C-489-832
Investigation
Public Document
E&C Office V: JMN/OQ

DATE: August 25, 2017

MEMORANDUM TO: Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Determination in the Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey

---

I. SUMMARY

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of carbon and alloy steel wire rod (wire rod) from the Republic of Turkey (Turkey), as provided in section 703 of the Tariff Act of 1930, as amended (the Act).

II. BACKGROUND

A. Initiation and Case History

On March 28, 2017, antidumping duty (AD) and countervailing duty (CVD) petitions regarding imports of wire rod from, *inter alia*, Turkey were properly filed with the Department by Gerdau Ameristeel US Inc., Nucor Corporation, Keystone Consolidated Industries, Inc., and Charter Steel (collectively, the petitioners).[1] Supplements to the Petition and our consultations with the Government of Turkey (GOT) are described in the *Initiation Notice* and accompanying Initiation

[1] *See* Letter from Petitioners, "Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, the Republic of South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom - Petitions for the Imposition of Antidumping and Countervailing Duties" (March 28, 2017) (Petition).

Checklist.[2] On April 17, 2017, the Department initiated a CVD investigation of wire rod from Turkey.[3] On May 30, 2017, the Department postponed its preliminary determination until August 25, 2017.[4]

In the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, the scope of the investigation), and instructed all parties to submit scope comments by May 8, 2017, and to submit scope rebuttal comments by May 18, 2017.

On April 20, 2017, the Department released U.S. Customs and Border Protection (CBP) import data to interested parties which it intended to use for purposes of selecting mandatory respondents.[5] On June 2, 2017, the Department selected Habas Sinai Ve Tibbi Gazlar Istih (Habas) and Icdas Celik Eberji Tersane Ve Ulasim San (Icdas) as mandatory respondents for this investigation.[6]

The Department issued a questionnaire to the GOT on June 8, 2017, requesting that it, along with the mandatory respondents, provide information regarding the subsidy programs alleged in the Petition.[7] On June 22, 2017, Habas and Icdas provided timely responses to the Affiliations section of the Department's questionnaire.[8] On July 20, 2017, the Department issued supplemental questionnaires to the GOT, Habas, and Icdas requesting additional information with respect to affiliates identified by Habas and Icdas in their affiliation responses.[9] On July 27, 2017, the GOT as well as Habas and Icdas respectively submitted timely responses to Section II and Section III of the Department's questionnaire.[10] On August 11, 2017, the GOT, Habas, and

---

[2] *See Carbon and Alloy Steel Wire Rod from Italy and Turkey: Initiation of Countervailing Duty Investigations*, 82 FR 19213 (April 26, 2017) (*Initiation Notice*) and accompanying Initiation Checklist.
[3] *See Initiation Notice*.
[4] *See Carbon and Alloy Steel Wire Rod from Italy and the Republic of Turkey: Postponement of Preliminary Determinations of Countervailing Duty Investigations*, 82 FR 25771 (June 5, 2017) (*Postponement Notice*).
[5] *See* Department Memorandum, "Certain Carbon and Alloy Wire Rod from the Republic of Turkey: U.S. Customs and Border Protection Data for Respondent Selection Purposes" (April 20, 2017).
[6] *See* Department Memorandum, "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Turkey: Respondent Selection" (June 2, 2017) (Respondent Selection Memorandum).
[7] *See* Letter from the Department, "Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Countervailing Duty Questionnaire" (June 8, 2017).
[8] *See* Letter from Habas "Carbon and Alloy Steel Wire Rod from Turkey; Habas Affiliation Response" (June 22, 2017) (Habas Affiliation Response); *see also* Letter from Icdas, "Carbon Alloy Steel Wire Rod from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to Section III of the CVD Questionnaire Identifying Affiliated Parties" (June 22, 2017) (Icdas Affiliation Response).
[9] *See* Letter to the GOT, "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Request for Additional Information" (July 20, 2017); *see also* Letter from the Department to Habas, "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Request for Additional Information" (July 20, 2017); and *see* Letter from the Department to Icdas, "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Request for Additional Information" (July 20, 2017).
[10] *See* Letter from the GOT, "Response of the Government of Turkey in Countervailing Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from the Republic of Turkey" (July 27, 2017) (GOT Initial Questionnaire Response); *see also* Letter from Habas, "Carbon and Alloy Steel Wire Rod from Turkey; Habas Section III Questionnaire Reponses" (July 27, 2017) (Habas Initial Questionnaire Response); and *see* Letter from Icdas, "Carbon and Alloy Steel Wire Rod from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to Section III of the CVD Questionnaire" (July 27, 2017) (Icdas Initial Questionnaire Response).

Icdas provided timely responses to the Department's Affiliation supplemental questionnaires.[11] The Department issued supplemental questionnaires to Habas and Icdas on August 9, 2017 regarding their responses to Section III of the Department's questionnaire,[12] on which the petitioners subsequently commented.

On August 11, 2017, the Department issued a supplemental questionnaire to the GOT regarding its response to Section II of the Department's questionnaire.[13] On August 17, 2017, Habas and Icdas provided timely responses to the Department's supplemental questionnaires. On August 18 and 21, 2017, the GOT provided timely responses to the Department's supplemental questionnaire.

The petitioners filed comments on the responses filed by the GOT, Habas, and Icdas on August 11, 2017.[14] Icdas provided rebuttal information to the petitioners' comments on August 17, 2017.[15] The petitioners also filed factual information on August 11, 2017.[16] Habas responded to the petitioners' factual information on August 18, 2017.[17]

B. Postponement of Preliminary Determination

On June 5, 2017, the Department postponed the deadline for the preliminary determination of this investigation to the full 130 days permitted under sections 703(c)(1)(A) of the Act and 19 CFR 351.205(e).[18]

---

[11] *See* Letter from the GOT, "Response of the Government of Turkey Pertaining to Request for Additional Information in Countervailing Duty Investigation on Carbon and Certain Alloy Steel Wire Rod from the Republic of Turkey" (August 11, 2017) (GOT Affiliation Supplemental Questionnaire Response); Letter from Habas, "Carbon and Alloy Steel Wire Rod from Turkey; Habas Supplemental Questionnaire Response" (August 11, 2017) (Habas Affiliation Supplemental Questionnaire Response); Letter from Icdas, "Carbon Alloy Steel Wire Rod from the Republic of Turkey; Icdas Response to Request for Additional Information Providing Affiliated Parties' Response to Section III of the CVD Questionnaire" (August 11, 2017) (Icdas Affiliation Supplemental Questionnaire Response).

[12] *See* Letter to Habas, "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Supplemental Questionnaire" (August 9, 2017); *see also* Letter to Icdas, "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Supplemental Questionnaire" (August 9, 2017).

[13] *See* Letter to the GOT, "Countervailable Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Supplemental Questionnaire" (August 11, 2017).

[14] *See* Letter from Nucor, "Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Deficiency Comments on the GOT's Initial Questionnaire" (August 10, 2017); *see also*, Letter from Nucor, "Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Deficiency Comments on Habas' Initial Questionnaire Response" (August 10, 2017) (Deficiency Comments on Habas Response); and *see* Letter from Nucor, "Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Deficiency Comments on Icdas' Initial Questionnaire Response" (August 10, 2017).

[15] *See* Letter from Icdas, "Carbon Alloy Steel Wire Rod from the Republic of Turkey; Icdas Celik Enerji Tersane Ve Ulasim Sanayi A.S. Response to Petitioner's Deficiency Comments and Submitted Benchmark Data" (August, 17, 2017).

[16] *See* Letter from Nucor, "Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Rebuttal Information on Benchmark Data" (August 11, 2017).

[17] *See* Letter from Habas, "Steel Concrete Reinforcing Bar from Turkey; Habas: Comments on Petitioner's Rebuttal Benchmark Submission" (August 18, 2017).

[18] *See Postponement Notice*.

C. Period of Investigation

The POI is January 1, 2016, through December 31, 2016. This period corresponds to the most recently completed calendar year in accordance with 19 CFR 351.204(b)(2).

III. SCOPE COMMENTS

In accordance with the preamble to the Department's regulations,[19] we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and we encouraged all parties to submit comments within 20 calendar days of the signature date of that notice.[20]

We received comments from interested parties concerning the scope of the AD and CVD investigations of wire rod from Turkey.[21] On August 7, 2017, we issued a Preliminary Scope Decision Memorandum.[22] We will incorporate any additional scope decisions from the AD investigations into the scope of the final CVD determination after considering any relevant comments submitted in case and rebuttal briefs.

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is wire rod from Turkey. For a full description of the scope of this investigation, *see* Appendix I of the preliminary determination *Federal Register* notice that accompanies this preliminary decision memorandum.

V. RESPONDENT SELECTION

Section 777A(e)(1) of the Act directs the Department to determine an individual countervailable subsidy rate for each known exporter/producer of subject merchandise. Given the large number of exporters/producers of wire rod from Turkey, the Department found that it would not be practicable to individually examine each known exporter and/or producer of subject merchandise in this investigation, consistent with section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2). As a result, the Department selected Habas Sinai Ve Tibbi Gazlar Istih (Habas) and Icdas Celik Eberji Tersane Ve Ulasim San (Icdas) as mandatory respondents for this investigation.[23]

---

[19] *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).
[20] *See Initiation Notice*, 82 FR at 19214.
[21] *See* Letter from POSCO, re: Comments on Scope of the Investigations, dated May 12, 2017; *see also* Letter from British Steel Limited re, British Steel's Scope Comments, dated May 12, 2017; *see also* Letter from the petitioners, re Response to Cooper Tire's Request to Exclude Tire Cord/Tire Bead Wire Rod, dated May 22, 2017; *see also* Letter from Cooper Tire and Rubber Company, re Carbon and Alloy Steel Wire Rod Trade Petitions against Ten Countries, dated May 26, 2017.
[22] *See* Memorandum, "Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, the United Arab Emirates, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations," dated August 7, 2017 (Preliminary Scope Decision Memorandum).
[23] *See* Respondent Selection Memorandum.

VI. INJURY TEST

Because Turkey is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a U.S. industry. On May 18, 2017, the ITC preliminarily determined that there was a reasonable indication that an industry in the United States is materially injured by reason of imports of wire rod from Turkey and that an industry in the United States is material injured by reason of imports of wire rod that are alleged to be subsidized by the Government of Turkey.[24]

VII. PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES

On July 6, 2017, the petitioners filed a timely critical circumstances allegation, pursuant to section 703(e)(1) of the Act and 19 CFR 351.206, alleging that critical circumstances exist with respect to imports of wire rod from Turkey.[25] The petitioners provided certain U.S. import data in support of their allegation.[26] On July 14, 2017, the Department requested from Habas and Icdas monthly shipment data of subject merchandise to the United States for the period September 2016, through July 2017.[27] Between July 19, 2017 and July 22, 2017, Habas and Icdas provided the requested information.[28] In accordance with 19 CFR 351.206(c)(2)(i), because the petitioners submitted a critical circumstances allegation more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary critical circumstances determination not later than the date of the preliminary determination.[29]

Section 703(e)(1) of the Act states that if the petitioner alleges critical circumstances, the Department will determine, based on information available to it at the time, if there is a reason to believe or suspect the alleged countervailable subsidies are inconsistent with the World Trade Organization (WTO) Agreement on Subsidies and Countervailing Measures (the SCM Agreement) and whether there have been massive imports of the subject merchandise over a relatively short period.

---

[24] *See Carbon and Certain Alloy Steel Wire Rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the United Arab Emirates, and the United Kingdom. 701-TA-573-574 and 731-TA-1349-1358 (Preliminary)*, Publication 4693, May 2017; *see also Carbon and Certain Alloy Steel Wire Rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom; Determinations*, 82 FR 22846 (May 18, 2017).

[25] *See* Letter from Nucor, "Carbon and Alloy Steel Wire Rod from Russia, South Africa, Spain, Turkey, and United Kingdom: Critical Circumstances Allegations" (July 6, 2017).

[26] *Id.*

[27] *See* Letter from the Department to Habas, "Countervailing Duty Investigation on Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Request for Monthly Quantity and Value Shipment Data" (July 14, 2017); *see also See* Letter from the Department to Icdas, "Countervailing Duty Investigation on Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Request for Monthly Quantity and Value Shipment Data" (July 14, 2017).

[28] *See* Letter from Habas, "Carbon and Alloy Steel Wire Rod from Turkey; Habas Shipment Data" (July 22, 2017); *see also,* Letter from Icdas, "Carbon and Alloy Steel Wire Rod from Turkey; Response of Icdas to the Department's Request for Quantity & Value Shipment Data" (July 19, 2017).

[29] *See, e.g.*, Policy Bulletin 98/4 Regarding Timing of Issuance of Critical Circumstances Determinations, 63 FR 55364 (October 15, 1998).

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 703(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.,* the "base period") to a comparable period of at least three months following the filing of the petition (*i.e.,* the "comparison period"). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.[30]

As discussed in the "Analysis of Programs" section below, we preliminarily determine that both Habas and Icdas have received countervailable benefits under programs that are contingent upon export performance, specifically under the rediscount loans from the Export Credit Bank of Turkey (Turk Eximbank) program. In addition, for the companies subject to the "all others rate" rate, it is the Department's normal practice to conduct its critical circumstances analysis for these companies based on the experience of investigated companies. Therefore, we preliminarily determine that there is a reasonable basis to believe or suspect that there are programs in this investigation that are inconsistent with the SCM Agreement. Accordingly, an analysis is warranted as to whether there was a massive increase in shipments by Habas, Icdas and the "all other" companies, in accordance with section 703(e)(1)(B) of the Act and 19 CFR 351.206(h). Therefore, we analyzed, in accordance with 19 CFR 351.206(i), monthly shipment data for the base period January 2017 – March 2017, and the comparison period, April 2017– June 2017, using shipment data from Habas, Icdas, and the Global Trade Atlas (GTA).[31]

An analysis of the data submitted by Habas and Icdas indicates there was no massive increase in their shipments, as defined by 19 CFR 351.206(h).[32] As such, we find that no critical circumstances exist with respect to these companies. After deducting the shipment data submitted by Habas and Icdas from the GTA data, we find that the resulting data indicate there was a massive increase in shipments for the "all others" companies, as defined by 19 CFR 351.206(h).[33] Accordingly, the Department preliminarily finds that critical circumstances exist with regard to imports of subject merchandise by "all other" exporters or producers of wire rod from the Turkey. As a result of an affirmative preliminary determination of critical circumstances, in part, in accordance with section 703(e)(2)(A) of the Act, we are directing CBP to suspend liquidation, with regard to "all other" exporters or producers of wire rod, of any unliquidated entries of the merchandise under consideration from Turkey entered, or withdrawn from warehouse for consumption, 90 days prior to the date of publication of the preliminary determination in the *Federal Register*.

[30] *See* 19 CFR 351.206(h)-(i).
[31] *See* Department Memorandum, "Monthly Shipment Q&V Analysis for Critical Circumstances," dated concurrently with this memorandum (Critical Circumstances Memorandum).
[32] *Id.*
[33] *Id.*

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.[34] 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.[35] The Department notified the respondents of the 15-year AUL in the initial questionnaire and requested data accordingly. No party in this proceeding disputed the 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 that 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 over the AUL.

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), the Department normally attributes a subsidy to the products produced by the company that received that subsidy. However, additional rules at 19 CFR 351.525(b)(6)(ii)-(v) provide for the attribution of subsidies received by respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of the subject merchandise, (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to the respondent. Further, 19 CFR 351.525(c) states that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm producing the subject merchandise that is sold through the trading company, regardless of affiliation.

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. The regulation states that this standard will normally be met where there is a majority voting interest between two or more corporations or through common ownership of two or more corporations. According to the *CVD Preamble*, relationships captured by the cross-ownership definition include those where:

> {T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation.

[34] *See* 19 CFR 351.524(b).
[35] *See* U.S. International Revenue Service Publication 946 (2008), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

> Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.[36]

The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on a company's ability to use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.[37]

Habas

In response to the Department's questionnaire, Habas reported multiple affiliated companies.[38] Based on the information provided, we preliminarily find that Habas, Habas Elektrik A.S. (Habas Elektrik), Habas Endustrisi Tesisleri A.S. (Habas Endustrisi), Pegagaz A.S. (Pegagaz) Habas Petrol Urunleri Sanyi ve Ticaret A.S. (Habas Petrol), Asgaz Andolu Sinaai Gazlar A.S. (Asgaz Anadolu), Barasan Holding and Mertas Turizm Isletmeciligi Nakliyat ve Turzm A.S. (Mertas) are cross-owned on the basis of majority voting ownership interest within the meaning of 19 CFR 351.525(b)(6)(vi). As noted above, the Department subsequently requested that, in addition to itself, Habas submit complete questionnaire responses on behalf of its affiliates Habas Elektrik, Habas Endustrisi, Habas Petrol, Pegagaz, Asgas Anadolu and Basaran Holding A.S. (Basaran Holding), based on 19 CFR 351.525(b)(6)(iv), which pertains to input suppliers that produce an input the production of which is primarily dedicated to production of the downstream product. The Department also requested complete questionnaire responses from Mertas, pursuant to 19 CFR 351.525(c), because Mertas exports subject merchandise for Habas and, thus, any subsidies to Mertas are subject to attribution under the trading company attribution rule. Therefore, benefits from any subsidies received by Habas Endustrisi, Habas Petrol, Pegagaz, and Mertas are attributable in accordance with the applicable attribution rule as discussed in the "Denominators" section, below.

Icdas

In response to the Department's questionnaire, Icdas reported multiple affiliated companies.[39] We preliminarily find that several of these companies are cross-owned with Icdas via common shareholding under 19 CFR 351.525(b)(6)(vi). The Department subsequently requested that, in addition to itself, Icdas submit complete questionnaire responses on behalf of the cross-owned affiliates that were reported as input suppliers or holding companies: Atak Holding A.Ş. (Atak Holding), Asmar Holding A.Ş. (Asmar Holding), NCT Demir Celik ve Ticaret A.Ş. (NCT Demir), Artmak Denizcilik Ticaret ve Sanayi A.Ş. (Artmak), İçdaş Elektrik Enerjisi Üretim ve Yatirim A.Ş. (İçdaş Elektrik), İçdaş Elektrik Enerjisi Toptan Satış İthalat Ve İhracat A.Ş. (İçdaş Toptan), Oraysan İnsaat Lojistik Sanayi Ve Ticaret A.S. (Oraysan) and Mavisu Trz. Tar. Hay. İnş. San. ve Tic. Ltd. Sti. (Mavisu). We preliminarily determine that certain of the companies that are cross-owned with Icdas received subsidies during the POI under the Minimum Wage

[36] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).
[37] *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 603 (CIT 2001).
[38] *See* Habas Affiliation Response at Exhibit 1.
[39] *See* Icdas Affiliation Response at Exhibit 1.

Support program; thus, we have attributed these benefits to Icdas as described below in the description of that program.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for the respondents' receipt of benefits under each program when attributing subsidies (*e.g.*, to the respondent's export sales for export subsidies or to the respondent's total sales for domestic subsidies). For more information regarding the classification of subsidies as export or domestic, *see* the Preliminary Calculation Memoranda.[40]

Habas stated that Habas Elektrik did not produce or sell electricity during the POI and furthermore, only provided consultancy services to Habas during the POI.[41] Because Habas Elektrik did not provide Habas with any input during the relevant period, any subsidies it received are not attributable to Habas. Habas Endustrisi, Habas Petrol, and Pegagaz however, provided Habas with inputs that we preliminarily find dedicated to the production of the downstream product during the POI.[42] Therefore, subsidies received by Habas Endustrisi, Habas Petrol, and Pegagaz are attributed to the sales of each supplier's sales of their respective inputs, combined with Habas' sales of the downstream product, *i.e.*, steel products, in accordance with 19 CFR 351.525(b)(6)(iv).

As noted, the Department is treating Mertas as a trading company that exported subject merchandise produced by Habas.[43] As a result, pursuant to 19 CFR 351.525(c), any subsidies received by Mertas are cumulated with the subsidies received by Habas.

With respect to Icdas, several of its cross-owned companies from which we requested full questionnaire responses, the identities of which are business proprietary information, utilized this program during the POI. For those companies that sold scrap metal to Icdas during the POI, we are attributing subsidies in the same manner in which we applied benefits to Habas, above. Likewise, for a holding company that received benefits under this program during the POI, we find that the benefits are attributable to Icdas within the meaning of 19 CFR 351.525(b)(6)(iii), and consistent with the *CVD Preamble* at 65402.[44] For two companies cross-owned with Icdas that sold subject merchandise produced by Icdas in the domestic market during the POI, we preliminarily find that the benefits received by these companies are not attributable to Icdas under the attribution regulation. Finally, for one cross-owned company that bought and sold

---

[40] *See* Department Memoranda, "Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Calculations for the Preliminary Countervailing Duty Determination for Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.Ş." (Habas Preliminary Calculation Memorandum) and "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey**:** Preliminary Determination Calculations for Icdas Celik Eberji Tersane Ve Ulasim San," (Icdas Preliminary Calculation Memorandum) dated concurrently with this memorandum.

[41] *See* Habas Affiliation Supplemental Response at 6.

[42] *See* Habas Affiliation Response at 3.

[43] *See* Habas Initial Questionnaire Response at 10.

[44] The holding company, is cross-owned with, but not a parent of Icdas. For this situation, we are relying on the section of the CVD Preamble cited above, which says "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."

electricity on behalf of Icdas, we find that there is no applicable attribution principle under 19 CFR 351.525(b)(6).

D. Loan Benchmarks

Section 771(5)(E)(ii) of the Act provides that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." In addition, 19 CFR 351.505(a)(3)(i) states that, when selecting a comparable commercial loan that the recipient "could actually obtain on the market," the Department will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans, the Department "may use a national average interest rate for comparable commercial loans," pursuant to 19 CFR 351.505(a)(3)(ii). 19 CFR 351.505(a)(2)(ii) further stipulates that the Department will not consider a loan provided by a government-owned special purpose bank in its calculation of a benchmark interest rate. Finally, under 19 CFR 351.505(a)(2)(i), when a loan is denominated in a foreign currency, the Department will use a benchmark denominated in the same foreign currency to calculate the relevant benefit.

The Department is examining short-term export financing provided by the GOT. As discussed below at "Rediscount Program," Habas and Icdas reported that they paid interest against U.S. dollar (USD) rediscount loans from the Export Credit Bank of Turkey (Turk Eximbank), which were disbursed during the POI. Habas and Icdas also submitted information on comparable short-term USD commercial loans during the POI. Therefore, in accordance with 19 CFR 351.505(a)(2)(ii), for each company, based on their reported commercial loans, we calculated a weighted-average interest rate as a benchmark for use in calculating the benefit received by each company under the Rediscount Program.

IX. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Legal Standard

Sections 776(a)(1) and (2) of the Act provide that the Department shall, subject to section 782(d) of the Act, apply "facts otherwise available" if necessary information is not on the record or an interested party or any other person: withholds information that has been requested; fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; significantly impedes a proceeding; or provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the

deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

Under the Trade Preferences Extension Act of 2015 (TPEA), numerous amendments to the AD and CVD laws were made. Amendments to section 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act were included.[45] The amendments to the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this investigation.[46]

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In so doing, and under the TPEA, the Department is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.[47] Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the countervailing duty investigation, a previous administrative review, or other information placed on the record.[48]

Section 776(c) of the Act provides that, in general, when the Department relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.[49] Secondary information is defined as information derived from the petition that gave rise to the investigation, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.[50] Further, under the TPEA, the Department is not required to corroborate any countervailing duty applied in a separate segment of the same proceeding.[51]

Finally, under the new section 776(d) of the Act, when applying an adverse inference, the Department may use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the Department

---

[45] *See* TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015). The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission. *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The text of the TPEA may be found at https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl.

[46] *See Applicability Notice*, 80 FR at 46794 – 95.

[47] *See* section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).

[48] *See also* 19 CFR 351.308(c).

[49] *See also* 19 CFR 351.308(d).

[50] *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H.R. Doc. No. 103-316, Vol. 1 at 870 reprinted at 1994 U.S.C.C.A.N. 4040, 4199 (1994).

[51] *See* section 776(c)(2) of the Act; TPEA, section 502(2).

considers reasonable to use.[52] The TPEA also makes clear that, when selecting facts available with an adverse inference, the Department is not required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an "alleged commercial reality" of the interested party.[53]

Consistent with section 776(d) of the Act and our established practice, when choosing a rate to apply as AFA, we select the highest calculated rate for the same or similar program.[54] When selecting rates, we first determine if there is an identical program in the investigation and, if so, use the highest calculated rate for the identical program (excluding zero rates). If there is no identical program with a rate above zero in the investigation, we then determine if an identical program was examined in another CVD proceeding involving the same country, and apply the highest calculated rate for the identical program (excluding rates that are zero or de minimis).[55] If no identical program exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) in another CVD proceeding involving the same country, and apply the highest calculated rate for the similar/comparable program.[56] For purposes of this preliminary determination, we are applying AFA in the circumstance outlined below.

Application of AFA: Minimum Wage Incentive Program

For this preliminary determination, we find that the GOT has withheld information that was requested of it with respect to the *de facto* specificity information that is necessary to fully analyze the Minimum Wage Incentive Program, and that we must therefore rely on facts available, pursuant to section 776(a)(2)(A) of the Act, with regard to our specificity finding regarding this program. As part of its initial questionnaire, the Department asked the GOT:

> Does the GOT (or entities owned directly, in whole or in part, by the GOT or any provincial or local government) provide, directly or indirectly, any other forms of assistance to the producers of wire rod? If so, please describe such assistance in detail, including the amounts, date of receipt, purpose and terms, and answer all questions in the **Standard Questions Appendix**, as well as other appropriate appendices attached to this questionnaire.

In its initial questionnaire response of July 27, 2017, the GOT responded to this question by reporting several different programs that had also been reported as used by the company respondents in their initial questionnaire responses.[57] Each of those programs has been analyzed

[52] *See* section 776(d)(1) of the Act; TPEA, section 502(3).
[53] *See* section 776(d)(3) of the Act; TPEA, section 502(3).
[54] *See*, *e.g.*, *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) and accompanying issues and decision memorandum (Shrimp IDM) at 13; *see also Essar Steel Ltd. v. United States*, 753 F.3d 1368, 1373-1374 (Fed. Cir. 2014) (*Essar Steel*) (upholding "hierarchical methodology for selecting an AFA rate").
[55] *See Pre-Stressed Concrete Steel Wire Strand from China, Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) and accompanying IDM at 13.
[56] *See* Shrimp IDM at 13-14.
[57] *See* GOT Initial Questionnaire Response at 95-137.

below in the "Analysis of Programs" section. However, unlike the company respondents, the GOT provided no response with respect to the Minimum Wage Support program, despite both Habas and Icdas having reported usage of this program.[58] Accordingly, on August 11, 2017, the Department issued a supplemental questionnaire to the GOT requesting further information on the Minimum Wage Incentive Program.[59] Specifically, the Department requested that the GOT provide responses to the Standard Questions Appendix, Grant Appendix, and Allocations Appendix with regard to this program. On August 18, 2017, the GOT responded in part to the Department's request,[60] and requested a further extension of time to respond to the portion of the Standard Questions Appendix regarding usage information due to a temporary shut down of its database.[61] The Department granted this extension and the GOT subsequently provided its responses to the outstanding questions on August 21, 2017.[62] After reviewing the responses to our standard usage questions in the GOT's August 21 response, we preliminarily find that the GOT withheld requested information. While the GOT provided information on the benefits received by Habas and Icdas, as well as their respective affiliated companies, under the program, the GOT did not respond at all to the other usage questions in the appendix.[63] These questions solicit information necessary to determine the nature and operation of a subsidy program throughout the country, including the total amount of assistance provided throughout the country, the total number of users of a program within the country, as well as the use of the program on an industry basis. The response provided by the GOT on the record lacks the information requested to determine *de facto* specificity for this program.

According to 771(5A)(D)(iii) of the Act, where there are reasons to believe that a subsidy may be specific as a matter of fact, the subsidy is specific if one or more of the following factors exist: 1) The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number; 2) An enterprise or industry is a predominant user of the subsidy; 3) An enterprise or industry receives a disproportionately large amount of the subsidy; or 4) The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over another. Here, although the GOT has had multiple opportunities to provide the necessary information for the Department to make a determination on this program's specificity, the GOT has not provided the requested information necessary to determine whether the program met any of the specificity criteria stated above. Thus, pursuant to section 776(b) of the Act, we find that the GOT failed to cooperate by not acting to the best of its ability to comply with the Department's request for information in this investigation, and as such, we preliminarily determine that the application of AFA to our

[58] *See* Habas Initial Questionnaire Response at 40; *see also* Icdas Initial Questionnaire Response at III-48.
[59] *See* Letter from the Department, "Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Supplemental Questionnaire" (August 11, 2017) at 4.
[60] *See* Letter from the GOT, "Response of the Government of Turkey for First Supplemental Questionnaire in Countervailing Duty Investigation on Carbon and Certain Alloy Steel Wire Rod from the Republic of Turkey" (August 18, 2017) (GOT First Supplemental Questionnaire Response).
[61] *See* Letter from the GOT, "Countervailing Duty Investigation of Imports of Carbon and Certain Alloy Steel Wire Rod from the Republic of Turkey: Partial Extension of Time" (August 18, 2017); *see also* GOT First Supplemental Questionnaire Response at 32.
[62] *See* Letter from the GOT, "Partial Response of the Government of Turkey for the First Supplemental Questionnaire in Countervailing Duty Investigation on Carbon and Certain Alloy Steel Wire Rod from the Republic of Turkey" (August 21, 2017) (GOT Partial Supplemental Questionnaire Response).
[63] *See* GOT First Supplemental Questionnaire Response at 29-31; *see also* GOT Partial Supplemental Questionnaire Response at 2-4.

specificity determination with respect to the Minimum Wage Incentive Program is warranted, and, on the basis of AFA, find that the program is *de facto* specific under section 771(5A)(D)(iii) of the Act.

X. ANALYSIS OF PROGRAMS

Based upon our analysis of the record, we preliminarily make the following determinations regarding the alleged subsidy programs.

A. Programs Preliminarily Determined to be Countervailable

1. Natural Gas for Less than Adequate Remuneration

The petitioners alleged that Turkish steel producers with vertically integrated power plants received countervailable subsidies by purchasing natural gas at discounted prices from Boru Hatlari ile Petrol Taşima A.Ş. (BOTAS).[64] Habas owns and operates three power plants, one of which was operational during the POI and generated electricity for steel production.[65] Habas reported that it purchased natural gas from BOTAS during the POI for electricity generation, as well as other applications.[66] Habas Elektrik, Habas Endustrisi, Habas Petrol, Asgaz Anadolu, Barasan Holding and Mertas did not purchase natural gas from BOTAS during the POI.[67] Icdas reported that neither it nor its affiliates purchased natural gas from BOTAS during the POI.[68]

The GOT reported that BOTAS was founded in 1974 as a "State Economic Enterprise."[69] Therefore, in accordance with Decree Law No. 233, all of BOTAS's board members are appointed by approval of the Turkish President and the Turkish Prime Minister.[70] Furthermore, all investment decisions must be approved by the GOT's Council of Ministers and "in line with determined governmental programs."[71] Profits generated by BOTAS are transferred to the Turkish Treasury.[72] For these reasons, the Department finds BOTAS to be a government authority[73] providing a financial contribution in the form of goods or services under section 771(5)(D)(iii) of the Act.

Regarding specificity, Petitioner alleged that the power industry is the "predominant user" of natural gas in Turkey, thereby receiving a "disproportionately large amount" of the subsidy.[74] The GOT reported that, in 2016 the total consumption of natural gas in Turkey was 46,395,060,000 standard cubic meters (SM3) and that BOTAS sold a substantial majority of the

[64] *See* Initiation Checklist at 8.
[65] *See* Habas Initial Response Questionnaire Response at 6.
[66] *Id.* at Exhibit 9.
[67] *See* Habas Affiliation Response at 13.
[68] *See* Icdas Initial Questionnaire Response at III-15; *see also* Icdas Affiliation Supplemental Questionnaire Response at III-15-16.
[69] *See* GOT Initial Questionnaire Response at 6 and 17.
[70] *Id.* at 17 and Exhibit 9.
[71] *Id.* at 17-18 and Exhibit 9.
[72] *Id*. at 18 and Exhibit 9.
[73] *See* section 771(5)(B) of the Act.
[74] *See* Initiation Checklist at 9.

natural gas consumed in Turkey during the same period.[75] The GOT also provided a breakdown of six industries/sectors that purchased natural gas during the POI,[76] which indicates that power producers (*i.e.*, the "Conversion Sector") accounted for the highest sector-specific ratio of natural gas purchases in 2016 (*i.e.*, 36 percent or 16,730,310,000 SM3).[77] The "Industry Sector," the "Service Sector," the "Transportation Sector," the "Energy Sector," and Other Sectors (*i.e.*, the other four non-miscellaneous industries/sectors) accounted for 30.4 percent, 6.67 percent, 0.86 percent, 0.75 percent, and 25.2 percent of all natural gas purchased during the POI, respectively.[78] Therefore, because power producers consumed 36 percent of natural gas during the POI, we determine that the natural gas sold by BOTAS is predominantly used by power producers, including Habas, and therefore specific within the meaning of section 771(5A)(D)(iii)(II) of the Act.

The Department's regulations establish the basis for identifying appropriate market-determined benchmarks for determining whether there is, and the extent of any, benefit received from the provision of goods or services for less than adequate remuneration (LTAR).[79] Section 351.511(a)(2) of the Department's regulations sets forth the hierarchy of potential benchmarks, listed in order of preference: (1) market prices from actual transactions of the good within the country under investigation (*e.g.*, actual sales, actual imports, or competitively run government auctions) (*i.e.*, "tier one"), (2) world market prices that would be available to purchasers in the country under investigation (*i.e.*, "tier two"), or (3) an assessment of whether the government price is consistent with market principles (*i.e.*, "tier three"). As provided in the regulations, the preferred benchmark is an observed market price for the good at issue based on actual transactions within the country under investigation.[80] Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where the Department finds that the government provides the majority or, in certain circumstances, a substantial portion of the market for a good or service, prices for such goods and services in the country will be considered significantly distorted and will not be an appropriate basis of comparison for determining whether or not there is a benefit.[81] As explained above, BOTAS's natural gas sales account for a substantial majority of Turkey's natural gas consumption during the POI.[82] The GOT also reported that domestically produced natural gas, half of which is produced by a GOT entity, accounts for only 0.79 percent of Turkey's total natural gas consumption in 2016[83] Furthermore, all natural gas consumed in Turkey, regardless of whether it is produced

---

[75] *See* GOT Initial Questionnaire Response at 21. The actual volume of natural gas sold by BOTAS is business proprietary information and is discussed in greater detail in the Habas Preliminary Calculation Memorandum.
[76] *Id.* at 24-26.
[77] *Id.*
[78] *Id.*
[79] *See* 19 CFR 351.511(a)(2).
[80] *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 Issues and Decision Memorandum (IDM) at "Provincial Stumpage Programs Determined to Confer Subsidies: Market-Based Benchmark" (stating, "Thus, the preferred benchmark in the hierarchy is an observed market price for the good, in the country under investigation, from a private supplier.").
[81] *See CVD Preamble*, 63 FR at 65377 (November 25, 1998).
[82] *See* GOT Initial Questionnaire Response at 24-26; *see also* Habas Preliminary Calculation Memorandum.
[83] *See* GOT Initial Questionnaire Response at 22.

domestically or imported, is transported via pipelines owned and operated by BOTAS.[84] Due to the GOT's overwhelming involvement in the Turkish natural gas market, the use of Turkish private transaction prices to calculate a benefit would be akin to comparing the benchmark to itself (*i.e.*, such a benchmark would reflect the distortions of the GOT's presence in the market).[85] Therefore, we determine that there is no viable tier one benchmark for natural gas in Turkey during the POI.

Under 19 CFR 351.511(a)(2)(ii), if there is no useable market-determined tier one benchmark price, the government price will be compared to a tier two benchmark (*i.e.*, a world market price that would reasonably be available to purchasers in the country under investigation). In this proceeding, Habas timely provided natural gas benchmark data, which included information from the Global Trade Atlas (GTA), Eurostat, and Energy Experts international.[86] The petitioners also timely provided factual information regarding natural gas in their comments on Habas' Section III submission and provided annual industrial natural gas prices published by the International Energy Agency (IEA).[87] In addition to providing benchmark information, the petitioners rebutted Habas' benchmark data submission, stating that the benchmark pricing information provided by Habas was inaccurate due to weight and energy miscalculations.[88] Habas subsequently filed comments to rebut the petitioner's IEA data and provided revisions to its natural gas price calculations.[89]

As the Department has recently found that the use of IEA natural gas information is more accurate than GTA natural gas information in a past proceeding,[90] we have used the IEA information provided by the petitioners in our calculations of the benefits received by Habas under this program. The IEA publication provided by the petitioners includes country-specific industrial natural gas prices for all Organisation for Economic Co-operation and Development (OECD) countries, as well as "zone aggregate" natural gas prices for OECD regional groups (*e.g.*, OECD Europe), for 2006 through the second quarter of 2017.[91] Because, in its gaseous form, natural gas can only be transported via pipeline,[92] the Department finds that Turkish natural gas consumers would not be able to purchase natural gas outside of OECD Europe (*e.g.*, from the United States or Korea).[93] Furthermore, because we have found that the market for

[84] *Id.* at 28, 31.
[85] *See Softwood Lumber from Canada* and accompanying IDM at 38-39 (stating that such an analysis "would become circular because the benchmark price would reflect the very market distortion which the comparison is designed to detect").
[86] *See* Letter from Habas, "Habas Benchmark Data" (July 26, 2017).
[87] *See* Deficiency Comments on Habas Response at Exhibit 2.
[88] *See* Letter from the Petitioner, "Carbon and Alloy Steel Wire Rod from the Republic of Turkey: Rebuttal Information on Benchmark Data" (August 21, 2017).
[89] *See* Letter from Habas, "Carbon and Alloy Steel Wire Rod from Turkey; Habas' Objection to Petitioner's Natural Gas Benchmark Submission" (August 18, 2017).
[90] *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 82 FR 23188 (May 22, 2017) (*Rebar from Turkey*) and Accompanying Issues and Decision Memorandum at Comment 4 (Rebar IDM).
[91] *See* Petitioner Factual Information at Exhibit 2. The "Geographical Groupings" section of the IEA publication notes that Iceland and Latvia are not included in the reported data.
[92] *See* Habas Preliminary Calculation Memorandum at Attachment III.
[93] OECD Europe is comprised of Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Poland, Portugal, the

natural gas in Turkey is distorted, we have removed the value for Turkey included in the publication from our calculations.

Consistent with past precedent,[94] for purposes of this preliminary determination, we find that the OECD Europe natural gas prices for 2016, as published by IEA, are useable under 19 CFR 351.511(a)(2)(ii) as a tier two benchmark.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under 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 (*i.e.*, a "delivered" price to the factory). Therefore, in order to ensure that the benchmark price reflects what the respondent would have paid if it had imported natural gas directly, the regulation stipulates that the average price be adjusted by adding any delivery charges for the transmission of natural gas within Turkey and any applicable taxes. Habas reported that it paid delivered prices for its purchases of natural gas from BOTAS.[95]

The benchmark price provided by the petitioners does not include various fees and taxes imposed within the borders of a foreign purchasing country.[96] To ensure that the benchmark price reflects the delivery charges in Turkey, we added the additional per-unit transmission/delivery fees charged by BOTAS (*e.g.*, service, capacity, and warehousing fees) to the tier two benchmark price. Furthermore, the GOT reported that, although there are no import duties on natural gas, there is an 18 percent domestic VAT.[97] As such, we adjusted the benchmark to include VAT and constructed a per-unit delivered price.

To calculate the program benefit, we compared the benchmark per-unit delivered price to the per-unit delivered price Habas actually paid BOTAS for natural gas during the POI. Where the benchmark price was greater than the actual price paid to BOTAS, we multiplied the difference by the quantity of natural gas purchased from BOTAS under that invoice to determine the benefit. We then summed the benefits and divided the total amount by Habas' total sales for the POI. On this basis, we preliminarily determine that Habas received a net countervailable subsidy rate of 2.02 percent *ad valorem* under this program.

2. Deductions from Taxable Income for Export Revenue

The petitioners alleged that Turkish taxpayers are allowed to deduct 0.5 percent of income derived from export activities from their corporate income taxes.[98] As explained by the GOT,

---

Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, and the United Kingdom. *See* the petitioners' Factual Information at Exhibit 2. Denmark, Italy, and Norway did not report a natural gas price for 2015. *Id.* Because the Turkish natural gas market is distorted, the 2015 Turkish natural gas price is also excluded.

[94] *Id.*

[95] *See* Habas Initial Questionnaire Response at Exhibit 9.

[96] *See* Deficiency Comments on Habas Response at Exhibit 2. There is no information on the record regarding domestic transmission fees, so the Department declines to speculate that domestic transmission fees are included in the benchmark price.

[97] *See* GOT Initial Questionnaire Response at 23.

[98] *See* Initiation Checklist at 20.

pursuant to Article 40 of Income Tax Law No. 193, as amended by Law No. 4108, this tax deduction allows exporters to claim a lump sum deduction from gross income from export, construction, maintenance, assembly, and transportation activities abroad at a rate of 0.5 percent of the exporters' foreign exchange earnings from such activities.[99] This deduction is presumed to cover expenditures without documentation and appears as a lump sum on the participating exporter's annual income tax return.[100] The tax program is administered by the GOT's Ministry of Finance.[101] Habas reported claiming the 0.5 percent deduction during the POI.[102] Icdas reported that it and its affiliates did not utilize this program.[103]

Consistent with prior determinations, the Department preliminarily finds this program to be countervailable.[104] The income tax deduction constitutes a financial contribution under section 771(5)(D)(ii) of the Act because it is revenue forgone by the GOT. Because receiving a deduction is contingent upon export revenue, we preliminarily determine that the program is specific within section 771(5A)(B) of the Act. The benefit received is equal to the amount of tax savings to the company (*i.e.*, the amount of additional taxes that would have been paid absent the program), in accordance with section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).

Pursuant to 19 CFR 351.524(c)(1), the Department typically treats tax deductions as recurring benefits. Therefore, we preliminarily determine that this program provides a recurring benefit. To calculate a rate for this program, we divided the benefit received by Habas by the relevant export sales figure.[105] On this basis, we preliminarily determine that Habas received a net countervailable subsidy rate of 0.08 percent *ad valorem* under this program.

3. Rediscount Program

The petitioners alleged that the Turk Eximbank, a "fully state-owned bank acting as the {GOT's} major export incentive instrument," and as the Turkish Treasury is the Turk Eximbank's sole shareholder, it provides various forms of countervailable export assistance to Turkish exporters.[106] In addition to the Turk Eximbank programs identified in the Petition, the GOT provided a questionnaire response in regard to Turk Eximbank's "Rediscount Program."[107] Habas and Icdas also reported using the Rediscount Program during the POI.[108]

As explained by the GOT, the Rediscount Program, which was previously known as the "Short-Term Pre-Shipment Rediscount Program," was established in 1999 and designed to support

[99] *See* GOT Initial Questionnaire Response at 62.
[100] *Id.*
[101] *Id.* at 63.
[102] *See* Habas Initial Questionnaire Response at Exhibit 23; *see also* Habas Affiliation Supplemental Questionnaire Response at 24-25.
[103] *See* Icdas Initial Questionnaire Response at III-45 and Icdas Affiliation Supplemental Questionnaire Response at III-36.
[104] *See*, *e.g.*, Rebar IDM at 13.
[105] *See* Habas Preliminary Calculation Memorandum.
[106] *See* Initiation Checklist at 15-18.
[107] *See* GOT Initial Questionnaire Response at 115.
[108] *See* Habas Initial Questionnaire Response at 27; *see also* Icdas Initial Questionnaire Response at III-36.

Turkish manufacturer-exporters producing goods for export or for use by exporters.[109] The program is administered by the Turk Eximbank and contingent upon export commitment.[110] Upon the Turk Eximbank's approval of an exporter's program application, the Turk Eximbank instructs the Central Bank of the Republic of Turkey (CBRT) to disburse the approved Turkish Lira (TRY) loan amount, minus interest, to the recipient.[111] Exporters can repay the principle value of the loan in either TRY or the foreign currency equivalent at any time prior to maturity.[112]

The Department preliminarily finds this program to be countervailable. The Rediscount Program loans constitute a financial contribution in the form of a direct transfer of funds from the GOT, via the Turk Eximbank and CBRT, under section 771(5)(D)(i) of the Act. Consistent with the Department's past practice,[113] we preliminarily determine that this program is specific, within the meaning of section 771(5A)(B) of the Act, because it is contingent upon export commitment.[114] The benefit received is equal to the difference between the amounts that Habas and Icdas paid on the loans during the POI and the amounts the companies would have paid on comparable commercial loans, in accordance with section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1).

Pursuant to section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1), in calculating the benefit received under this program, the Department applied a discounted benchmark interest rate, as discussed above at "Loan Benchmarks," because program participants pay all applicable interest upfront (*i.e.*, upon receipt each Rediscount Program loan). We then divided each company's benefit amount by its total export sales value for the POI to determine the applicable countervailable subsidy rate. On this basis, we preliminarily determine that Habas received a net countervailable subsidy rate of 0.01 percent *ad valorem* under this program, and that Icdas' benefit is not measurable.

4. Minimum Wage Support

Both Habas and Icdas reported that they received grants under a new minimum wage law introduced in 2016.[115] The GOT states that the program is designed to reduce the employment costs of the companies due to the sudden increase of the minimum wage,[116] and is administered by the Social Security Institution.[117] As the assistance provided under this program is a direct transfer of funds (*i.e.*, grants) and is administered by a GOT agency, the Social Security Institution, we preliminarily find that this program provides a financial contribution under

[109] *See* GOT Initial Questionnaire Response at 116.
[110] *Id.* at 116 and 122.
[111] *Id.* at 121. According to the GOT, even approved foreign currency loans are converted to TRY prior to disbursement.
[112] *Id.*
[113] *See*, *e.g.*, *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) (*Rebar from Turkey (Preliminary)*) and accompanying PDM; unchanged in *Rebar from Turkey* and Rebar IDM.
[114] *See* GOT Initial Questionnaire Response at 99.
[115] *See* Habas Initial Questionnaire Response at 40; *see also* Icdas Initial Questionnaire Response at III-48.
[116] *See* GOT First Supplemental Questionnaire Response at 24.
[117] *Id.* at 26.

section 771(5)(D)(i) of the Act. As to specificity, both Habas and Icdas claim that the assistance is available on a country-wide basis.[118] While it is apparent that the program is not specific on a *de jure* basis,[119] as explained in the "Application of AFA: Minimum Wage Incentive Program" section, above, we preliminarily find that this program is *de facto* specific in accordance with section 771(5A)(D)(iii) of the Act. With regard to benefit, for both Habas and Icdas, a benefit exists in the amount of the funds received from the GOT, in accordance with 19 CFR 351.504(a).

In addition to Habas and Icdas, several of their cross-owned companies have also benefited from assistance received under the Minimum Wage Support program. With respect to Habas, the following cross-owned companies benefited from this program during the POI: Habaş Endüstri, Pegagaz, Habaş Petrol, and Mertaş. As explained in the "Attribution of Subsidies" section, above, we are attributing subsidies received by Mertas to Habas in accordance with 19 CFR 351.525(c). Habaş Endüstri, Pegagaz, and Habaş Petrol each provided scrap metal to Habas during the POI.[120] We preliminarily find that scrap metal is primarily dedicated to the production of Habas' downstream steel products, in accordance with 19 CFR 351.525(b)(6)(iv), and consistent with our determination in prior proceedings.[121] As such, we are attributing any subsidy benefits received by these input suppliers to each company's sales of scrap metal and to Habas' sales of downstream steel products. We preliminarily determine that benefits received by Asgaz Anadolu Sınai Gazlar A.Ş., as well as one other company, the identity of which is business proprietary information, are not attributable to Habas within the meaning of 19 CFR 351.525(b)(6). We then combined the rates calculated for Habas and its cross-owned companies that received benefits under this program during the POI. For Habas, we have calculated a preliminary *ad valorem* rate for this program that is less than 0.005 percent, and is therefore not measurable.[122]

With respect to Icdas, several of its cross-owned companies from which we requested full questionnaire responses, the identifies of which are business proprietary information, utilized this program during the POI. For those companies that sold scrap metal to Icdas during the POI, we are attributing subsidies in the same manner in which we applied benefits to Habas, above. Likewise, for a holding company that received benefits under this program during the POI, we find that the benefits are attributable to Icdas within the meaning of 19 CFR 351.525(b)(6)(iii), and consistent with the CVD Preamble to the Department's regulations at 65402.[123] For two companies cross-owned with Icdas that sold subject merchandise produced by Icdas in the domestic market during the POI, we preliminarily find that the benefits received by these companies are not attributable to Icdas under the attribution regulation. Finally, for one cross-owned company that bought and sold electricity on behalf of Icdas, we find that there is no applicable attribution principle under 19 CFR 351.525(b)(6). As such, the only benefits received under this program for Icdas are those received by Icdas itself, and its cross-owned input

[118] *See* Habas Initial Questionnaire Response at 40; *see also* Icdas Initial Questionnaire Response at III-48.
[119] *See* GOT First Supplemental Questionnaire Response at 29-31.
[120] *See* Habas Affiliation Response at 3.
[121] *See Rebar from Turkey (Preliminary)*, unchanged in *Rebar from Turkey*.
[122] *See* Habas Preliminary Calculation Memorandum.
[123] The holding company is cross-owned with, but not a parent of Icdas. For this situation, we are relying on the section of the *CVD Preamble* cited above, which says "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."

suppliers. We summed the subsidy rates applicable to each of these companies to establish a total *ad valorem* subsidy rate under this program of 0.22 percent *ad valorem* for Icdas.

B. Programs Preliminarily Determined to be Not Countervailable

1. Electricity for More Than Adequate Remuneration (MTAR)

The petitioners alleged that, during the POI, the GOT purchased electricity from Turkish steel producers with vertically integrated power plants for more than adequate remuneration.[124] According to the petitioners, the GOT subsidizes private companies with autoproducer and/or production licenses by purchasing their excess electricity at "relatively expensive" (*i.e.*, above-market) prices.[125] The petitioners claim that the GOT then purchases "relatively cheap" electricity from public power producers and sells all electricity, regardless of producer, at a uniform price.[126]

In our most recent proceeding involving Turkey, the Department determined to examine purchases of electricity for MTAR as three distinct programs: (1) Purchase of Electricity for MTAR – Sales on the Grid, (2) Purchase of Electricity for MTAR – Sales to Public Buyers; and (3) Purchase of Electricity for MTAR – Sales via Build-Operate-Own (BOO), Build-Operate-Transfer (BOT), and Transfer of Operating Rights (TOR) Contracts.[127] 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. Both Habas and Icdas reported using the "Electricity for MTAR – Sales on the Grid" and "Electricity for MTAR – Sales to Public Buyers" programs.[128] Both companies reported that they did not have BOO, BOT, or TOR contracts.[129]

a. Electricity for MTAR – Sales on the Grid

The GOT reported that the government authority responsible for electrical transmission activity in Turkey is the Turkish Electricity Transmission Corporation (TEIAS). As of September 2015, Energy Markets Operating Corporation (EPIAS) is the Market Operator responsible for managing the system. The GOT and Icdas reported that power producers and suppliers sell electricity via the grid through the Day Ahead Market (DAM) and the Balancing Power Market

[124] *See* Initiation Checklist at 8.
[125] *Id.*; *see also* Petition, Volume V at 8 (defining "autoproducer" as "a company which generates power primarily for its own consumption").
[126] *See* Initiation Checklist at 8.
[127] *See Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2014*, 82 FR 26907 (June 12, 2017), (*Rebar from Turkey 2014*) and the accompanying IDM (Rebar 2014 IDM) at Comment 1.
[128] *See* Habas Initial Questionnaire Response at 18-19; *see also* Icdas Initial Questionnaire Response at III-21-23.
[129] *See* Habas Initial Questionnaire Response at 19; *see also* Icdas Initial Questionnaire Response at III-22.

(BPM).[130] Through its Market Financial Settlement Center (MFSC),[131] TEIAS handles the financial settlement of the transactions in the markets (*i.e.*, managing payment, invoicing, and other financial activities).[132] The 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.[133] In our previous investigation of this program, the Department found that the MMS generates market prices based on competitive bidding among the parties and the GOT and Icdas further explained that, at month's end, generation and consumption meters for all market participants are read and the results entered into the MMS.[134] 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.[135] Furthermore, the Department found that 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, TEIAS calculates the amount of receivables and payables to be accrued and prepares the related invoices.[136] As such, TEIAS invoices the power producer for its payables, the power producer invoices TEIAS for its receivables, and TEIAS invoices the buyers.[137]

As we did in *Rebar 2014*, we examined the Balancing and Settlement Regulation (BSR) and the Electricity Market Law, which explain the role and responsibility of TEIAS as the market and system operator.[138] Article 11(3) of the BSR states that the market operator "shall carry out 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."[139] 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."[140] We have previously found that while TEIAS does collect transmission and system usage fees, as stated under Turkish Law, TEIAS has otherwise no inflow or outflow of money with regard to the electricity purchase transactions between the sellers and buyers,[141] and, therefore, TEIAS can neither purchase nor sell electricity.[142]

On the basis of the record evidence, and consistent with our past determinations regarding this program,[143] we preliminarily find that the electricity transmitted through the grid by the power producers is purchased not by TEIAS but, rather, by the buyers in the marketplace through the

---

[130] *See* GOT Initial Questionnaire Response at 34-33; *see also* Icdas Initial Questionnaire Response at III-22.
[131] 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 Initial Questionnaire Response at 33.
[132] *See* GOT Initial Questionnaire Response at 33.
[133] *See* Icdas Initial Questionnaire Response at III-21-23.
[134] *See Rebar from Turkey 2014* and Rebar 2014 IDM at 11.
[135] *Id.*
[136] *Id.*; *see also* GOT Initial Questionnaire Response at 35.
[137] *See Rebar from Turkey 2014* and Rebar 2014 IDM at 11.
[138] *See* GOT Initial Questionnaire Response at Exhibits 15 and 16.
[139] *Id.* at Exhibit 16.
[140] *Id.*
[141] *See Rebar from Turkey 2014* and Rebar 2014 IDM at 12.
[142] *Id.*
[143] *See Rebar from Turkey 2014* and Rebar 2014 IDM at Comment 1.

MFSC, which acts as a bridge between the sellers and the buyers. 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 and our previous findings regarding this program, we find that TEIAS does not purchase or take title to the electricity being sold by power producers, but rather TEIAS transmits the electricity from the sellers to the buyers and handles the related financial reconciliation, which involves issuing invoices. 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. 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 charges. As such, we preliminarily 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. Thus, consistent with our previous findings and the record, we preliminarily determine that TEIAS' role in facilitating purchases 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.

b. Electricity for MTAR – Sales to Public Buyers

Icdas reported that it sold electricity to a public entity via a bilateral contract during the POI, the identity of which is business proprietary information.[144] The GOT reports that both public and private end-users that consume an annual quantity above the set limit are defined as "free consumers."[145] The GOT has stated that the contracts between free consumers and supplier companies are not subject to the approval of the Energy Market Regulation Authority (EMRA), which is authorized by the GOT to regulate electricity tariffs for all end-users.[146]

Icdas explained that when offering electricity for sale to a free consumer, it prepares a sales offer on the basis of the consumption level of the consumer, and upon the acceptance of the offer, a contract is signed between the parties.[147] Each month Icdas issues an invoice based on the discount or price set forth in the contract according to the energy consumption quantity of the free consumer in the relevant period, while the reference price used in the invoice is based on the quarterly "National Price Schedule" announced by the EMRA.[148] Icdas states that the reference price from the National Price Schedule is based on the consumer's user category (*e.g.*, residential, industrial, or commercial).[149] Although not required, as it is not a distribution company, Icdas considers the National Price Schedule when determining its sales price to free

[144] *See* Icdas Initial Questionnaire Response at III-23.
[145] *See* GOT Initial Questionnaire Response at 41 and 39.
[146] *Id.*
[147] *See* Icdas Initial Questionnaire Response at III-23.
[148] *Id.* at III-26; *see also* GOT Initial Questionnaire Response at 39.
[149] *See* Icdas Initial Questionnaire Response at III-24.

consumers.[150] Icdas further stated that, as agreed to in the contract, a discount is applied to the reference electricity price.[151]

We examined the contract that Icdas had in place with its public buyer during the POI.[152] We noted that the reference electricity price in each contract was sourced from the National Price Schedule. We note that the contract price for the electricity sold by Icdas is discounted based on the reference price.[153] Based on the record of this investigation, we preliminarily find that Icdas' public buyer paid electricity prices that were below the standard prices published in the National Price Schedule for the electricity they purchased from Icdas during the POI under its "free consumer" contract. Consistent with our finding in *Turkish Rebar 2014*, we therefore preliminarily determine that the "Purchase of Electricity for MTAR – Sales to Public Buyers" program does not constitute a countervailable subsidy under section 771(5) the Act, because the purchase of electricity by public buyers through bilateral "free consumer" contracts does not give rise to any benefit *per se* in terms of payment at MTAR. Specifically, because public buyers pay electricity prices that are either at or below the set market rates (*i.e.*, the electricity prices published in the National Price Schedule), electricity was not and is not purchased for MTAR.

2. Inward Processing Regime (Duty Drawback)

Following the Customs Union established between Turkey and the EU on January 1, 1996, the Inward Processing Regime was introduced by Resolution No. 95/7615, having since been replaced by Resolution No. 99/13819 and Resolution No. 2005/8391.[154] Under the Inward Processing Regime, Turkish manufacturers and exporters that obtain Inward Processing Certificates (IPCs) are able to import raw materials and intermediate unfinished goods that are used in the production of finished goods without paying customs duty or VAT, allowing Turkish industry access to raw materials at world market prices and giving industry the opportunity to compete in international markets.[155] The Ministry of Economy is responsible for administering the program.[156]

Under the Inward Processing Regime, there are two types of IPCs available to companies: (1) D-1 certificates for imported raw materials or intermediate unfinished goods used in the production of exported goods, and (2) D-3 certificates for imported raw materials or intermediate unfinished goods used in the production of goods sold in the domestic market.[157] Applicants submit documents including an application form, an input-output table, a capacity report providing information about the production facilities, information about the goods intended to be exported and information about the raw materials to be imported (appropriate to the kind and

[150] *Id.* at III-26.
[151] *Id.*
[152] *Id.* at Exhibit 10.
[153] *Id.* at III-24 and Exhibit 10.
[154] *See* GOT Initial Questionnaire Response at 127.
[155] *Id.*
[156] *Id.* at 129.
[157] *Id.* at 127-128.

amount of the good to be exported).[158] An approved certificate lists the goods that can be imported without the obligation to pay the normally applicable duty and taxation rates.[159]

Companies with a D-1 certificate can choose to utilize either the Suspension System, wherein they are exempt from the applicable duties and taxes upon importation, but submit a letter of guarantee or a deposit to cover the duties and taxes otherwise owed, or the Drawback System, wherein the duties and taxes are reimbursed after exportation of the finished goods.[160] Companies holding a D-3 certificate may only utilize the Suspension System, as the finished goods are not exported.[161] Both Habas and Icdas reported importing goods under D-1 certificates during the POI.[162] Neither company utilized D-3 certificates to import goods.[163]

Concerning D-1 certificates, pursuant to 19 CFR 351.519(a)(1)(ii), a benefit exists to the extent that the exemption extends to inputs that are not consumed in the production of the exported product, making normal allowances for waste, or if the exemption covers charges other than import charges that are imposed on the input. With regard to the VAT exemption granted under this program, pursuant to 19 CFR 351.517(a), in the case of the exemption upon export of indirect taxes, a benefit exists to the extent that the Department determines that the amount exempted exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption.

Consistent with our findings in prior proceedings and based on the information on the record of this investigation, we find that, in accordance with 19 CFR 351.519(a)(4)(i), the GOT had a system in place to confirm which inputs, and in what amounts, are consumed in the production of the exported product, and that the system is reasonable for the purposes intended.[164] The Department also found that the exemption granted on certain methods of payments used in purchasing imported raw materials under this program does not constitute a subsidy, pursuant to 19 CFR 351.517(a), because the tax exempted upon export does not exceed the amount of tax levied on like products when sold for domestic consumption.[165] No new information is on the record of this review that would warrant a reconsideration of the Department's earlier findings.

During the POI, Habas and Icdas both used D-1 certificates and received duty and VAT exemptions on certain imported inputs used in the production of exported goods. Consistent with the Department's findings in *Turkish Pipe 2013 Final Results*, and based on our review of the information supplied by the respondents regarding this program, we preliminarily find that there is no record evidence indicating that the amounts of VAT and duty exemptions on inputs Habas and Icdas imported under the program were excessive or that the companies used the imported inputs for any other product besides those exported.

---

[158] *Id.* at 132.
[159] *Id.* at 127.
[160] *Id.* at 128-129.
[161] *Id.* at 129.
[162] *See* Habas Initial Questionnaire Response at 44; *see also* Icdas Initial Questionnaire Response at III-52.
[163] *Id.*
[164] *See*, *e.g.*, *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2013 and Rescission of Countervailing Duty Administrative Review, in Part*, 80 FR 61361 (October 13, 2015) (*Turkish Pipe 2013 Final Results*) and accompanying IDM at 11-13.
[165] *Id.*

Therefore, consistent with Department practice, we preliminarily determine that the duty exemptions, which Habas and Icdas received on imported inputs using only D-1 certificates, did not confer countervailable benefits, as the exemptions were applied only to the imported inputs consumed in the production of the exported product, making normal allowance for waste. We further preliminarily find that the VAT exemption, also pursuant to D-1 certificates, did not confer countervailable benefits to Habas or Icdas, because the exemption does not exceed the amount levied with respect to the production and distribution of like products when sold for domestic consumption.

3. Payments from Turkish Employers' Association of Metal Industries (MESS) – Social Security Premium Support

As part of its initial questionnaire, the Department asks respondents to report any assistance received under programs other than those included in the CVD Checklist. Habas and Icdas both reported that they are members of MESS, a private sector trade association whose members are companies operating in the metal and electronic industries. MESS collects dues from its members, and it returns some portion of these funds to its members in the form of support for social security premiums. The companies claim that MESS does not receive funding from any government entity, and that there is no government involvement in the administration of the association.

Icdas provided a copy of Turkish Law No. 6356, the "Law on Trade Unions and Collective Labour Agreements." Based on the information on the record provided by the respondents, there is no basis to find that MESS is a government authority, or that the GOT entrusts or directs MESS, within the meaning of section 771(5)(B) of the Act. As such, we preliminarily find that there is no financial contribution, and that this program is not countervailable.

4. Payments from MESS – Occupational Health and Safety Support

Similar to the "Payments from Turkish Employers' Association of Metal Industries – Social Security Premium Support" program, Habas and Icdas both reported that they received occupational health and safety support from MESS. Based on the information on the record provided by the respondents, there is no basis to find that MESS is a government authority, or that the GOT entrusts or directs MESS, within the meaning of section 771(5)(B) of the Act. As such, we preliminarily find that there is no financial contribution, and that this program is not countervailable.

5. Payments from MESS – Environment Support

Habas and Icdas both reported that they received environment support from MESS. Based on the information on the record provided by the respondents, there is no basis to find that MESS is a government authority, or that the GOT entrusts or directs MESS, within the meaning of section 771(5)(B) of the Act. As such, we preliminarily find that there is no financial contribution, and that this program is not countervailable.

C. Programs Preliminarily Determined to Not Confer a Measurable Benefit During the POI

The Department preliminarily determines that the programs listed below did not confer a measurable benefit during the POI. Consistent with the established practice, we are not including programs with non-measurable benefits (*i.e.*, calculated rates of less than 0.005 percent) in the respondent's net subsidy rate calculation.[166] Furthermore, because the benefits from these programs are non-measurable, we are not making preliminary determinations regarding financial contribution or specificity.

1. Assistance Received for Operating Renewable Energy Resources (RES) Power Plant

In 2007, Icdas received a license fee exemption for its RES production facility application.[167] We preliminarily find that the benefit received from that exemption was expensed in the year of receipt prior to the POI.[168] Furthermore, Icdas reported that it was exempted from paying its annual license fee during the POI.[169] We preliminarily find that the benefit provided by this exemption is not measurable.[170]

2. Social Security Premium Support

According to the GOT, this program was established in May 2013 under Law 6486 as an amendment to Law 5510.[171] The Social Security Institution of the GOT is responsible for administering this program.[172] The purpose of this program is to increase production and employment levels in certain provinces by reducing the cost of the insurance premiums paid by employers.[173] Companies employing at least 10 workers and operating in the provinces determined by the Council of Ministers are eligible for this program.[174] Employers can benefit from this program by not paying the employers' share of long-term social security insurance premiums (11 percent in total).[175] Both Habas and Mavisu, a trading company cross-owned by Icdas, reported receiving benefits under this program during the POI. We preliminarily determine that Habas' *ad valorem* subsidy rate for use of this program is not measurable. For Mavisu, we preliminarily determine that for the purposes of this program, the company's activities are limited to domestic sales of subject merchandise, and thus any assistance received under this program is not attributable to Icdas in accordance with 19 CFR 351.525(c)).

---

[166] *See*, *e.g.*, *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from the Russian Federation: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016), and accompanying IDM at 31-32.
[167] *See* Icdas Initial Questionnaire Response at III-49.
[168] *See* Icdas Preliminary Calculation Memorandum.
[169] *See* Icdas Initial Questionnaire Response at III-49.
[170] *See* Icdas Preliminary Calculation Memorandum.
[171] *See* GOT Initial Questionnaire Response at 86.
[172] *Id.* at 87.
[173] *Id.* at 86.
[174] *Id.*
[175] *Id.*

D. Programs Preliminarily Determined To Not Confer Countervailable Benefits

1. Regional Investment Scheme

Another aspect of the GOT's Investment Incentive Program, this program permits companies to import machinery, equipment, or inputs free of customs duties and VAT.[176] Additional assistance can include interest support, social security premium support, tax reductions, and land allocation. Habas reported not receiving assistance from any aspect of the program.[177] Icdas reported that it had three investment incentive certificates that were in effect during the POI, receiving assistance with regard to customs duties and VAT exemptions on imported machinery and equipment, tax reductions, social security premium support, and interest support.[178] Icdas reported that none of these certificates were related to the subject merchandise.[179] At our request, Icdas provided a copy of each Investment Incentive Certificate.[180] After examining these investment certificates, we preliminarily find that the certificates indicate that, at the time of bestowal, they were tied to the production of and/or investment in non-subject merchandise,[181] and, therefore, are not countervailable. This approach is consistent with the Department's analysis of similar Investment Incentive Certificates in past cases.[182]

2. General Investment Incentive Scheme (GIIS)

As part of the Investment Incentive Program established by the "Council of Ministers Decree No. 2009/15199 Concerning State Encouragements to Investments," the GIIS is designed and implemented by the Ministry of Economy to steer savings into high value-added investments, to boost production and employment, to encourage regional, large scale and strategic investments with high research and development content for increasing international competitiveness, to increase foreign direct investments, to reduce regional development disparities, to promote investments for clustering, environment protection, and R&D.[183] Under the GIIS, companies with investment certificates are eligible for customs duty exemptions and value-added tax (VAT) exemptions on imported goods. Habas reported importing machinery and equipment under investment certificates provided under the GIIS during the AUL period, "for the investment for electricity generation, transmission, and distribution."[184] Icdas also reported importing machinery and equipment under an investment certificate during the AUL period, although it identified the relevant project as business proprietary information.[185] However, the GOT explained that Icdas' investment certificate was also related to electricity production,

---

[176] *See* GOT Initial Questionnaire Response at 58-59.
[177] *See* Habas Initial Questionnaire Response at 32.
[178] *See* Icdas First Supplemental Questionnaire Response at S2-5-6.
[179] *See* Icdas Initial Questionnaire Response at III-42.
[180] *See* Icdas First Supplemental Questionnaire Response at Exhibit S2-6.
[181] *See* 19 CFR 351.525(b)(5).
[182] *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) and accompanying PDM at 14, "Investment Incentive Certificates," unchanged in *Rebar from Turkey* and Rebar 2014 IDM.
[183] *See* GOT Initial Questionnaire Response at 58.
[184] *See* Habas Initial Questionnaire Response at 41-42 and Exhibit 24.
[185] *See* Icdas Initial Questionnaire Response at III-49-51 and Exhibit 25.

transmission, and distribution.[186] Both companies report that the certificates are not tied to the production of subject merchandise.[187]

Notwithstanding the respondents' claims, we preliminarily find that because the duty and VAT exemptions on the importation of machinery and equipment for the generation of electricity are not tied to the production or sale of a particular product within the meaning of 19 CFR 351.525(b)(5)(i), the exemptions are thus "untied" and attributable to the company's overall operations. As such, the benefit is applicable to each company's total sales. We preliminarily find that this program provides a financial contribution under section 771(5)(D)(ii) in the form of revenue forgone, because the GOT permits companies holding investment certificates to be exempted from the payment of duties and VAT that is otherwise due. Furthermore, we find that this program is *de jure* specific under section 771(5A)(D)(i) of the Act, because under sections 3 and 4 of Decree No. 2009/15199, benefits are limited by law to companies making minimum investment amounts listed in the Annexes attached to the Decree. A benefit exists, in accordance with 19 CFR 351.510(a)(1), in the amount of the tariff and VAT exemptions. Although 19 CFR 351.510(c) states that the Department will normally expense the benefit of an exemption to the year in which the benefit was received, because the goods imported under the GIIS program are related to the companies' capital assets, we are applying the 0.5 percent test in accordance with 19 CFR 351.524(b)(2) to the duty and VAT exemptions, including those received prior to the POI but during the AUL. We note, however, that the imported equipment was subject to the customs union agreement between Turkey and the European Union, under which a zero percent duty was applicable. Therefore, in the absence of the program, the companies would have paid no duty and, consequently, we find that under the program, both Habas and Icdas received zero benefit from the duty exemptions. With regard to the VAT exemption, we applied the 0.5 percent test, as applicable, for each year that the companies received the exemption. We preliminarily find that all benefits received by Habas and Icdas from these VAT exemptions should be expensed to the respective years of receipt, all of which predate the POI.

F. Programs Preliminarily Determined to be Not Used During the POI

The company respondents reported that they did not receive benefits under the following programs during the POI or AUL, as applicable. The Department intends to verify non-use.

1. Provision of Electricity for LTAR
2. Electricity for MTAR – Sales via BOO, BOT, and TOR Contracts
3. Provision of Steam Coal for LTAR
4. Provision of Land for LTAR
5. Turkish Development Bank Loans
6. Pre-Shipment Export Credits
7. Foreign Trade Company Export Loans
8. Pre-Export Credits
9. Short-Term Export Credit Discount Program
10. Large-Scale Investment Scheme

[186] *See* GOT Initial Questionnaire Response at 98.
[187] *See* Habas Initial Questionnaire Response at 42; *see also* Icdas Initial Questionnaire Response at III-49-50.

11. Incentives Provided under Turkish Law No. 5746
12. Withholding of Income Tax on Wages and Salaries
13. Exemption from Property Tax
14. Tax, Duty, and Land Benefits for Wire Rod Producers Located in Free Zones
15. Assistance to Offset Costs Related to AD/CVD Investigations
16. Industrial R&D Projects Grant Program
17. Other Government Loans and Grants

XI. ITC NOTIFICATION

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, 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 injury determination before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

XII. 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.[188] Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.[189]

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.[190] This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[191] Hearing requests should contain the party's name, address, and telephone number, the number of

[188] *See* 19 CFR 351.224(b).
[189] *See* 19 CFR 351.309(c)(1)(i) and (d)(1).
[190] *See* 19 CFR 351.309(c)(2) and (d)(2).
[191] *See* 19 CFR 351.310(c).

participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. Prior to the date of the hearing, the Department will contact all parties that submitted case or rebuttal briefs to determine if they wish to participate in the hearing. The Department will then distribute a hearing schedule to the parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.[192] Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,[193] on the due dates established above.

XIII. VERIFICATION

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

XIV. CONCLUSION

We recommend approval of the preliminary findings described above.

☒ ☐

Agree Disagree

8/25/2017

X

Signed by: GARY TAVERMAN

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

[192] *See* 19 CFR 351.303(b)(2)(i).
[193] *See* 19 CFR 351.303(b)(1).