailable Benefits**

The Department made no changes to, and interested parties raised no issues in their case briefs regarding, the preliminary findings that the following programs did not confer a countervailable benefit to the respondents. For the descriptions and analyses used for these programs, see the *Preliminary Results*.<sup>31</sup>

1. Reduction and Exemption of Licensing Fees for Renewable Resource Power Plants
2. Investment Incentive Certificates

## **E. Programs Determined To Not Be Used**

The petitioner and the respondents submitted comments in their case and rebuttal briefs regarding the “Purchase of Electricity for MTAR – Sales *via* Build-Operate-Own (BOO), Build-Operate-Transfer (BOT), and Transfer of Operating Rights (TOR) Contracts” and “Provision of Lignite for LTAR,” which are addressed at Comment 1 and 2, respectively. The Department made no changes to its preliminary findings for these two programs or for the other programs

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<sup>28</sup> See Preliminary Decision Memorandum at 10-12.

<sup>29</sup> See Post-Prelim Analysis.

<sup>30</sup> See Preliminary Decision Memorandum at 12-14.

<sup>31</sup> *Id.*, at 14.

which were preliminarily found to be not used by the respondents. For more information, see the *Preliminary Results*.<sup>32</sup>

1. Purchase of Electricity for MTAR – Sales *via* BOO, BOT, and TOR Contracts
2. Provision of Lignite for LTAR
3. Purchase of Electricity Generated from Renewable Resources for MTAR
4. Deductions from Taxable Income for Export Revenue
5. Research and Development Grant Program
6. Export Credits, Loans, and Insurance from Turk Eximbank
  - a. Pre-Shipment Export Credits
  - b. Foreign Trade Company Export Loans
  - c. Pre-Export Credits
  - d. Short-term Export Credit Discount Program
  - e. Export Insurance
7. Regional Investment Incentives
  - a. Value Added Tax (VAT) and Customs Duty Exemptions
  - b. Income Tax Reductions
  - c. Social Security Support
  - d. Land Allocation
8. Large-Scale Investment Incentives
  - a. VAT and Customs Duty Exemptions
  - b. Tax Reduction
  - c. Income Tax Withholding Allowance
  - d. Social Security and Interest Support
  - e. Land Allocation
9. Strategic Investment Incentives
  - a. VAT and Customs Duty Exemptions
  - b. Tax Reduction
  - c. Income Tax Withholding Allowance
  - d. Social Security and Interest Support
  - e. Land Allocation
  - f. VAT Refunds
10. Incentives for Research & Development (R&D) Activities
  - a. Tax Breaks and Other Assistance
  - b. Product Development R&D Support – UFT
11. Regional Development Subsidies
  - a. Provision of Land for LTAR
  - b. Provision of Electricity for LTAR
  - c. Withholding of Income Tax on Wages and Salaries
  - d. Exemption from Property Tax
  - e. Employers' Share in Insurance Premiums
  - f. Preferential Tax Benefits for Turkish Rebar Producers Located in Free Zones
  - g. Preferential Lending to Turkish Rebar Producers Located in Free Zones

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<sup>32</sup> *Id.*, at 15-17.

- h. Exemptions from Foreign Exchange Restrictions to Turkish Rebar Producers Located in Free Zones
- i. Preferential Rates for Land Rent and Purchase to Turkish Rebar Producers Located in Free Zones

## VII. Analysis of Comments

### Comment 1: Whether the Purchase of Electricity for MTAR Is Countervailable

#### *Petitioner's Arguments:*

- The petitioner argues that the Department should analyze electricity for MTAR as a single subsidy program and find it to be countervailable because of the GOT's intervention in, and distortion of, the Turkish electricity market. However, should the Department continue to analyze three separate programs, the petitioner argues that the Department should reverse its preliminary finding and determine that both sales on the grid and sales to public buyers are countervailable.
- The petitioner argues that, rather than acting as a bridge between the sellers and buyers, the GOT dominates and distorts the electricity market through four state-owned enterprises (SOEs): Turkish Electricity Transmission Corporation (TEIAS), Electricity Generation Company (EUAS), Turkish Electricity and Wholesale Trading Company (TETAS), and Turkish Electricity and Distribution Company (TEDAS).<sup>33</sup>
- As explained by the GOT, the Market Financial Settlement Center (MFSC) "was responsible to make financial settlement of the operations that were made in electricity markets and to manage payment, invoicing and other financial activities."<sup>34</sup> The petitioner, thus, claims that TEIAS/MFSC paid for electricity.
- The petitioner also asserts that based on the GOT's responses, the electricity supply and demand is "regulated by MFSC/TEIAS."<sup>35</sup> Therefore, the petitioner submits that, while TEIAS may not technically take title to the electricity, TEIAS/MFSC sets the price for electricity.
- Additionally, the petitioner notes that the GOT explained that "TEIAS' activities in the ancillary services market are not performed for commercial purposes."<sup>36</sup>
- The petitioner claims the balancing system of the electricity grid distorts the market, with the result of enriching electricity producers, and cites to an academic paper which states that "the balancing market soon turned into a primary market. Private investors soon gained a bargaining power vis-à-vis the state to negotiate the prices."<sup>37</sup> Arguing that the electricity market is distorted, the petitioner points to a study which states the "realized opening {of the market} is as low as 23% because of the state's dominant position in the

<sup>33</sup> See Petitioner's Case Brief at 2-3 (*citing* Petitioner's New Subsidy Allegations," dated January 19, 2016 (NSA Submission) at Exhibit 8, page 4 (*IPP Investment in Turkey's Electric Power Industry* (June 2005))).

<sup>34</sup> *Id.*, at 4 (*citing* GOT's April 26, 2016 Response of the Government of Turkey to the NSA Questionnaire in the 2014 CVD Administrative Review of Imports of Steel Concrete Reinforcing Bar from Turkey (GOT NSAR) at 2).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*, at 7 (*citing* Petitioner's Comments on New Subsidy Questionnaire Responses, dated May 10, 2016 (Petitioner's NSAR Comments) at Exhibit 1, page 10 and note 17 (*Towards a Fully Liberalized Turkish Electricity Market: Progress and Problems* (2011)) (Petitioner's Comments on NSQR)).



market.”<sup>38</sup> The petitioner also notes an International Trade Administration (ITA) Turkey case study on smart grid technology in which ITA stated that the “Turkish power sector is a mix of both public and private entities.”<sup>39</sup>

- The petitioner adds that a national tariff system supported by a price equalization mechanism was applied all over Turkey at least until the end of 2015.<sup>40</sup> The petitioner claims that, by using this price equalization mechanism, cash flow deficiencies of some utilities due to a high level of losses are balanced through TETAS from the utilities with excess cash flow.<sup>41</sup>
- Regarding the Department’s post-preliminary finding that public buyers pay electricity prices that are either at or below the market prices, the petitioner states that the GOT controls the market and sets the market rates, including the electricity prices published in the National Price Schedules (NPS). The petitioner asserts that whether the electricity is purchased above or below the prices listed in the schedules is irrelevant.
- Because TEIAS/MFSC sets the price for electricity, the petitioner asserts that the GOT provides a financial contribution to Turkish power producers. The petitioner also asserts that the purchase of electricity is both *de jure* and *de facto* specific because the GOT controls the supply and demand of electricity, therefore setting the price by statute. Further, the petitioner claims that there is only one user – the power industry.
- Concerning benefit, the petitioner submits that, to measure whether the purchases were made for MTAR, the Department should use the electricity pricing data from the Iran Power Generation Transmission Company, which the petitioner placed on the record, because Turkey imported electricity from Iran during the POR.

*Respondents’ Arguments:*

- The Department was correct in its preliminary finding that Icdas’ sales of electricity through TEIAS did not involve GOT purchases of electricity for MTAR.
- The Department also correctly found that TEIAS facilitates the purchase and sale of electricity by market participants by transmitting electricity from sellers to buyers, acting as a market clearing agent, and maintaining market equilibrium.
- TEIAS does not purchase or take title to electricity purchased or sold by market participants. Consequently, TEIAS’ functions cannot include government purchases of electricity for MTAR and, thus, cannot provide countervailable benefits.
- Additionally, the Department correctly found, in its Post-Preliminary Analysis, that Icdas’ electricity sales to public buyers did not give rise to any benefit through the government’s purchases for MTAR because all such sales were at prices either equal to or below market rates as published in the NPS.
- Lastly, because Icdas has no BOO, BOT, or TOR contracts, the respondents state that the Department correctly found this program to be not used.

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<sup>38</sup> *Id.*, at 8 (citing NSA Submission at Exhibit 11, page 276 - 277 (*Renewable Energy Support Mechanism in Turkey: Financial Analysis and Recommendations to Policymakers* (2014))).

<sup>39</sup> *Id.*, at 8-9 (citing Petitioner’s NSAR Comments at Exhibit 2 (*2016 Top Markets Report Smart Grid, Country Case Study: Turkey* (2016))).

<sup>40</sup> *Id.*, at 8 (citing NSA Submission at Exhibit 11, page 276 (*Renewable Energy Support Mechanism in Turkey: Financial Analysis and Recommendations to Policymakers* (2014))).

<sup>41</sup> *Id.*

*Petitioner's Rebuttal:*

- The GOT controls the Turkish electricity market and, therefore, controls the prices for electricity on the grid and the prices listed in the NPS. As such, electricity for MTAR should be examined as one distinct program and found to be countervailable.
- Regarding BOO, BOT, and TOR contracts, the petitioner states that, from the record, it appears that Icdas has no contracts; however, it is impossible to know whether or not Kaptan Demir did. The petitioner notes that the Department refused to collect a questionnaire response from Kaptan Demir's subsidiary power plant (*see* Comment 5).

*Respondents' Rebuttal:*

- The respondents assert that the petitioner's arguments rest on an incorrect rendering of the role that the GOT plays in the electricity market. The respondents argue that the petitioner employs a combination of outdated information and misinterpretations to portray the market as distorted by SOEs that control and manipulate prices.
- The respondents note that the Department initiated on the program based on U.S. Embassy cables that referenced energy contracts negotiated with the GOT more than 20 years ago, and articles dated at least five to nine years prior to the POR.
- They add that the petitioner fails to demonstrate how more recent materials cited in its case brief serve to support its contention that the GOT controls and sets prices in the electricity market. For example, the petitioner cites to a 2016 ITA Turkey study for support that the power sector includes both public and private entities, which the respondents state is a true statement, but says absolutely nothing about how electricity prices are set.
- Conversely, Icdas submitted on the record a 2015 World Bank Study, which concluded that the Turkish electricity market has undergone significant change over the past ten years.<sup>42</sup> Specifically, the study finds that by 2014, the Turkish electricity market operated as a private market for buyers and sellers of electricity.<sup>43</sup>
- Fallacies in the petitioner's assertion that prices in the electricity market are manipulated and controlled by the GOT are illustrated by disingenuous arguments confounding the role of public bodies such as TEIAS and MFSC as market facilitators with that of a price setter.
- The respondents assert that the role played by TEIAS/MFSC in the electricity market is essentially the same as that played in securities markets by clearing houses which do not set prices, but facilitate the operation of the market that sets the prices and settles the sales and purchase transactions.
- The GOT's explanation that MFSC is responsible for the financial settlement of transactions in the market and the management of payment, invoicing, and other financial activities is consistent with its role as a market operator and clearing house and cannot be construed to mean that TEIAS/MFSC paid for electricity.
- Additionally, the respondents assert that the petitioner's misconstruction of the GOT's statement that MFSC is the market operator means that TEIAS/MFSC "sets the price for electricity in Turkey" is unfounded. Power generators sell electricity to the market

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<sup>42</sup> See Respondents' Rebuttal Brief at 3-4 (*citing* Icdas September 8, 2016 SQR at Exhibit S2-5 (*Turkey's Energy Transition - Milestones and Challenges* (July 2015))).

<sup>43</sup> *Id.* (*citing* *Turkey's Energy Transition - Milestones and Challenges* (July 2015) at 13).

operated by MFSC based on the prices set in the DAM. MFSC does not set the prices in the market or purchase electricity from power producers. As such, there can be no financial contribution within the meaning of section 771(5)(D)(iv) of the Act.

- The record establishes that Icdas did not sell electricity to public or government entities except in a few instances where a local government purchased power at the same discounted rates as any regular free consumer.
- The respondents add that the petitioner's arguments for a tier-two benchmark to measure the adequacy of remuneration are also flawed. Distortion is found when it is reasonable to conclude that prices are substantially affected by the government's involvement in a market or where the government represents a majority or a substantial portion of the market. However, here, the GOT is neither a majority nor a substantial provider in the market.

**Department's Position:** As an initial matter, we disagree with the petitioner that the Department should treat electricity for MTAR as a single subsidy program rather than as three separate programs: Purchase of Electricity for MTAR – Sales on the Grid, Purchase of Electricity for MTAR – Sales to Public Buyers, and Purchase of Electricity for MTAR – Sales *via* BOO, BOT, and TOR Contracts. Given the different sales channels through which a power producer can sell electricity in Turkey (*i.e.*, on the electricity grid, *via* bilateral contracts to wholesalers and free consumers, and to the government under long-term contracts for BOO, BOT, and TOR projects), we find that it is appropriate to treat each manner of sales as a separate and distinct program. We, therefore, respond to the petitioner's and the respondents' comments for each program separately below.

#### *Purchase of Electricity for MTAR – Sales on the Grid*

We disagree with the petitioner's arguments that the GOT purchases electricity from private power producers, namely Icdas and its cross-owned affiliates,<sup>44</sup> at above-market prices. The evidence on the record does not substantiate the petitioner's assertions that TEIAS/MFSC<sup>45</sup> pays for electricity or that TEIAS/MFSC sets the price for electricity.

As detailed on the record, power producers and suppliers sell electricity to unidentified third parties, not TEIAS or MFSC, *via* the grid through the Day Ahead Market (DAM) and the Balancing Power Market (BPM) based on the rules and procedures outlined in the *Balancing Settlement Regulation (BSR)*.<sup>46</sup> The DAM is a voluntary power exchange in which supply and demand are balanced by the bids and offers of suppliers and consumers, and the prices are

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<sup>44</sup> Icdas reported that it, Icdas Elektrik, and Icdas Toptan sold electricity through TEIAS during the POR. *See* Icdas NSAR at 1. Icdas and Icdas Elektrik both produce and sell electricity. Icdas Toptan is a trading company that has a supplier license and sells the electricity produced by the other group companies. *Id.* *See also* GOT NSAR at 1.

<sup>45</sup> TEIAS is the government entity that manages the transmission of electricity in Turkey. MFSC is a unit under TEIAS which operates as market clearance system for private sector electricity sales and purchases. *See* Icdas NSAR at 6-7.

<sup>46</sup> *See* GOT June 13, 2016 SQR at 3-13; Icdas Companies' April 26, 2016 Response to NSA CVD Questionnaire (Icdas NSAR) at 1-4; Icdas Companies' June 13, 2016 Response to First Supplemental CVD Questionnaire (Icdas June 13, 2016 SQR) at 11-22; and Icdas September 8, 2016 SQR at 3-8.

determined according to the participants' bids and offers.<sup>47</sup> Real-time balancing of the market occurs in the BPM based on bids to buy energy if the system is long and offers to sell energy if the system is short by generators.<sup>48</sup>

Articles 11 and 12 of the *BSR* set forth the role and responsibilities of MFSC as the market operator, and TEIAS as the system operator, respectively.<sup>49</sup> Specifically, Article 11 stipulates that MFSC performs market operations through which the electricity price forms based on the supply and demand conditions automatically and transparently.<sup>50</sup> MFSC operates the Market Management System (MMS), an online software system where market participants (*i.e.*, sellers and buyers) place offers and bids for the quantity of electricity they want to sell or buy on an hourly basis in both markets.<sup>51</sup> In the DAM, until 11:30am, parties present the electricity quantity and prices that they want to sell/purchase on an hourly basis for the next day.<sup>52</sup> MMS sorts the lowest price-quantity combination to the highest price-quantity combination.<sup>53</sup> Each price-quantity combination is then merged with the following price-quantity combinations submitted by using a linear interpolation method.<sup>54</sup> The market-clearing price for each hour of the next day is published on the web.<sup>55</sup>

Because market participants make their bids/offers for electricity a day ahead in the DAM, there could be some unexpected circumstances that would change the production plans of power producers or consumption plans of consumers and, thus, cause a surplus or deficit. Therefore, TEIAS operates the BPM to ensure real-time balancing of the electricity in the market. In the BPM, by 4pm, participants submit their offers/bids and final day ahead generation/consumption schedules into MMS.<sup>56</sup> The offers/bids to correct the surplus/deficit of electricity are ranked based on their prices for each hour and each zone.<sup>57</sup> MMS finds the system marginal price for each hour, based on market conditions, and publicly announces the prices.<sup>58</sup>

The hourly price of electricity in the DAM and BPM is determined by the MMS using an algorithm based on competitive bidding among the parties.<sup>59</sup> The pricing of electricity sold on the grid is not subject to any government tariffs or rates.<sup>60</sup> Accordingly, we find that the evidence shows that neither TEIAS nor MFSC sets the price for electricity, but rather administers the system through which the market prices are determined.

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<sup>47</sup> See World Bank Report *Turkey's Energy Transition Milestones and Challenges* (July 2015) at Exhibit S2-5 (page 77) of Icdas September 8, 2016 SQR.

<sup>48</sup> *Id.*, at 78.

<sup>49</sup> See GOT NSAR at Exhibit 2 (*BSR*).

<sup>50</sup> *Id.*

<sup>51</sup> See GOT June 13, 2016 SQR at 7-8; Icdas NSAR at 1-4; Icdas June 13, 2016 SQR at 11-22; and Icdas September 8, 2016 at 3-8.

<sup>52</sup> See Icdas September 8, 2016 SQR at 4-8; and GOT June 13, 2016 SQR at 10-11.

<sup>53</sup> *Id.*

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

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

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

At month's end, through MFSC,<sup>61</sup> TEIAS handles the financial settlement of the transactions in the markets (*i.e.*, managing payment, invoicing, and other financial activities).<sup>62</sup> Specifically, generation and consumption meters of all market participants are read and the results are entered into the MMS. TEIAS then provides to each party a Settlement Notice that reports the amount of electricity that should be invoiced by each participant and the balances that should be paid by each participant.<sup>63</sup> Because none of the market participants know to whom they sold or from whom they purchased electricity, *i.e.*, parties either sell or buy from the pool,<sup>64</sup> TEIAS calculates the amount of receivables and payables to be accrued and prepares the related invoices.<sup>65</sup> As such, TEIAS invoices the power producer for its payables, the power producer invoices TEIAS for its receivables, and TEIAS invoices the buyers.<sup>66</sup> Payments of the electricity invoices by the parties are handled not by TEIAS or MFSC, but by participating banks, which provide the cash exchange services.<sup>67</sup>

Article 11(3) of the *BSR* states that the market operator “shall carry out the settlement transactions and calculate the amount of receivables and payables to be accrued for balancing mechanism and energy imbalances, and prepare the related receivable-payable notices.”<sup>68</sup> Article 9(a) of the *BSR* further states that the market operator “shall not incur any loss or profit due to these procedures executed on behalf of wholesale electricity market.”<sup>69</sup> We note that TEIAS’ 2014 Annual Report affirms that the credits and the debits to be accrued to the market participants within the scope of the balancing and settlement activities are carried out in accordance with the *BSR*, where the amount of the total credits to be accrued to the market participants have to be equal to the amount of the total debts.<sup>70</sup> Thus, while TEIAS does collect transmission and system utilization and usage fees,<sup>71</sup> TEIAS has otherwise no inflow or outflow of money with regard to the electricity purchase transactions between the sellers and buyers, as stated under Turkish law.<sup>72</sup> Therefore, TEIAS can neither purchase nor sell electricity.<sup>73</sup> Accordingly, we find that the evidence shows that TEIAS/MFSC does not pay for electricity.

In support of its arguments, the petitioner notes that the GOT stated “TEIAS’ activities in the ancillary services market are not performed for commercial purposes.”<sup>74</sup> However, the GOT’s

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<sup>61</sup> MFSC operated under TEIAS until March 2015, when the Energy Markets Operating Corporation (EPIAS) and Energy Exchange Istanbul (EXIST) were established and assumed the financial settlement operations in the electricity market. *See* GOT NSAR at 2; and Icdas NSAR at 2.

<sup>62</sup> *See* GOT NSAR at 3-6; GOT June 13, 2016 SQR at 3-6; Icdas NSAR at 1-4; Icdas June 13, 2016 SQR at 11-22; and Icdas September 8, 2016 SQR at 3-8.

<sup>63</sup> *See* Icdas June 13, 2016 SQR at 15.

<sup>64</sup> *See* Icdas September 8, 2016 SQR at 4-6.

<sup>65</sup> *See* GOT NSAR at Exhibit 2 (at Article 9(a) and Article 113(1)).

<sup>66</sup> *See* GOT June 13, 2016 SQR at 8; Icdas June 13, 2016 SQR at 21-22; and Icdas September 8, 2016 SQR at 5.

<sup>67</sup> *See* GOT NSAR at Exhibit 2 (at “Part Seven – Provisions Regarding Financial Matters”).

<sup>68</sup> *Id.*, at Exhibit 2 (*BSR*).

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

<sup>70</sup> *See* Icdas NSAR at Exhibit 3, page 137 (TEIAS’ 2014 Annual Report at “Financial Issues in the Electricity Market Operation”).

<sup>71</sup> *See* GOT June 13, 2016 SQR at 8-9; and GOT NSAR at Exhibit 1 for the *Electricity Market Law* (Law No. 6446) at Article 17, which lists the fees and charges to be paid by all system users.

<sup>72</sup> *See* GOT June 13, 2016 SQR at 4, 6, and 8; and Icdas September 8, 2016 SQR at 5-6.

<sup>73</sup> *See* GOT NSAR at 2.

<sup>74</sup> *See* Petitioner’s Case Brief at 5.

statement must be considered within the context of the GOT's full response. The GOT explained that in the ancillary market:

TEIAS may obtain electricity capacity reserve from electricity generators in order to meet the system needs. This obtainment is not for commercial purposes it is rather for ensuring the instantaneous balance in the system. Thus, GOT does not purchase electricity from power generators in the ancillary market.<sup>75</sup>

The GOT further explained the meaning of "may obtain." Specifically, the GOT stated that the nature of the obtainment is outlined in Article 12(b) of the *BSR*, which is "to ensure instantaneous balance in the system while preserving adequate supply quality, keep necessary reserves through the procurement of ancillary services and balancing mechanism."<sup>76</sup> To ensure the balance between supply and demand in the system on a real-time basis and to secure the system reliability, TEIAS is provided with the real-time balancing tools: Primary Frequency Control Reserve Capacity and Secondary Frequency Control Reserve Capacity (as stated in Article 8 of the *BSR*).<sup>77</sup> Through the use of such tools, the GOT explained that TEIAS maintains reserve capacity in the power plants should the system need to be balanced.<sup>78</sup> As such, we do not consider the GOT's description of TEIAS' ancillary responsibility as "not performed for commercial purposes" as evidence that TEIAS pays for or sets the prices for electricity.

The petitioner also references a study published in the *International Energy Law Review* which indicates that prices in the secondary market (*i.e.*, BPM) tend to be higher compared to the primary market (*i.e.*, DAM) and, therefore, private firms terminated contracts with consumers (*i.e.*, wholesalers and end-users) and began solely to trade in the secondary market to maximize prices.<sup>79</sup> We first note that the study, published in 2011, relies on observations and conclusions obtained from other sources that were published in 2007 and 2010.<sup>80</sup> Additionally, the study evaluates the Turkish electricity market under the *Electricity Market Law 2001*;<sup>81</sup> however, during the POR, the electricity market operated under the *Electricity Market Law* (Law No. 6446), which entered into force on March 30, 2013.<sup>82</sup> As such, the descriptions and conclusions of the secondary market presented in the study published in the *International Energy Law Review* are not relevant to or contemporaneous with the 2014 POR, and more recent studies placed on the record contradict the observations of the study. For example, an article published in the *International Journal of Energy Economics and Policy* in 2014, states that "The electricity market is based on bilateral agreements complemented with the balancing and settlement

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<sup>75</sup> See GOT June 13, 2016 SQR at 12.

<sup>76</sup> *Id.*, at 6-7.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> See Petitioner's Case Brief at 6-7.

<sup>80</sup> See Petitioner's Comments on NSQR at Exhibit 1, page 10 (second paragraph and footnote 17) (*Towards a Fully Liberalized Turkish Electricity Market: Progress and Problems* (2011)).

<sup>81</sup> *Id.*, at I and II.

<sup>82</sup> See NSA Submission at Exhibit 9, page 1 (*Overview of Electricity Regulation in Turkey* (2014)).

market.”<sup>83</sup> Moreover, the findings of the study published in the *International Energy Law Review* are not substantiated by Icdas’ electricity sales activity during the POR.<sup>84</sup>

The petitioner further cites to another article which discusses that, as part of the GOT’s transitional period of moving toward liberalization and privatization in the electricity market, a national tariff system supported by a price equalization mechanism was applied until the end of 2015.<sup>85</sup> The petitioner states that, by using the price equalization mechanism, cash flow deficiencies of some utilities due to a high level of losses are balanced through TETAS from the utilities with excess cash flow.<sup>86</sup> We note that yet another article, also placed on the record by the petitioner, explains that the GOT decided to adopt the national tariff system for the purpose of balancing the theft of electricity and the technical losses that occur during transmission and distribution which differ across the distribution zones.<sup>87</sup> We thus find that the price equalization mechanism of the national tariff system is not evidence that the government purchases electricity for MTAR from power producers.

We determine that none of the arguments raised by the petitioner warrant a change from the Department’s preliminary finding. We, therefore, continue to find that the electricity transmitted through the grid by the power producers is purchased not by TEIAS or MFSC but, rather, by the buyers in the marketplace through MFSC. As stated under Turkish law, TEIAS’ responsibilities are to transmit electricity, serve as the market clearing agent, and maintain market equilibrium, as specified in the *BSR*. Based on the record evidence, we find that TEIAS does not purchase or take title to the electricity being sold by power producers, about which the petitioner agrees,<sup>88</sup> but rather TEIAS transmits the electricity from the sellers to the buyers and handles the related financial reconciliation, which involves issuing invoices. The record indicates that power producers invoice TEIAS not because TEIAS purchased electricity from them, but because the sellers invoice the net amount to TEIAS based on the electricity consumption of unspecified buyers and, concurrently, the buyers receive an invoice from TEIAS on behalf of the sellers through the financial settlement process.<sup>89</sup> Further as noted above, TEIAS can neither make losses nor earn profits from its activities and does not have cash flow, other than the collection of transmission fees and system utilization charges. As such, we conclude that TEIAS’ role is to manage and operate the electricity market to facilitate the buying and selling of electricity by market participants as outlined in the *BSR*. Additionally, given the role of the MMS, the prices for the electricity sold *via* the grid are determined based on the competitive bidding of the sellers and buyers who place offers and bids for the quantity of electricity they want to sell or buy on an hourly basis in the DAM and BPM,<sup>90</sup> and not by TEIAS/MFSC.

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<sup>83</sup> See NSA Submission at Exhibit 11, page 276 (*Renewable Energy Support Mechanism in Turkey: Financial Analysis and Recommendations to Policymakers* (2014)).

<sup>84</sup> See Icdas June 13, 2016 SQR at Exhibit S1-19.

<sup>85</sup> See Petitioner’s Case Brief at 8.

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

<sup>87</sup> See Petitioner’s Comments on NSQR at Exhibit 1, page 11-12 (*Towards a Fully Liberalized Turkish Electricity Market: Progress and Problems* (2011)).

<sup>88</sup> See Petitioner’s Case Brief at 4.

<sup>89</sup> See GOT June 13, 2016 SQR at 8; Icdas June 13, 2016 SQR at 21-22; and Icdas September 8, 2016 SQR at 5. See also GOT NSAR at Exhibit 2 (*BSR* at Article 9(a) and Article 113(1)).

<sup>90</sup> See GOT June 13, 2016 SQR at 7-8; Icdas NSAR at 1-4; Icdas June 13, 2016 SQR at 11-22; and Icdas September 8, 2016 at 3-8.

Thus, based on the evidence, we determine that TEIAS/MFSC's role in facilitating the purchase and sale of electricity on the grid does not constitute a government purchase of electricity for MTAR and, therefore, does not constitute a government financial contribution to power producers under section 771(5)(D)(iv) of the Act. Having found that there is no financial contribution, we conclude that there is no basis to consider the petitioner's claim that the Turkish electricity market is distorted. Additionally, we find that there is no need to address the parties' arguments regarding the calculation of a benefit or make a determination of specificity. This finding is consistent with the Department's final determination in *CVD Rebar II - Final*.<sup>91</sup>

#### *Purchase of Electricity for MTAR – Sales to Public Buyers*

We disagree with the petitioner's argument that, because the GOT sets the electricity rates published in the NPS, the Department should countervail Icdas' sales of electricity to public buyers during the POR. First, there is no evidence on the record to indicate that the NPS electricity rates are not market-based prices. Second, the basis of the program is whether public buyers purchased electricity from private power producers for more than the market price. The evidence on the record, as examined in the Department's Post-Prelim Analysis, indicates that the public buyers purchase electricity from private power producers, including Icdas, at electricity prices that are either at or below the set market rates (*i.e.*, the electricity prices published in the NPS).<sup>92</sup> Consequently, electricity was not and is not purchased for MTAR by the public buyers.

As such, the arguments raised by the petitioner warrant no change from the Department's preliminary finding. We, therefore, continue to find that the "Purchase of Electricity for MTAR – Sales to Public Buyers" does not constitute a countervailable subsidy under section 771(5) of the Act because the purchase of electricity by public buyers through bilateral contracts does not give rise to any benefit *per se* in terms of payment for MTAR.

#### *Purchase of Electricity for MTAR - Sales via BOO, BOT, and TOR Contracts*

Based on the record evidence, we continue to find that Icdas and the Kaptan Demir Companies did not use this program during the POR. The GOT reported that the respondent companies did not have any BOO, BOT, or TOR contracts and, therefore, the GOT did not purchase electricity from the respondent companies under those schemes during the POR.<sup>93</sup> Icdas and Kaptan Demir Companies also reported that they did not have any BOO, BOT, or TOR contracts with the GOT for the sale of electricity during the POR.<sup>94</sup> For the Department's response to the petitioner's comments on Kaptan Demir's subsidiary power plant, *see* Comment 5.

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<sup>91</sup> See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 82 FR 23188 (May 22, 2017) (*CVD Rebar II – Final*), and accompanying Issues and Decision Memorandum (IDM) at Electricity for MTAR and Comment 6.

<sup>92</sup> See Post-Prelim Analysis.

<sup>93</sup> See GOT NSAR at 1.

<sup>94</sup> See Icdas NSAR at 1; and Kaptan Demir Companies' April 21, 2016 Response to NSA CVD Questionnaire at 1-3, for the companies' statements that they had no sales of electricity to the government during the POR.



## **Comment 2: Whether the Department Should Countervail the Provision of Lignite for LTAR**

### *Petitioner's Arguments:*

- The petitioner claims that neither Icdas nor the GOT provided sufficient information to demonstrate that the suppliers which provided lignite to Icdas did not source the lignite from Turkish Coal Enterprises (TKI), an SOE.
- In *Steel Grating from the PRC*, the Department determined that the information a respondent submitted to demonstrate its sources of steel was insufficient and thus applied adverse facts available (AFA) to calculate the subsidy rate.<sup>95</sup> The petitioner submits that the Department should use the same approach here, based on Icdas' assertions that its lignite was purchased from non-government sources.
- Even if the Department decides to accept Icdas' information, the petitioner states that the GOT failed to provide adequate information regarding the alleged suppliers. The petitioner claims that the GOT failed to explain the steps that it took to support its assertion that none of Icdas' lignite purchases were sourced from government mines.
- The Department has relied upon AFA when government assertions were less than comprehensive, not responsive to the agency's questions, and failed to provide documentary factual support.<sup>96</sup>
- If the Department decides to not rely on AFA, the petitioner argues that it should countervail Icdas' lignite purchases using the proportion of the market represented by TKI (*i.e.*, 85 percent)<sup>97</sup> as the pass through from Icdas' purchases from trading companies. The Department has a practice to assume that benefits pass through.<sup>98</sup>

### *Respondents' Arguments:*

- Because Icdas made no purchases of coal from TKI, the Department correctly found that there was no provision of lignite for LTAR and that the program was not used.

### *Petitioner's Rebuttal:*

- Since Icdas and the GOT failed to show that Icdas' lignite purchases did not come from TKI, the Department should presume that the lignite was sourced from the government, find that the program was used, and countervail the purchases for the final.

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<sup>95</sup> See Petitioner's Case Brief at 19 (citing *Certain Steel Grating from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 32362 (June 8, 2010) (*Steel Grating from the PRC*), and accompanying IDM at Comment 4).

<sup>96</sup> *Id.*, at 20 (citing *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells from the PRC*), and accompanying IDM at Comment 18).

<sup>97</sup> *Id.*, at 21 (citing *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Affirmative Countervailing Duty Determination Final Affirmative Critical Circumstances Determination*, 79 FR 54963 (September 15, 2014) (*Rebar from Turkey Final Determination*), and accompanying IDM at Provision of Lignite for LTAR).

<sup>98</sup> *Id.* (citing *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*Circular Welded Pipe from the PRC*), and accompanying IDM at Hot-Rolled Steel for LTAR).

*Respondents' Rebuttal:*

- Certifications provided by Icdas demonstrate that Icdas did not purchase any lignite from GOT sources. The petitioner failed to provide any evidence to show that the certifications are not credible.
- Icdas adds that, should the Department decide to revisit its preliminary decision, it provided lignite pricing data, sourced from Global Trade Information Services.

**Department's Position:** Based on the record evidence, we continue to find that Icdas did not purchase lignite that was sourced from TKI, the sole government entity that provides lignite to the market. We disagree with the petitioner that Icdas and the GOT failed to provide sufficient information to demonstrate that suppliers, which sold lignite to Icdas, did not source the coal from TKI.

Both the GOT and Icdas certified that Icdas did not purchase lignite that was sourced from TKI during the POR.<sup>99</sup> Icdas reported that it did not have a contract with TKI for the purchase of lignite during the POR.<sup>100</sup> Icdas stated that the lignite, which it purchased during the POR, was sourced from unaffiliated private domestic coal suppliers.<sup>101</sup> Several of the suppliers provided Icdas with written statements regarding the source of the lignite sold to Icdas.<sup>102</sup> These documents indicate that the lignite sold to Icdas was extracted from either the companies' own mines or from mines that they operate.<sup>103</sup>

We requested additional supporting information from both Icdas and the GOT with regard to the coal suppliers. In supplemental questionnaires to Icdas, we requested a copy of the supplier's business license, registration documents, annual report, or other official documentation that describes the operations of the company.<sup>104</sup> Icdas submitted the requested documentation for the majority of the unaffiliated suppliers which, in written statements, declared that the lignite sold to Icdas was extracted from mines not related with TKI.<sup>105</sup>

Because Icdas is not affiliated with the coal suppliers, in the Department's first supplemental questionnaire to the GOT, we asked the GOT to respond with regard to the specific domestic companies from which Icdas purchased lignite.<sup>106</sup> The GOT certified that TKI did not sell lignite to the domestic coal suppliers at issue.<sup>107</sup> In the Department's second supplemental questionnaire to the GOT, we asked the GOT to describe how TKI concluded that it did not sell

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<sup>99</sup> See Icdas Primary Response at 27; Icdas September 8, 2016 SQR at 2-3; and GOT's April 6, 2016 Response of the Government of Turkey in the 2014 CVD Administrative Review of Steel Concrete Reinforcing Bar from Turkey (GOT IQR) at 20-21.

<sup>100</sup> See Icdas September 8, 2016 SQR at 2-3.

<sup>101</sup> See Icdas Primary Response at 27 and Exhibit CVD-19; and Icdas June 13, 2016 SQR at 8.

<sup>102</sup> *Id.*

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

<sup>104</sup> See Department Letter re: First Supplemental Questionnaire for Icdas Companies, dated May 24, 2016 (Icdas First SQ) at 5; and Department Letter re: Second Supplemental Questionnaire for Icdas Companies, dated August 18, 2016 (Icdas Second SQ) at 1.

<sup>105</sup> See Icdas September 8, 2016 SQR at 1 and Exhibit S2-1.

<sup>106</sup> See Department Letter re: First Supplemental Questionnaire for the GOT, dated May 24, 2016 (GOT First SQ) at 3.

<sup>107</sup> See GOT June 13, 2016 SQR at 2-3.

lignite to the domestic coal companies.<sup>108</sup> The GOT explained that TKI maintains databases and contracts regarding its sales of lignite and that TKI queried those databases and documents for the relevant companies.<sup>109</sup> Specifically, TKI searched its computers for coal-selling programs which maintain the details of deliveries and payments, and reviewed its sales contracts because TKI only sells to companies with which it has a signed contract.<sup>110</sup> The GOT further reported that TKI does not provide lignite to trading companies or coal suppliers, but to industrial companies with which it has contracts.<sup>111</sup> The GOT explained that each year, TKI collects coal demands from industrial companies and, based on supply and demand conditions, lignite coal is allocated to the those companies under contract.<sup>112</sup> Based on its examination of the records, the GOT stated that TKI concluded that, during the POR, it did not sell lignite to the domestic coal suppliers which sold lignite to Icdas.<sup>113</sup> Given the totality of the evidence submitted by the GOT and Icdas, we continue to find that Icdas did not purchase lignite from TKI, either directly or through a supplier.

Further, we find the CVD cases referenced by the petitioner (*i.e.*, *Steel Grating from the PRC* and *Solar Cells from the PRC*) in support of applying AFA to countervail Icdas' lignite purchases to be inapposite to the facts on the record of this review. Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested; (C) significantly impedes a proceeding; or (D) provides such information but the information cannot be verified, the Department shall use facts otherwise available in reaching its determination. Further, section 776(b) of the Act states that if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, then the Department may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.

However, in the instant review, both the GOT and Icdas fully participated, provided the information requested by the Department, and cooperated to the best of their abilities. In *Steel Grating from the PRC*, the Department applied AFA because documents provided by a respondent company contained material discrepancies, were fabricated or unreliable, contained large duplications of data, and were unverifiable.<sup>114</sup> On the record of this review, there is no evidence to suggest that the supplier certifications and mining licenses submitted by Icdas are erroneous or fraudulent. Further, the petitioner did not provide to the Department any evidence to show that the information or documentation provided by Icdas is not credible, reliable, or valid. In *Solar Cells from the PRC*, the Department applied AFA because the Government of China (GOC) was not cooperative in responding to the Department's questions, refused to provide requested documents, and prevented the Department from verifying the non-use of a

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<sup>108</sup> See Department Letter re: Second Supplemental Questionnaire for the GOT, dated August 11, 2016 (GOT Second SQ) at 1.

<sup>109</sup> See GOT September 1, 2016 SQR at 1-2.

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

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

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> See *Steel Grating from the PRC* IDM at Provision of Hot-Rolled Steel for LTAR; Provision of Wire Rod for LTAR, and Comment 4.

program.<sup>115</sup> As discussed above, the GOT fully participated in this review and responded to the Department's requests for additional information and clarification. Unlike the GOC's actions in *Solar Cells from the PRC*, the GOT provided information in this review that demonstrated to the Department how TKI determined that its lignite was not sold either directly or indirectly, *via* a supplier, to Icdas. Thus, given the facts of this review, the application of facts available is not warranted.

Further, we also disagree with the petitioner's argument to countervail Icdas' lignite purchases using the proportion of the market represented by TKI. As noted above, the GOT and Icdas provided information and documentation to support adequately their statements that Icdas did not purchase, either directly or through a supplier, any lignite sourced from TKI during the POR. Accordingly, we determine that Icdas did not use the "Provision of Lignite for LTAR" program during the POR and, thus, there are no lignite purchases to countervail.

### **Comment 3: Whether the Department Should Countervail the Provision of Natural Gas for LTAR**

#### *Petitioner's Arguments:*

- Boru Hatlari Ile Petrol Tasima AS (BOTAS) is an SOE affiliated with the Ministry of Energy and Natural Resources and its board members are all appointed by approval of the Turkish President and the Turkish Prime Minister; therefore, this program provides a financial contribution.
- BOTAS provided 82.35 percent of the natural gas consumed in Turkey during the POR; therefore, the Department should determine that BOTAS dominates the natural gas market, as it did in the original investigation, and should rely on a tier-two benchmark to measure benefit.<sup>116</sup>
- The Department should construct a world benchmark price using the average of the European natural gas prices from the International Energy Agency that the petitioner has placed on the record.
- In the past the Department has found that groupings of industries can be considered "limited in number," and, therefore, specific. The GOT has reported that seven industry groups used this program.<sup>117</sup>
  - In *Circular Welded Pipe from the PRC*, the Department found hot-rolled steel to be *de facto* specific based on its use by six groups (construction, automobile, electronic appliance, machineries, chemical industries, and long-transmission pipelines).<sup>118</sup>
  - In *Steel from Belgium* the Department found that eight industry groups (steel, food processing, paper, chemicals and fertilizers, mining, electromechanical, firearms, and cement and ceramics) that participated in a government grant

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<sup>115</sup> See *Solar Cells from the PRC* IDM at Comment 18.

<sup>116</sup> Total natural gas consumption in Turkey during the POR was 48.72 million standard cubic meters (Sm<sup>3</sup>) and BOTAS 40.12 million Sm<sup>3</sup> of natural gas during the POR. See GOT IQR at 11 and 15.

<sup>117</sup> Turkey's Energy Market Regulatory Authority (EMRA) reports natural gas consumption data using seven groups: Conversion Sector (*i.e.*, power plants), Energy Sector (*i.e.*, refineries), Transportation Sector, Industry Sector, Service Sector, Other Sectors, and Losses. See GOT IQR at Exhibit 2. See also GOT Second SQ at 2-3.

<sup>118</sup> See Petitioner's Case Brief at 17 (*citing Circular Welded Pipe from the PRC*, and accompanying IDM at Comment 7).

program were “too few” users and, thus, the grant program was *de facto* specific.<sup>119</sup>

*Respondents’ Rebuttal:*

- In the *Preliminary Results*, the Department correctly determined that Kaptan Demir purchased natural gas from BOTAS on the same terms as any industrial user; thus, its purchases did not meet the specificity test.

**Department’s Position:** Based on the record evidence, we continue to find that Kaptan Demir was an industrial user of natural gas, not a power producer, and that BOTAS’ provision of natural gas was not *de facto* specific to the iron and steel industry or to industrial users.

In the investigation phase of this proceeding, the Department found that one respondent, Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas), purchased natural gas from BOTAS to generate power.<sup>120</sup> The Department relied on data from the GOT, which showed that power producers accounted for 48 percent of all natural gas purchases in Turkey in 2012, followed by industrial users at 22 percent, to make a determination that the provision of natural gas by BOTAS was predominantly used by, and disproportionately benefitted, the power production industry.<sup>121</sup> Accordingly, the Department determined that the program was *de facto* specific to power producers, such as Habas, under sections 771(5A)(D)(iii)(II) and (III) of the Act.<sup>122</sup> In the *Preliminary Results*, we found BOTAS’ provision of natural gas was not *de jure* specific to any enterprise or industry within the meaning of section 771(5A)(D)(i) of the Act.<sup>123</sup> In addition, because we found that Kaptan Demir operated as an industrial consumer of natural gas during the POR and did not operate as a power producer, we examined whether BOTAS’ provision of natural gas was *de facto* specific under 771(5A)(D)(iii) of the Act to industrial users.<sup>124</sup>

Our preliminarily finding that BOTAS’ provision of natural gas was not *de facto* specific to the iron and steel industry or to industrial users was based on data submitted by the GOT regarding the industries that consumed natural gas during the POR.<sup>125</sup> The GOT submitted data from BOTAS, which supplied 82 percent of all natural gas consumed in Turkey in 2014, showing that 54 percent of BOTAS’ natural gas sales went to power producers in 2014, followed by 22 percent to residential users, and 21 percent to industrial users.<sup>126</sup> The GOT also submitted data from EMRA, which lists natural gas purchases from all sources in Turkey in 2014, showing that 32 industries consumed natural gas. The iron and steel industry accounted for 2.78 percent of

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<sup>119</sup> *Id.* (citing *Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Belgium*, 58 FR 37273 (July 9, 1993) (*Steel from Belgium*), and accompanying IDM at 6).

<sup>120</sup> *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Negative Countervailing Duty Determination, Preliminary Negative Critical Circumstances, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 79 FR 10771 (February 26, 2014) (*Rebar Preliminary Determination*), and accompanying Preliminary Determination Memorandum at 10, unchanged in *Rebar from Turkey Final Determination*.

<sup>121</sup> *See Rebar from Turkey Final Determination* and accompanying IDM at 8-9.

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

<sup>123</sup> *See Preliminary Decision Memorandum* at 13.

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

<sup>125</sup> *See GOT IQR* at Exhibit 2. *See also GOT Second SQ* at 2-3.

<sup>126</sup> *See GOT IQR* at Exhibit 2 at 116.

natural gas purchases in 2014.<sup>127</sup> Iron and steel is one of 16 industries that make up the broader “industrial sector,” which together accounted for 26 percent of natural gas consumption.<sup>128</sup> Based on industrial users’ share of all natural gas purchases in 2014, the Department determines that BOTAS’ provision of natural gas was not predominantly used by, and did not disproportionately benefit, industrial users within the meaning of sections 771(5A)(D)(iii)(II) and (III) of the Act.

EMRA’s data categorizes the 32 industries into seven broad “sectors” of the economy: the conversion sector (*i.e.*, power producers), the energy sector (*i.e.*, refineries and blast furnaces), the transportation sector, the industry sector, the service sector, “Other Sectors” (*i.e.*, housing, agriculture and forestry, and livestock), and “Losses.” The conversion sector accounted for 48 percent of natural gas purchases, followed by the industrial sector, which accounted for 26 percent of natural gas purchases.<sup>129</sup> The petitioner argues that the seven sectors in EMRA’s data are limited in number and are, thus, *de facto* specific. The petitioner cites to *Circular Welded Pipe from the PRC*, in which the Department found hot-rolled steel to be *de facto* specific based on its use by seven industries, and *Certain Steel Products from Belgium*, in which the Department found a government grant program to be *de facto* specific based on its use by eight industries.

We disagree with the petitioner’s comparison of the Department’s *de facto* specificity determinations in *Circular Welded Pipe from the PRC* and *Steel from Belgium* to the facts in this case. In the two cases cited by the petitioner, the Department examined a program’s usage at the industry-level (*e.g.*, steel, food processing, or paper). In the instant review, the Department asked the GOT to “{provide} the amounts (volume and value) purchased by the industry in which the mandatory respondent companies operate, as well as the totals purchased by every other industry.”<sup>130</sup> To conduct a *de facto* benefit analysis similar to the analysis the Department conducted in *Circular Welded Pipe from the PRC* and *Certain Steel Products from Belgium*, it would be more appropriate to consider the *industries*, not the economic sectors, that EMRA reported had purchased natural gas in Turkey in 2014.<sup>131</sup> At that level of analysis, we find that 32 industries purchased natural gas, in addition to an unknown number of industries that fall under the “Other” categories within each of the six economic sectors. Of those industries, the iron and steel industry accounted for only 2.78 percent of natural gas purchases in 2014.<sup>132</sup> We, therefore, find no evidence that BOTAS’ provision of natural gas to the iron and steel industry was *de facto* specific under section 771(5A)(D)(iii)(II) of the Act. Moreover, given the broad number of industries that consumed natural gas, we find no evidence indicating that BOTAS restricted its sales of natural gas to a limited number of enterprises or industries within the meaning of section 771(5A)(D)(iii)(I) of the Act.<sup>133</sup>

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<sup>127</sup> *Id.*, at Exhibit 2. See also GOT Second SQ at 2-3.

<sup>128</sup> See GOT Second SQ at 2-3.

<sup>129</sup> See Preliminary Decision Memorandum at 13-14.

<sup>130</sup> See GOT Second SQ at 2.

<sup>131</sup> See GOT Second SQ at 2-3.

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

#### **Comment 4: Whether the Assistance to Offset Costs Related to AD/CVD Investigations Is Countervailable**

##### *Respondents' Arguments:*

- The Department was correct to preliminarily find the financial support from TSEA not to be countervailable because such assistance did not include any GOT contributions.

##### *Petitioner's Rebuttal:*

- Since the *Preliminary Results*, where the Department found the program to be not countervailable because the assistance did not include funding directly from the GOT, the Department made a different decision in *CVD Rebar II - Prelim*.<sup>134</sup> In that investigation, the Department preliminarily determined that the assistance under this program constitutes an indirect financial contribution under section 771(5)(B)(iii) of the Act.<sup>135</sup>
- The Department should align its finding of a financial contribution provided by TSEA in the final results of this review with its affirmative determination in *CVD Rebar II - Prelim*.

**Department's Position:** After re-examining the record, we determine that a change to our analysis is warranted for the "Assistance to Offset Costs Related to AD/CVD Investigations" program. As fully discussed earlier under the "Analysis of Programs" section, we find this program to be countervailable for these final results. Based on the evidence on the record, we find the financial assistance provided under the program is a subsidy as described under section 771(5)(B)(iii) of the Act because, under the combined force of Law No. 5910, the related regulation and the Financial Support Directive, the GOT, through the TEA, entrusted or directed Turkish exporters' associations to reimburse their members for AD/CVD legal costs. Such reimbursement constitutes a financial contribution in the form of a grant within the meaning of section 771(5)(D)(i) of the Act. We further find that the program is specific within the meaning of section 771(5A)(B) of the Act and that the benefit received is equal to the amount of the reimbursement in accordance with 19 CFR 351.504(a). This countervailable finding is consistent with the Department's final determination in *CVD Rebar II*.<sup>136</sup>

#### **Comment 5: Whether the Department Should Have Required a Response from Kaptan Demir's Cross-Owned Power Producer**

##### *Petitioner's Arguments:*

- In the *Preliminary Results*, the Department found that, while Kaptan Demir's subsidiary, Cebi Enerji, was cross-owned, it did not produce subject merchandise, nor did it supply an input to Kaptan Demir; therefore, it did not meet the regulatory requirement for submitting a questionnaire response.

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<sup>134</sup> See Petitioner's Rebuttal Brief at 8 (citing *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 82 FR 12195 (March 1, 2017) (*CVD Rebar II - Prelim*), and accompanying Preliminary Determination Memorandum at 14-16).

<sup>135</sup> *Id.*

<sup>136</sup> See *CVD Rebar II - Prelim*, unchanged in *CVD Rebar II - Final IDM* at Assistance to Offset Costs Related to AD/CVD Investigations and Comment 1.

- The Department’s regulations state that for affiliates that meet the definition of cross-ownership, they must submit a questionnaire response if they are: (1) producers of subject merchandise; (2) holding or parent companies; (3) input suppliers; or (4) other service providers.
- In the past, the Department has ruled that it is not bound by the above four conditions for requiring a response from a cross-owned affiliate.
  - In *Refrigerator-Freezers from Korea*, the Department stated, “Neither the regulations nor the *CVD Preamble* identify all situations in which it is appropriate to attribute subsidies. The examples provided therein are illustrative, not exhaustive.”<sup>137</sup>
  - In *Washing Machines from Korea*, the Department stated, “Analogous to the situation of a holding or parent company is the situation where a government provides a subsidy to a non-producing subsidiary (*e.g.*, a financial subsidiary) and there are no conditions on how the money is to be used. Consistent with our treatment of subsidies to holding companies, we would attribute a subsidy to a non-producing subsidiary to the consolidated sales of the corporate group that includes the non-producing subsidiary.”<sup>138</sup>
- The Department should require a full questionnaire response from Cebi Enerji and should attribute any subsidies received by Cebi Enerji to Kaptan Demir’s sales of subject merchandise. Cebi Enerji is a subsidiary of Kaptan Demir and any subsidies it received would benefit Kaptan Demir.

*Kaptan Demir did not submit rebuttal comments regarding Cebi Enerji.*

**Department’s Position:** We find no new information on the record that warrants a change from our preliminary finding to exclude Cebi Enerji from the subsidy analysis for Kaptan Demir. The *CVD Preamble* contemplates how the Secretary will normally attribute subsidies to a holding company or its subsidiaries to the consolidated sales of the holding company, and it further considers how the Secretary would attribute subsidies to a non-producing subsidiary to the consolidated sales of the parent company or corporate group. The *CVD Preamble* states:

Analogous to the situation of a holding or parent company is the situation where a government provides a subsidy to a non-producing subsidiary (*e.g.*, a financial subsidiary) and there are no conditions on how the money is to be used. Consistent with our treatment of subsidies to holding companies, we would attribute a subsidy to a non-producing subsidiary to the consolidated sales of the corporate group that includes the nonproducing subsidiary.<sup>139</sup>

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<sup>137</sup> See Petitioner’s Case Brief at 23 (*citing Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 17410 (March 26, 2012) (*Refrigerator-Freezers from Korea*), and accompanying IDM at Comment 21 (*citing Countervailing Duties: Final Rule*, 63 FR 65348, 65402 (November 25, 1998) (*CVD Preamble*)).

<sup>138</sup> *Id.* (*citing Large Residential Washers From the Republic of Korea: Final Affirmative Countervailing Duty Determination*, 77 FR 75975 (December 26, 2012) (*Washing Machines from Korea*), and accompanying IDM at Comment 16).

<sup>139</sup> See *CVD Preamble*, 63 FR at 65402.



In *Refrigerator-Freezers from Korea*, the Department determined that two cross-owned affiliates that received countervailable subsidies were non-producing subsidiaries, and the subsidies received by each cross-owned affiliate were attributed to the total sales of their respective parent companies.<sup>140</sup> With regard to the first respondent in *Refrigerator-Freezers from Korea*, Samsung Electronics Co., Ltd. (SEC), the Department found that its cross-owned affiliate, Samsung Electronics Logitech (SEL), was a non-producing subsidiary that provided domestic transportation services to SEC for shipping subject merchandise. Accordingly, the Department attributed countervailable subsidies received by SEL to SEC.<sup>141</sup> With regard to the second respondent, LG Electronics, Inc. (LG), the Department found that its cross-owned affiliate, ServeOne, was a non-producing subsidiary that operated as a trading company, sourcing inputs from suppliers and selling them to LG. The Department, therefore, attributed the subsidies received by ServeOne to LG.<sup>142</sup>

SEL and ServeOne were both cross-owned, non-producing subsidiaries that provided services to their parent companies; therefore, the subsidies they received were appropriately attributed to their parent companies' total sales.<sup>143</sup> The Department determined that cross-owned affiliates such as SEL and ServeOne, which do not produce goods but do receive subsidies, are examples of the type of non-producing company contemplated by the *CVD Preamble*.

In *Washing Machines from Korea*, the Department found the respondent, LG, to be cross-owned with ServeOne due to common ownership through their parent company, LG Corporation.<sup>144</sup> The Department determined that ServeOne was a non-producing subsidiary that operated as a trading company, purchasing goods from input producers and reselling them to LG for use in the production of subject merchandise. Consistent with the Department's treatment of subsidies to holding companies, we attributed the subsidies received by ServeOne to the consolidated sales of LG.<sup>145</sup>

We disagree with the petitioner's comparison of the facts in *Refrigerator-Freezers from Korea* and *Washing Machines from Korea* to those in this case. Whereas the cross-owned affiliates in *Refrigerator-Freezers from Korea* and *Washing Machines from Korea* provided services related to the production of subject merchandise, the record indicates that Cebi Enerji did not provide Kaptan Demir with electricity or any other input that was primarily dedicated to the production of subject merchandise and, therefore, we determine that Cebi Enerji does not meet any of the attribution criteria enumerated under 19 CFR 351.525(b)(6)(ii)-(v). Furthermore, unlike the non-producing subsidiaries in *Refrigerator-Freezers from Korea* and *Washing Machines from Korea* discussed above, Cebi Enerji produces and sells a good (*i.e.* electricity), and, therefore, it is not the type of non-producing company contemplated by the *CVD Preamble*. Accordingly, we find no new information on the record that warrants a change from our preliminary finding to exclude Cebi Enerji from the subsidy analysis for Kaptan Demir.

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<sup>140</sup> See *Refrigerator-Freezers from Korea Final IDM* at 90-93.

<sup>141</sup> *Id.*, at 90.

<sup>142</sup> *Id.*, at 93.

<sup>143</sup> *Id.*, at 90-93.

<sup>144</sup> See *Washing Machines from Korea Final IDM* at 3.

<sup>145</sup> *Id.*, at 4.

## VIII. Conclusion

Based on our analysis of the comments received, we recommend adopting all the above positions. If this recommendation is accepted, we will publish the final results of this review in the *Federal Register*.



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

6/6/2017

X

Ronald K. Lorentzen

Signed by: RONALD LORENTZEN  
Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance