



C-489-819

Administrative Review

POR: 01/01/2015 - 12/31/2015

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November 30, 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 Results of
Countervailing Duty Administrative Review, and the Preliminary
Intent to Rescind, in Part: Steel Concrete Reinforcing Bar from the
Republic of Turkey; 2015

I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey). The period of review (POR) is January 1, 2015, through December 31, 2015. The two mandatory respondents are Colakoglu Dis Ticaret A.S. (COTAS) and Colakoglu Metalurji A.S. (Colakoglu Metalurji) (collectively, Colakoglu), and Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas). We preliminarily find that Colakoglu and Icdas each received a *de minimis* net countervailable subsidy rate for the POR.

II. BACKGROUND

On November 6, 2014, we published the CVD *Order* on rebar from Turkey.¹ On November 4, 2016, we published the notice of opportunity to request an administrative review of this order for the period January 1, 2015, through December 31, 2015.² On November 23, 2016, Colakoglu Metalurji, Icdas, and Kaptan Demir Celik Endustrisi ve Ticaret A.S. (Kaptan Demir), each

¹ See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Countervailing Duty Order*, 79 FR 65926 (November 6, 2014) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 81 FR 76920 (November 4, 2016).



requested an administrative review.³ On November 30, 2016, the Rebar Trade Action Coalition (RTAC or the petitioner)⁴ requested a review of 19 producers/exporters of subject merchandise, which included Icdas and Kaptan Demir.⁵ On January 13, 2017, we published the notice initiating a review of 20 producers/exporters of rebar from Turkey.⁶ In the *Initiation Notice*, we stated our intention to select respondents based on entry data sourced from U.S. Customs and Border Protection (CBP).⁷ On January 19, 2017, we released the CBP data and requested comments from interested parties.⁸ The petitioner filed comments on January 26, 2017.⁹ On February 6, 2017, we selected COTAS and Icdas as the mandatory respondents in this review.¹⁰

We issued the initial questionnaire on February 7, 2017.¹¹ On February 28, 2017, we received timely responses to the affiliation questions contained within section III of the initial questionnaire from Colakoglu and Icdas.¹² On March 8, 2017, we issued affiliation supplemental questionnaires to Colakoglu and Icdas,¹³ and received their timely responses on March 15, 2017.¹⁴ Based on information reported by Icdas in its affiliation submissions, we identified additional cross-owned affiliates from which a questionnaire response was required.¹⁵

³ See Colakoglu Metalurji's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Colakoglu's Request for CVD Administrative Review," dated November 23, 2016; Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Icdas' Request for CVD Administrative Review," dated November 23, 2016; and Kaptan Demir's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Kaptan Demir's Request for CVD Administrative Review," dated November 23, 2016.

⁴ The members of RTAC are Byer Steel Group, Inc., Commercial Metals Company, Gerdau Ameristeel U.S. Inc., Nucor Corporation, and Steel Dynamics, Inc.

⁵ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from Turkey: Request for Administrative Review," dated November 30, 2016 (Petitioner's Review Request). In its request for review, the petitioner listed Kaptan Metal Dis Tic Ve Nak AS. The petitioner subsequently clarified that the review request was for Kaptan Metal Dis Ticaret ve Nakliyat A.S. See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Response to Clarification Request," dated July 26, 2017.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 4294, 4298 (January 13, 2017) (*Initiation Notice*).

⁷ *Id.* 82 FR at 4294.

⁸ See Memorandum, "Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from Turkey: Results of Customs and Border Protection Query Results," dated January 19, 2017.

⁹ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from Turkey: Comments on CBP Data and Respondent Selection," dated January 26, 2017.

¹⁰ See Memorandum, "Second Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from Turkey: Respondent Selection," dated February 6, 2017.

¹¹ See Department Letter re: Countervailing Duty Questionnaire, dated February 7, 2017 (Initial CVD Questionnaire).

¹² See Colakoglu's February 28, 2017 Response to Section III of the CVD Questionnaire Identifying Affiliated Parties (Colakoglu February 28, 2017 Affiliation Response); and Icdas' February 28, 2017 Response to Section III of the CVD Questionnaire Identifying Affiliated Parties (Icdas February 28, 2017 Affiliation Response).

¹³ See Department Letter re: Company Affiliation for Colakoglu, dated March 8, 2017; and Department Letter re: Company Affiliation for Icdas, dated March 8, 2017.

¹⁴ See Colakoglu's March 15, 2017 Response to the Department's Supplemental Affiliated Parties Questionnaire (Colakoglu March 15, 2017 Affiliation Supplemental Response); and Icdas' March 15, 2017 Response to the Department's Supplemental Affiliated Parties Questionnaire.

¹⁵ See Department Letter re: Additional Cross-owned Affiliates with Reporting Obligation for Icdas, dated March 29, 2017; and Department Letter re: Additional Questionnaire Responses Required from the Government of the Republic of Turkey, dated March 29, 2017. See also Subsidies Valuation Information at Cross-Ownership, below.

We received timely initial questionnaire responses from the Government of Turkey (GOT) and Colakoglu on April 3, 2017, and from Icdas on April 6, 2017.¹⁶ On April 19, 2017, we received the GOT's and Icdas' timely responses to the initial questionnaire for Icdas' additional responding cross-owned affiliates.¹⁷

Between June 2017 and October 2017, we issued supplemental questionnaires to the GOT,¹⁸ Colakoglu,¹⁹ and Icdas.²⁰ All parties timely responded to the supplemental questionnaires.²¹

On April 13, 2017, the petitioner timely withdrew its request for review of the following three companies: DufEnergy Trading SA (formerly known as Duferco Investment Services SA) (DufEnergy), Duferco Celik Ticaret Limited (Duferco Celik), and Ekinciler Demir ve Celik Sanayi A.S. (Ekinciler Demir).²² On June 7, 2017, we extended the deadline for the preliminary results of this administrative review from August 2, 2017, to November 30, 2017.²³ On June 15, 2017, we published a notice partially rescinding this review for DufEnergy, Duferco Celik, and

¹⁶ See GOT's April 3, 2017 Initial Questionnaire Response (GOT April 3, 2017 IQR); Colakoglu's April 3, 2017 Primary Questionnaire Response (Colakoglu April 3, 2017 PQR); and Icdas' April 6, 2017 Primary Questionnaire Response (Icdas April 6, 2017 PQR).

¹⁷ See GOT's April 19, 2017 Response to Additional Questionnaire in 2015 CVD Administrative Review (GOT April 19, 2017 QR Icdas Affiliates); and Icdas' April 19, 2017 Cross-Owned Affiliates' Response to Section III of the Department's CVD Questionnaire (Icdas April 19, 2017 Cross-Owned Affiliates Response).

¹⁸ See Department Letter re: First Supplemental Questionnaire for the GOT, dated June 7, 2017 (GOT June 7, 2017 SQ); Department Letter re: Second Supplemental Questionnaire for the GOT, dated July 21, 2017 (GOT July 21, 2017 SQ); Department Letter re: Third Supplemental Questionnaire for the GOT, dated August 10, 2017 (GOT August 10, 2017 SQ); Department Letter re: Fourth Supplemental Questionnaire for the GOT, dated October 4, 2017 (GOT October 4, 2017 SQ); and Department Letter re: Fifth Supplemental Questionnaire for the GOT, dated October 24, 2017 (GOT October 24, 2017 SQ).

¹⁹ See Department Letter re: First Supplemental Questionnaire for Colakoglu, dated June 7, 2017 (Colakoglu June 7, 2017 SQ); Department Letter re: Second Supplemental Questionnaire for Colakoglu, dated July 21, 2017 (Colakoglu July 21, 2017 SQ); and Department Letter re: Third Supplemental Questionnaire for Colakoglu, dated October 4, 2017 (Colakoglu October 4, 2017 SQ).

²⁰ See Department Letter re: First Supplemental Questionnaire for Icdas, dated June 7, 2017 (Icdas June 7, 2017 SQ); Department Letter re: Second Supplemental Questionnaire for Icdas, dated July 21, 2017 (Icdas July 21, 2017 SQ); and Department Letter re: Third Supplemental Questionnaire for Icdas, dated October 4, 2017 (Icdas October 4, 2017 SQ).

²¹ From the GOT, *see* July 3, 2017 First Supplemental Questionnaire Response (GOT July 3, 2017 SQR); August 4, 2017 Second Supplemental Questionnaire Response (GOT August 4, 2017 SQR); August 24, 2017 Third Supplemental Questionnaire Response (GOT August 24, 2017 SQR); and October 18, 2017 Fourth Supplemental Questionnaire Response (GOT October 18, 2017 SQR); and November 7, 2017 Fifth Supplemental Questionnaire Response (GOT November 7, 2017 SQR). From Colakoglu, *see* June 30, 2017 First Supplemental Questionnaire Response (Colakoglu June 30, 2017 SQR); August 11, 2017 Second Supplemental Questionnaire Response (Colakoglu August 11, 2017 SQR); and October 18, 2017 Third Supplemental Questionnaire Response (Colakoglu October 18, 2017 SQR). From Icdas, *see* June 30, 2017 First Supplemental Questionnaire Response (Icdas June 30, 2017 SQR); August 11, 2017 Second Supplemental Questionnaire Response (Icdas August 11, 2017 SQR); and October 18, 2017 Third Supplemental Questionnaire Response (Icdas October 18, 2017 SQR).

²² See Petitioner's Letter, "Withdrawal of Requests for Administrative Review," dated April 13, 2017. *See also* DufEnergy's Letter, "No Shipments Letter for DufEnergy Trading SA," dated January 26, 2017.

²³ See Memorandum, "Steel Concrete Reinforcing Bar from Turkey: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated June 7, 2017.

Ekinciler Demir.²⁴

On July 24, 2017, Colakoglu and Icdas each filed a factual information submission regarding duty drawback and financial assistance from an employers' association.²⁵

Colakoglu submitted natural gas benchmark pricing data on October 27, 2017.²⁶ On October 31, 2017, the petitioner submitted benchmark pricing data for lignite and natural gas.²⁷ On November 13, 2017, both Colakoglu and Icdas submitted comments on the petitioner's benchmark submission.²⁸ The petitioner filed pre-preliminary comments on November 14, 2017.²⁹

Subsequent to the issuance of the initial questionnaire on February 7, 2017, the Department reached the final results in the first administrative review of this *Order* on June 6, 2017.³⁰ In *Turkey Rebar First Review*, we found the "Purchase of Electricity for More Than Adequate Remuneration (MTAR) - Sales on the Grid" and "Purchase of Electricity for MTAR – Sales to Public Buyers" programs to not be countervailable.³¹ No new information was submitted on the record of this administrative review to warrant a reconsideration of the Department's prior findings. We therefore have withdrawn those programs from this administrative review.

²⁴ See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Notice of Partial Rescission of Countervailing Duty Administrative Review*, 2015, 82 FR 27465 (June 15, 2017).

²⁵ See Colakoglu's July 24, 2017 Voluntary Supplemental Response to Section III of the CVD Questionnaire (Colakoglu July 24, 2017 Factual Information Submission); and Icdas' July 24, 2017 Voluntary Supplemental Response to Section III of the CVD Questionnaire (Icdas July 24, 2017 Factual Information Submission).

²⁶ See Colakoglu's Submission, "Natural Gas Benchmark Pricing Data," dated October 27, 2017 (Colakoglu October 27, 2017 Benchmark Submission).

²⁷ See Petitioner's Submission, "Benchmark Information," dated October 31, 2017 (Petitioner October 31, 2017 Benchmark Submission).

²⁸ See Colakoglu's Submission, "Rebuttal Submission Regarding Natural Gas and Lignite Benchmark Pricing Data," dated November 13, 2017; and Icdas' Submission, "Rebuttal Submission Regarding Lignite Benchmark Pricing Data," dated November 13, 2017.

²⁹ See Petitioner's Submission, "Pre-Preliminary Determination Comments," dated November 14, 2017.

³⁰ 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) (*Turkey Rebar First Review*), and accompanying Issues and Decision Memorandum (IDM).

³¹ See *Turkey Rebar First Review* IDM at Comment 1. The Department's findings in *Turkey Rebar First Review* are consistent with the Department's determination in *Turkey Rebar II Final Determination*. See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 82 FR 23188 (May 22, 2017) (*Turkey Rebar II Final Determination*), and accompanying IDM at Comment 6.

III. INTENT TO RESCIND THE 2015 ADMINISTRATIVE REVIEW, IN PART

A. Agir Haddecilik A.S. (Agir)

We received a timely filed no-shipments certification from Agir. In its filing, Agir stated that the *Initiation Notice* listed its former company name, Agir Haddecilik Makina Sanayi Ve Ti.³² The petitioner requested a review of Agir Haddecilik Makina Sanayi Ve Ti.³³

We issued a no-shipments inquiry to CBP with regard to imports of subject merchandise from Agir during the POR.³⁴ On June 21, 2017, CBP informed us that there were no shipments of rebar to the United States from Turkey with Agir listed as the producer and/or exporter during the POR.³⁵

Because there is no evidence on the record to indicate that Agir had entries, exports, or sales of subject merchandise to the United States during the POR, pursuant to 19 CFR 351.213(d)(3), we intend to rescind the review with respect to Agir. A final decision regarding the rescission will be made in the final results of this review.

B. Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas)

Entries of merchandise produced and exported by Habas are not subject to countervailing duties under this *Order* because the Department's final determination in the investigation was negative with respect to subject merchandise produced and exported by Habas.³⁶ However, any entries of merchandise produced by any other entity and exported by Habas or produced by Habas and exported by another entity are subject to this *Order*.

There is no evidence on the record of entries of merchandise produced by another entity and exported by Habas, or entries of merchandise produced by Habas and exported by another entity. Accordingly, we preliminarily find that Habas is not subject to this administrative review. Therefore, pursuant to 19 CFR 351.213(d)(3), we intend to rescind the review with respect to Habas. A final decision regarding the rescission will be made in the final results of this review.

IV. NON-SELECTED RATE

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(e)(2) of the Tariff Act of

³² See Agir's Letter, dated February 2, 2017. Within the letter, Agir states that its name change was effective February 14, 2008. See *Initiation Notice*, 82 FR at 4298.

³³ See Petitioner's Review Request at 2

³⁴ See CBP Message Number 7142306, dated May 22, 2017.

³⁵ See Memorandum, "Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey: No Shipments from Agir Haddecilik A.S.," dated July 6, 2017.

³⁶ See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Affirmative Countervailing Duty Determination Final Affirmative Critical Circumstances Determination*, 79 FR 54963, 54964 (September 15, 2014) (*Turkey Rebar Final Determination*).

1930, as amended (the Act). Generally, the Department looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not examine in an administrative review. Section 705(c)(5)(A)(i) of the Act articulates a preference that we are not to calculate an all-others rate using rates which are zero, *de minimis*, or based entirely on facts available. Accordingly, to determine the rate for companies not selected for individual examination, the Department's practice is to weight average the net subsidy rates for the selected mandatory companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.³⁷ Section 705(c)(5)(A)(ii) of the Act also provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the all-others rate. For these preliminary results, the rates we determine for the mandatory respondents are *de minimis*.

In CVD proceedings, where the number of respondents being individually examined has been limited, the Department has determined that a "reasonable method" to use to determine the rate applicable to companies that were not individually examined when all the rates of selected mandatory respondents are zero or *de minimis* is to assign to the non-selected respondents the average of the most recently determined rates that are not zero, *de minimis*, or based entirely on facts available.³⁸ However, if a non-selected respondent has its own calculated rate that is contemporaneous with or more recent than such previous rates, the Department has found it appropriate to apply that calculated rate to the non-selected respondent, even when that rate is zero or *de minimis*.³⁹

In the *Turkey Rebar First Review*, the most recently completed administrative review of this order, we calculated a net subsidy rate of 0.02 percent *ad valorem* for Kaptan Demir and Kaptan Metal Dis Ticaret ve Nakliyat A.S. (collectively, Kaptan).⁴⁰ Therefore, consistent with the Department's practice, described above, we are assigning the rate of 0.02 percent *ad valorem* to Kaptan, based on the company's rate calculated in the prior review.

With regard to the 10 remaining non-selected companies, for which an individual rate was not calculated, we are assigning the rate of 1.25 percent *ad valorem*, which is the sole above *de minimis* rate calculated within a segment of this proceeding.⁴¹

³⁷ See, e.g., *Certain Pasta from Italy: Final Results of the 2008 Countervailable Review*, 75 FR 37386, 37387 (June 29, 2010).

³⁸ See, e.g., *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012 and Rescission of Countervailing Duty Administrative Review, in Part*, 79 FR 51140, 51141 (August 27, 2014); and *Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 46770 (August 11, 2014), and accompanying IDM at Non-Selected Rate.

³⁹ *Id.*

⁴⁰ See *Turkey Rebar First Review*, 82 FR at 26908.

⁴¹ The rate of 1.25 percent *ad valorem* was calculated for Icdas in the underlying investigation. See *Turkey Rebar Final Determination*, 79 FR at 54964.

V. SCOPE OF THE ORDER

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

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

VI. SUBSIDIES VALUATION INFORMATION

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. The AUL in this proceeding is 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.⁴² No party in this review has disputed the allocation period.

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), based on the nature of the program, for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL. Based on this test, we did not allocate any benefits over the AUL in this review.

B. Cross-Ownership

In accordance with 19 CFR 351.525(b)(6)(i), the Department will normally attribute a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) directs that the Department will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise; are a holding or parent company of the subject company; produce an input that is primarily dedicated to the production of the downstream product; or transfer a subsidy to a cross-owned company.

⁴² See *Turkey Rebar Final Determination* IDM at Allocation Period.

In accordance with 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *Preamble* to the Department's regulations further clarifies the Department's cross-ownership standard.⁴³ According to the *Preamble*, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits) . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.⁴⁴

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case to determine whether cross-ownership exists. The U.S. Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.⁴⁵

1. Colakoglu

COTAS reported that it is part of the Colakoglu Group, which includes several affiliated companies whose operations include iron and steel production as well as trading, investment, energy, logistics, aviation, mining, and computer support services.⁴⁶ All companies in the Colakoglu Group are privately-owned by members of the Colakoglu family either directly or indirectly through other group companies and have common officers and interlocking directorates.⁴⁷ Because the Colakoglu Group companies are either directly or indirectly owned by the Colakoglu family, they meet the definition of cross-ownership at 19 CFR 351.525(b)(6)(vi). Of these companies, Colakoglu Metalurji is the sole producer of subject merchandise and the parent company of the Colakoglu Group.⁴⁸ COTAS handles the export sales of subject merchandise to the United States and other markets.⁴⁹

Using the sales information reported by Colakoglu Metalurji, we are attributing any subsidies received by Colakoglu Metalurji to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

⁴³ See *Countervailing Duties, Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).

⁴⁴ *Id.*

⁴⁵ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

⁴⁶ See Colakoglu February 28, 2017 Affiliation Response at 1-4.

⁴⁷ *Id.* at 2-3.

⁴⁸ *Id.* at 1 and 4.

⁴⁹ *Id.* at 3-4.

COTAS reported that it is a trading company that handles Colakoglu Metalurji's export sales, and is not a producer. Therefore, we are cumulating any benefits received by COTAS with benefits received by Colakoglu Metalurji, in accordance with 19 CFR 351.525(c).

Additionally, Colakoglu provided details of numerous other affiliated companies; however, none of them meets the requirements of the attribution rules under 19 CFR 351.525. We therefore have not included these companies in our subsidy analysis.⁵⁰

2. Icdas

Icdas is a privately-owned corporation and parent company of a group of companies (*i.e.*, the Icdas Group) whose operations include steel manufacturing, steel trading, ocean and inland transportation, vessel services, freight brokerage, insurance, electricity generation, electricity trading, in addition to travel, catering, and accommodation services.⁵¹ All companies in the Icdas Group have common family ownership, corporate officers, and interlocking directorates.⁵²

Icdas is the Icdas Group's only manufacturer and exporter of rebar to the United States.⁵³ In this review, Icdas responded on behalf of itself and the following affiliates, which meet the definition of cross-ownership at 19 CFR 351.525(b)(6)(vi) and the reporting requirement of 19 CFR 351.525(b)(6)(iv): Mardas Marmara Deniz Isletmeciligi A.S. (Mardas), which provided scrap to Icdas;⁵⁴ Oraysan Insaat Sanayi ve Ticaret A.S. (Oraysan), which provided raw material to Icdas;⁵⁵ Artmak Denizcilik Ticaret ve Sanayi A.S. (Artmak), which provided raw material to Icdas;⁵⁶ and Demir Sanayi Demir Celik Ticaret ve Sanayi A.S. (Demir), which provided consumables to Icdas.⁵⁷ We preliminarily find no record evidence indicating that Mardas, Oraysan, Artmak, and Demir benefitted from countervailable subsidies either during the POR or over the AUL. Consequently, there are no attributed benefits from these companies included in our subsidy analysis for Icdas. Using the sales information reported by Icdas, we are attributing any subsidies received by Icdas to its own sales, in accordance with 19 CFR 351.525(b)(6)(i).

Concerning the other Icdas-affiliated companies, which are involved in domestic market sales, port loading and handling services, transportation and accommodation services, vessel services, insurance, freight brokerage, and travel and catering services,⁵⁸ we preliminarily find that these companies do not meet the requirements of the attribution rules under 19 CFR 351.525. We therefore have not included these companies in our subsidy analysis.

⁵⁰ *Id.* at 2-4 and Exhibit CVD-1; and Colakoglu March 15, 2017 Affiliation Supplemental Response at 1.

⁵¹ *See* Icdas February 28, 2017 Affiliation Response at 1.

⁵² *Id.* at 4-5.

⁵³ *Id.* at 1-2.

⁵⁴ *See* Icdas April 6, 2017 PQR at 4.

⁵⁵ *Id.*

⁵⁶ *Id.* at 4-5.

⁵⁷ *See* Icdas April 19, 2017 Cross-Owned Affiliates Response at 6.

⁵⁸ *See* Icdas February 28, 2017 Affiliation Response at 1-3.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), the Department considers the basis for a respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export sales (where the program is determined to be countervailable as an export subsidy) or total sales (where the program is determined to be countervailable as a domestic subsidy). In the "Programs Preliminarily Determined To Be Countervailable" section below, we describe the denominator used to calculate the subsidy rates.

D. Benchmarks for Short-Term Financing

We are examining export financing provided by the GOT under the Rediscount Program. To determine whether government provided loans confer a benefit, we use, where possible, company-specific interest rates for comparable commercial loans.⁵⁹ Under 19 CFR 351.505(a)(2)(iv), when calculating a company-specific short-term benchmark interest rate, the Department will normally "use an annual average of the interest rates on comparable commercial loans during the year in which the government provided loan was taken out, weighted by the principal amount of each loan." Further, when loans are denominated in a foreign currency, 19 CFR 351.505(a)(2)(i) directs us to use a benchmark denominated in the same foreign currency as the government provided loan. Both Colakoglu and Icdas reported that they paid interest against rediscount loans during the POR and provided short-term U.S. dollar (USD) commercial loan data for benchmarking purposes.⁶⁰

To calculate the benefit from the rediscount loans, we preliminarily used the USD short-term commercial loans that originated in 2015, to derive a weighted-average benchmark rate for each respondent, because those are the commercial loans that the companies could actually obtain on the market during the POR pursuant to 19 CFR 351.505(a)(3).⁶¹

⁵⁹ See 19 CFR 351.505(a)(2)(i).

⁶⁰ See Colakoglu April 3, 2017 PQR at 26 and Exhibit 23; and Icdas April 6, 2017 PQR at 27 and Exhibit 16.

⁶¹ This approach is consistent with the Department's practice in prior cases. See, *e.g.*, *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2015*, 82 FR 47479 (October 12, 2017) (*Turkey Pipe Final Results 2015*), and accompanying IDM at Comment 2; *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639 (October 25, 2007), and accompanying IDM at Comment 19; and *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 77 FR 13093 (March 5, 2012), and accompanying IDM at Comment 1.

VII. ANALYSIS OF PROGRAMS

Based on our analysis of the record information, we preliminarily find the following:

A. Programs Preliminarily Determined To Be Countervailable

1. Rediscount Program

Colakoglu and Icdas reported that they paid interest on rediscount export loans which were outstanding during the POR.⁶² We found this export loan program to be countervailable in the underlying investigation and first administrative review.⁶³ This loan program is administered by the Export Credit Bank of Turkey (Turk Eximbank) and provides financial support to Turkish exporters, manufacturer-exporters, and manufacturers supplying exporters.⁶⁴ The Turk Eximbank provides pre-shipment financing through intermediary commercial banks in foreign currency or Turkish Lira, and requires collateral from the borrower in the form of promissory notes or bonds payable.⁶⁵

In this review, the GOT reported no changes to the program during the POR that would affect the countervailability of the program.⁶⁶ We therefore continue to find that this loan program confers a countervailable subsidy within the meaning of section 771(5) of the Act. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT to the respondents under 771(5)(D)(i) of the Act. The program is also specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance.

A benefit exists under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1) equal to the difference between the amount of interest the company would have paid on comparable commercial loans and the amount of interest the company actually paid on the rediscount loans during the POR. Because a borrower pays the interest due upfront when the loan is received, to compute the benefit, we applied a discounted benchmark interest rate calculated using each respondent's short-term weighted-average commercial USD interest rate data, as discussed above at "Benchmarks for Short-Term Financing." For each respondent, we summed the benefits from the loans and from that amount, in accordance with section 771(6)(A) of the Act, subtracted the fees that each respondent paid for guarantees required for receipt of the loans. We then divided the adjusted benefit amount for each respondent by its total export sales for 2015. On this basis, we preliminarily calculate a net countervailable subsidy rate of 0.14 percent *ad valorem* for Colakoglu⁶⁷ and 0.02 percent *ad valorem* for Icdas.⁶⁸

⁶² See Colakoglu April 3, 2017 PQR at 26; and Icdas April 6, 2017 PQR at 27.

⁶³ See *Turkey Rebar Final Determination* IDM at Rediscount Program; and *Turkey Rebar First Review* IDM at Rediscount Program.

⁶⁴ See *Turkey Rebar Final Determination* IDM at Rediscount Program.

⁶⁵ *Id.*

⁶⁶ See GOT April 3, 2017 IQR at 30.

⁶⁷ See Memorandum, "Preliminary Results Calculations for Colakoglu Dis Ticaret A.S. and Colakoglu Metalurji A.S.," dated concurrently with this Preliminary Decision Memorandum (Colakoglu Preliminary Calculations).

⁶⁸ See Memorandum, "Preliminary Results Calculations for Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.," dated concurrently with this Preliminary Decision Memorandum (Icdas Preliminary Calculations).

2. Deduction from Taxable Income for Export Revenue

COTAS reported that it claimed this deduction in its fiscal year 2014 income tax return which was filed with the tax authorities during the POR.⁶⁹ We found this tax program to be countervailable in the underlying investigation.⁷⁰ Under Article 40 of *Income Tax Law 193*, of January 1961, as amended by *Law 4108* of June 1995, taxpayers engaged in export activities may claim a lump sum deduction from gross income resulting from exports, construction, maintenance, assembly, and transportation activities abroad in an amount not to exceed 0.5 percent of the taxpayer's foreign-exchange earnings from such activities.⁷¹ This deduction is to cover the expenditures without documentation incurred from exports, construction, maintenance, assembly, and transportation activities abroad.⁷²

In this review, the GOT reported no changes during the POR that would affect the countervailability of the program.⁷³ We therefore continue to find that this income tax deduction provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act because it constitutes revenue forgone by the GOT by lowering the company's taxable income and, thus, reducing its tax liability. The deduction provides a benefit in the amount of the tax savings to the company pursuant to section 771(5)(E) of the Act and 19 CFR 351.509(a)(1). The deduction is also specific under section 771(5A)(B) of the Act because its receipt is contingent upon export earnings.⁷⁴

The Department typically treats a tax deduction as a recurring benefit in accordance with 19 CFR 351.524(c)(1). The amount of the benefit is equal to the tax that would have been paid absent the program (*i.e.*, the tax savings). To calculate the countervailable subsidy rate for COTAS, we divided the benefit by COTAS' total export sales for the POR. On this basis, we preliminarily calculate a net countervailable subsidy rate of 0.04 percent *ad valorem* for Colakoglu.⁷⁵

Neither Icdas nor any of its responding cross-owned affiliates used this program during the POR.⁷⁶

B. Programs Preliminarily Determined To Not Confer Countervailable Benefits

1. Provision of Natural Gas for Less Than Adequate Remuneration (LTAR)

In the *Turkey Rebar Final Determination*, the Department found that Turkish companies receive countervailable subsidies through the provision of natural gas from Boru Hatlari Ile Petrol Tasima A.S. (BOTAS) for LTAR.⁷⁷ Colakoglu Metalurji reported that, during the POR, it

⁶⁹ See Colakoglu April 3, 2017 PQR at 24-25.

⁷⁰ See *Turkey Rebar Final Determination* IDM at Deduction from Taxable Income for Export Revenue.

⁷¹ *Id.*

⁷² *Id.*

⁷³ See GOT April 3, 2017 IQR at 29-30.

⁷⁴ *Id.*; see also *Turkey Rebar Final Determination* IDM at Deduction from Taxable Income for Export Revenue.

⁷⁵ See Colakoglu Preliminary Calculations.

⁷⁶ See Icdas April 6, 2017 PQR at 26; and Icdas June 30, 2017 SQR at 5-6.

⁷⁷ See *Turkey Rebar Final Determination* IDM at 8-13.

purchased natural gas from BOTAS for use in its electricity generation plant.⁷⁸ Colakoglu Metalurji provided a copy of its contract with BOTAS and invoices.⁷⁹ Icdas and its responding cross-owned affiliates reported that they did not purchase any natural gas from BOTAS during the POR.⁸⁰

The GOT reported that there was no change to the ownership structure of BOTAS during 2015.⁸¹ Thus, during the POR, BOTAS remained a state-economic enterprise with 100 percent of its capital owned by the Undersecretariat of Treasury of Prime Ministry, which is a central government agency.⁸² The GOT also reported that *Decree Law No. 233 (Law 233)* was still in effect during the POR.⁸³ In accordance with Article 6 of *Law 233*, all of BOTAS' board members are appointed by the Turkish President and the Turkish Prime Minister.⁸⁴ The GOT stated that all board members and senior managers are government officials.⁸⁵ Further, under Articles 29-32 of *Law 233*, all of BOTAS' investment decisions must be approved by the GOT's Council of Ministers and be "in line with determined government programs."⁸⁶ Additionally, all of BOTAS' profits are "transferred to the Treasury" in line with Article 36 of *Law 233*.⁸⁷ Consequently, we preliminarily find BOTAS to be a government authority within the meaning of section 771(5)(B) of the Act, which provides a financial contribution in the form of a good pursuant to section 771(5)(D)(iii) of the Act, consistent with the *Turkey Rebar Final Determination*.⁸⁸

We also preliminarily find that there is no evidence indicating that BOTAS' provision of natural gas is *de jure* specific to any enterprise or industry within the meaning of section 771(5A)(D)(i) of the Act, consistent with the *Turkey Rebar Final Determination*.⁸⁹ Regarding usage, the GOT reported that, in 2015, the total consumption of natural gas in Turkey was 47,999 million standard cubic meters (Sm³)⁹⁰ and that BOTAS sold a substantial majority of the natural gas consumed.⁹¹ The GOT provided a breakdown of six industries/sectors that purchased natural gas in Turkey during the POR.⁹² The data indicate that power producers (*i.e.*, the Conversion Sector) accounted for the highest sector-specific ratio of natural gas purchases in 2015 (*i.e.*, 39.61 percent or 19,010.67 million Sm³).⁹³ The Industry Sector, the Service Sector, the Transportation

⁷⁸ See Colakoglu April 3, 2017 PQR at 16.

⁷⁹ *Id.* at Exhibit 17 and Exhibit 18. The GOT also submitted POR invoices that BOTAS issued to Colakoglu Metalurji. See GOT April 3, 2017 IQR at Exhibit 13.

⁸⁰ See Icdas April 6, 2017 PQR at 15; and Icdas April 19, 2017 Cross-Owned Affiliates Response at 11.

⁸¹ See GOT April 3, 2017 IQR at 12.

⁸² *Id.* at 12-13 and Exhibit 5 (BOTAS' Articles of Incorporation at Article 3).

⁸³ *Id.* at 13-15, 17, 19, and Exhibit 8 (*Law 233*).

⁸⁴ *Id.* at 14 and Exhibit 8 (*Law 233*).

⁸⁵ *Id.* at 18.

⁸⁶ *Id.* at 14 and Exhibit 8 (*Law 233*).

⁸⁷ *Id.*

⁸⁸ See *Turkey Rebar Final Determination* IDM at Provision of Natural Gas for LTAR.

⁸⁹ *Id.*

⁹⁰ See GOT April 3, 2016 IQR at 4.

⁹¹ *Id.* at 19. The total volume of domestic sales that were accounted for by BOTAS in 2015 is business proprietary information.

⁹² *Id.* at 7-8.

⁹³ See Memorandum, "Turkey Natural Gas Consumption by Sectors in 2015," dated concurrently with this Preliminary Decision Memorandum.

Sector, and the Energy Sector (*i.e.*, the other four non-miscellaneous industries/sectors) accounted for 29.10 percent, 6.58 percent, 0.88 percent, and 0.63 percent of all natural gas purchased during the POR, respectively.⁹⁴

On the basis of this evidence, we preliminarily find that the natural gas sold by BOTAS is predominantly used by and *de facto* specific to power producers, including Colakoglu Metalurji, within the meaning of section 771(5A)(D)(iii)(II) of the Act.⁹⁵ We also preliminarily find, pursuant to section 771(5A)(D)(iii)(III) of the Act, that power producers receive a disproportionately large share of the subsidy and, therefore, the subsidy is specific on that basis as well. Accordingly, we preliminarily find that sales of natural gas by BOTAS to Colakoglu Metalurji, which operated as a power producer during the POR, conferred a countervailable benefit under section 771(5)(E)(iv) of the Act to the extent that the prices charged by BOTAS were less than the benchmark price.

With regard to benefit, under 19 CFR 351.511(a)(2), the Department sets forth the basis for identifying an appropriate market-determined benchmark for measuring the adequacy of remuneration for government provided goods or services. These potential benchmarks are listed in order of preference: (1) market prices from actual transactions of the good within the country in question (*e.g.*, actual sales, actual imports, or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country in question (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As provided in the regulations, the preferred benchmark in the hierarchy is an observed market price for the good at issue from actual transactions within the country in question.⁹⁶ 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.⁹⁷

Colakoglu Metalurji reported that it purchased natural gas from a private company during the POR, and requests the Department to use those purchases as a benchmark for comparison with its BOTAS purchases.⁹⁸ Colakoglu Metalurji also suggests that the Department could use, as an in-country benchmark, Icdas' private sector natural gas purchases which are on the record.⁹⁹

⁹⁴ *Id.*

⁹⁵ Our preliminary finding of *de facto* specificity is consistent with the *Turkey Rebar Final Determination*. See *Turkey Rebar Final Determination* IDM at Provision of Natural Gas for LTAR. See also *Turkey Rebar II Final Determination* IDM at Provision of Natural Gas for LTAR.

⁹⁶ See, *e.g.*, *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) (*Softwood Lumber from Canada*), and accompanying IDM at 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.").

⁹⁷ See *Preamble*, 63 FR at 65377.

⁹⁸ See Colakoglu April 3, 2017 PQR at 16; and Colakoglu October 27, 2017 Benchmark Submission at 2-3.

⁹⁹ See Colakoglu October 27, 2017 Benchmark Submission at 3; and Icdas April 6, 2017 PQR at 17 and Exhibit 9.

However, as explained above, sales of natural gas by BOTAS accounted for a substantial majority of Turkey's natural gas consumption during the POR. The GOT also reported that domestically produced natural gas, half of which is produced by a GOT entity, accounted for only 0.79 percent of Turkey's total natural gas consumption in 2015.¹⁰⁰ Furthermore, all natural gas consumed in Turkey, regardless of whether it is produced domestically or imported, is transported *via* pipelines owned and operated by BOTAS.¹⁰¹

Consequently, because of the GOT's overwhelming involvement in the Turkish natural gas market, the use of private transaction prices in Turkey to calculate a benefit would be akin to comparing the benchmark to itself (*i.e.*, such a benchmark would reflect the distortions of the government's presence in the market).¹⁰² Therefore, we preliminarily conclude that there is no viable "tier one" benchmark for natural gas in Turkey during the POR and, thus, cannot use as a benchmark either Colakoglu Metalurji's or Icdas' purchases of natural gas from private domestic companies.¹⁰³ Under 19 CFR 351.511(a)(2)(ii), if there is no useable market-determined price to make the comparison under "tier one," then the government price is compared to a world market price where it is reasonable to conclude that such price would be reasonably available to purchasers in the country in question (a "tier two" benchmark).

Colakoglu Metalurji states that an accurate tier-two benchmark price would be the price which is valid in those countries that are connected to Turkey through natural gas pipelines (*i.e.*, Russia, Azerbaijan, and Iran).¹⁰⁴ Colakoglu Metalurji submitted 2015 natural gas domestic and export pricing data for Russia and Azerbaijan obtained from BMI Research.¹⁰⁵ Colakoglu Metalurji also provided 2015 Romania natural gas prices published by the Romanian Energy Regulatory Authority, and 2015 world market natural gas prices sourced from Global Trade Information Services (GTIS).¹⁰⁶

The petitioner submitted 2015 annual country-specific natural gas prices for industry published by the International Energy Agency (IEA).¹⁰⁷

We preliminarily find that we cannot use the Romanian natural gas prices. Specifically, because there is no pipeline connection between Turkey and Romania, Romanian natural gas is not reasonably available to purchasers in Turkey.

With respect to the GTIS data, we have previously rejected that data on natural gas in favor of the IEA prices.¹⁰⁸ However, in light of the comments from Colakoglu Metalurji, we are making a change in our approach to benchmarking natural gas in this review. We preliminarily find that the IEA prices represent natural gas that would not be available to purchasers in Turkey through

¹⁰⁰ See GOT April 3, 2017 IQR at 4-5.

¹⁰¹ *Id.*

¹⁰² See *Softwood Lumber from Canada* 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.").

¹⁰³ Additionally, Icdas' natural gas purchase information is the company's business proprietary information.

¹⁰⁴ See Colakoglu October 27, 2017 Benchmark Submission at 3 and Exhibit 2; and GOT April 3, 2017 IQR at Exhibit 6d (BOTAS 2015 Annual Report) at 23.

¹⁰⁵ See Colakoglu October 27, 2017 Benchmark Submission at 4-5, Exhibit 3, and Exhibit 4.

¹⁰⁶ *Id.* at 5-6, and Exhibits 5 through 8.

¹⁰⁷ See Petitioner October 31, 2017 Benchmark Submission at Exhibit 6.

¹⁰⁸ See *Turkey Rebar II Final Determination* IDM at Natural Gas for LTAR and Comment 4.

the current pipeline system. Thus, consistent with the Department's approach to benchmarking the same input in *Cold-Rolled Steel from Russia* and *Melamine from Trinidad and Tobago*,¹⁰⁹ we find that it is appropriate to rely on the BMI Research data provided by Colakoglu Metalurji, as those represent natural gas that would be available through the pipeline system to purchasers in Turkey, consistent with 19 CFR 351.511(a)(2)(ii).¹¹⁰ Further, in selecting from among the data provided, we preliminarily find that the natural gas consumption price from Azerbaijan best fulfills the requirements under 19 CFR 351.511(a)(2)(ii), as that price represents natural gas (a) that would be available through the pipeline system to purchasers in Turkey and (b) excludes any prices on sales to Turkey itself, *i.e.*, import prices in Turkey, which would be tier-one prices under 19 CFR 351.511(a)(2)(i) that we have determined not to use as discussed above.¹¹¹ Furthermore, unlike with respect to the Russian natural gas market,¹¹² the Department has not previously made a determination with respect to the market forces affecting gas prices within Azerbaijan. Accordingly, there is no reason for the Department to call into question the appropriateness of the domestic Azerbaijan annual price on the record for purposes of 19 CFR 351.511a (2)(ii).

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 a company would have paid if it had imported natural gas directly, the regulation stipulates that the benchmark price be adjusted by adding the delivery charges for the transmission of natural gas in Turkey and any import duties and value added tax (VAT).

Colakoglu Metalurji reported that its purchases from BOTAS were on a delivered basis through gas pipelines and, therefore, it did not incur a separate transportation cost.¹¹³ Colakoglu Metalurji also reported that it did not pay a separate transmission/distribution fee on its purchases from BOTAS as all such charges and fees were included in the BOTAS invoice amount.¹¹⁴ Because Colakoglu Metalurji is directly connected to BOTAS' pipeline, the company is not charged a distribution fee by BOTAS.¹¹⁵

In order to ensure that the benchmark price reflects delivery charges in Turkey, we added the per-unit transmission and capacity fees charged by BOTAS to the Azerbaijan annual price. The GOT reported that there are no import duties for natural gas, but there is an 18 percent VAT in

¹⁰⁹ See *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) (*Cold-Rolled Steel from Russia*), and accompanying IDM at Provision of Natural Gas for LTAR and Comment 5; and *Melamine from Trinidad and Tobago: Final Affirmative Countervailing Duty Determination*, 80 FR 68849 (November 6, 2015) (*Melamine from Trinidad and Tobago*), and accompanying IDM at Provision of Natural Gas for LTAR.

¹¹⁰ See *Preamble*, 63 FR at 65377 (stating "[I]f there are no useable market-determined prices stemming from actual transactions, we will turn to world market prices that *would be available* to the purchaser.").

¹¹¹ In contrast, the Russian and Azerbaijani export prices include prices on sales to Turkey, *i.e.*, Turkey import prices, which would be inappropriate to use as tier-one prices.

¹¹² See *Cold-Rolled Steel from Russia* IDM at Comment 5.

¹¹³ See Colakoglu April 3, 2017 PQR at 17 and Exhibit 17.

¹¹⁴ *Id.* at 18.

¹¹⁵ *Id.* at 20.

addition to a stamp tax and a special consumption tax.¹¹⁶ As such, we included VAT and the taxes in the benchmark price to construct a fully delivered price. To calculate the benefit, we compared the benchmark unit price to the unit prices that Colakoglu Metalurji paid BOTAS, including transmission and capacity fees, VAT, and taxes during the POR. We preliminarily find that this program did not confer a countervailable benefit to Colakoglu Metalurji during the POR.¹¹⁷

2. Inward Processing Regime (IPR)¹¹⁸

Under the IPR, 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.¹¹⁹ The Ministry of Economy administers the IPR and the Ministry of Customs and Trade implements the IPCs.¹²⁰

Under the IPR, 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.¹²¹ 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 amount of the good to be exported).¹²² An approved certificate lists the goods that can be imported without the obligation to pay the normally applicable duties and taxes.¹²³

Companies with a D-1 certificate can choose to use 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.¹²⁴ Companies holding a D-3 certificate may only utilize the Suspension System, as the finished goods are not exported.¹²⁵ Both Colakoglu Metalurji and Icdas reported importing goods under D-1 certificates using the Suspension System during the POR.¹²⁶ Neither company utilized D-3 certificates to import goods.¹²⁷

Concerning D-1 certificates, pursuant to 19 CFR 351.519(a)(1)(ii), a benefit exists to the extent

¹¹⁶ See GOT April 3, 2017 IQR at 9; and GOT July 3, 2017 SQR at 1, Exhibit 2, and Exhibit 3.

¹¹⁷ See Colakoglu Preliminary Calculations.

¹¹⁸ This program is also known as Inward Processing Certificate Exemption.

¹¹⁹ See GOT August 24, 2017 SQR at 1.

¹²⁰ *Id.* at 3.

¹²¹ *Id.* at 1-2.

¹²² *Id.* at 6.

¹²³ *Id.* at 6-7 and Exhibit 3.

¹²⁴ *Id.* at 2-3.

¹²⁵ *Id.*

¹²⁶ See Colakoglu July 24, 2017 Factual Information Submission at 2; and Icdas July 24, 2017 Factual Information Submission at 2.

¹²⁷ *Id.*

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,¹²⁸ 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.

Based on the record evidence of this review, we preliminarily find that, in accordance with 19 CFR 351.519(a)(4)(i), the GOT has a system in place to confirm which inputs, and in what amounts, are consumed in the production of the exported product, and that the system is reasonable for the purposes intended.¹²⁹ This finding is consistent with the Department's determinations in prior proceedings.¹³⁰ We also preliminarily find, consistent with the Department's prior determinations,¹³¹ 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.

Additionally, as noted above, Colakoglu Metalurji and Icdas both used D-1 certificates and received customs duty and VAT exemptions on certain imported inputs used in the production of exported goods. Based on our examination of the information submitted by the company respondents and the GOT, we preliminarily find no evidence on the record of this review to indicate that the amounts of VAT and duty exemptions on inputs imported under the program with D-1 certificates were excessive or that the companies used the imported inputs for any other product besides those exported.

Therefore, consistent with the Department's prior determinations on the IPR and D-1 certificates,¹³² we preliminarily find that the tax and duty exemptions, which Colakoglu Metalurji and Icdas received on imported inputs under 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 did not confer countervailable benefits to Colakoglu Metalurji 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. Consequently, we preliminarily determine that the D-1 certificates under the IPR did not provide any countervailable benefits to Colakoglu Metalurji or Icdas during the POR.

¹²⁸ See GOT August 24, 2017 SQR at 1-4 and Exhibit 2.

¹²⁹ *Id.* at 6-7, 11-12, and Exhibit 2. See also Colakoglu July 24, 2017 Factual Information Submission at 2-4; and Icdas July 24, 2017 Factual Information Submission at 2-4.

¹³⁰ See, e.g., *Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 71 FR 43111 (July 31, 2006), and accompanying IDM at 10-11; *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), and accompanying IDM at 11-13; and *Turkey Pipe Final Results 2015* IDM at 7.

¹³¹ *Id.*

¹³² *Id.*

3. Assistance to Offset Costs Related to Antidumping (AD)/CVD Investigations

Colakoglu Metalurji reported that, over the AUL, it received grants from the Turkish Steel Exporter's Association to offset legal fees incurred in foreign trade remedy proceedings.¹³³ Consistent with the *Turkey Rebar First Review*, we preliminarily find that this program provides a non-recurring benefit under 19 CFR 351.524(c).¹³⁴ We, therefore, conducted the "0.5 percent expense test" pursuant to 19 CFR 351.524(b)(2), and preliminarily find that each grant is less than 0.5 percent of total export sales for the year of approval.¹³⁵ Consequently, we preliminarily determine that each grant is expensed in the year of receipt, with no benefits allocated to the POR.

Icdas reported that neither it nor any responding cross-owned affiliate received assistance under this program during the POR.¹³⁶

4. Investment Incentive Certificates

Icdas reported that it had several Investment Incentive Certificates during the POR, but that none were related to the subject merchandise.¹³⁷ Icdas provided a copy of the certificates.¹³⁸ The certificates indicate that, at the time of bestowal, they were tied to the production of and/or investment in non-subject merchandise.¹³⁹ Thus, consistent with our finding in *Turkey Rebar First Review*,¹⁴⁰ we continue to find that any benefits received by Icdas under these certificates are tied to non-subject merchandise.

Colakoglu Metalurji and COTAS reported that neither company received any benefits under Investment Incentive Certificates.¹⁴¹

C. Programs Preliminarily Determined To Not Be Countervailable

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

¹³³ See Colakoglu April 3, 2017 PQR at 27-31.

¹³⁴ See *Turkey Rebar First Review* IDM at Assistance to Offset Costs Related to AD/CVD Investigations.

¹³⁵ See Colakoglu Preliminary Results Calculations.

¹³⁶ See Icdas April 6, 2017 PQR at 27-28; and Icdas April 19, 2017 Cross-Owned Affiliates Response at 12. We addressed the assistance that Icdas received under this program in the first administrative review. See *Turkey Rebar First Review* IDM at Programs Determined To Be Countervailable – Assistance to Offset Costs Related to AD/CVD Investigations.

¹³⁷ See Icdas April 6, 2017 PQR at 39, 42, and Exhibit 28; and Icdas June 30, 2017 SQR at 6 and Exhibit S-6.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ See *Turkey Rebar First Review* IDM at Programs Determined To Not Confer Countervailable Benefits – Investment Incentive Certificates.

¹⁴¹ See Colakoglu April 3, 2017 PQR at 39.

Colakoglu Metalurji and Icdas reported that they are members of MESS, a private sector trade association whose members are companies operating in the metal and electronic industries.¹⁴² Both companies also reported that they received support for social security premiums from MESS during the POR.¹⁴³ Additionally, each company provided a copy of *Law No. 6356*, which is the *Law on Trade Unions and Collective Labour Agreements*, and MESS' by-laws.¹⁴⁴

Article 28(1) of *Law No. 6356* states that MESS' revenue is composed of membership dues, donations, and revenues from its activities and assets. Article 28(2) states that MESS is not allowed to receive any aid or donations from political parties or public institutions and organizations.¹⁴⁵ MESS' by-laws indicate that a portion of the membership dues are returned to its members, at its own discretion, under Article 3.22.¹⁴⁶ Further, Article 17(3) of *Law No. 6356* states that membership in MESS is optional and that no one shall be forced to be a member of a trade union.¹⁴⁷ The documents on the record also demonstrate that there is no government involvement in the administration of the association.¹⁴⁸

Based on the information provided by the respondents, we preliminarily determine that 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. Consequently, we preliminarily find that there is no financial contribution provided by the government, and that the social security premium support is not countervailable.

2. Payments from MESS – Occupational Health and Safety Support

Colakoglu Metalurji and Icdas each reported receiving occupational health and safety support from MESS under Article 3.11 of MESS' by-laws.¹⁴⁹ Having examined *Law No. 6356* and MESS' by-laws in the context of the social security premium support, we preliminarily determine that 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. We, thus, preliminarily find that there is no financial contribution provided by the government, and that the occupational health and safety support is not countervailable.

¹⁴² See Colakoglu July 24, 2017 Factual Information Submission at 7-8; and Icdas July 24, 2017 Factual Information Submission at 7.

¹⁴³ *Id.*

¹⁴⁴ See Colakoglu July 24, 2017 Factual Information Submission at Exhibits VS-4 and VS-5; and Icdas July 24, 2017 Factual Information Submission at Exhibits VS-4 and VS-5. See also GOT August 24, 2017 SQR at Exhibit 8 (*Law No. 6356*).

¹⁴⁵ See Colakoglu July 24, 2017 Factual Information Submission at Exhibit VS-4.

¹⁴⁶ *Id.* at Exhibit VS-5.

¹⁴⁷ *Id.* at Exhibit VS-4.

¹⁴⁸ *Id.* at Exhibits VS-4 and VS-5;

¹⁴⁹ See Colakoglu July 24, 2017 Factual Information Submission at 7-8 and Exhibit VS-5; and Icdas July 24, 2017 Factual Information Submission at 7-8 and Exhibit VS-5.

D. Programs Preliminarily Determined To Not Be Used

1. Purchase of Electricity for MTAR – Sales via Build-Operate-Own (BOO), Build-Operate-Transfer (BOT), and Transfer of Operating Rights (TOR) Contracts

The GOT reported that none of the respondent companies have a BOO, BOT, or TOR contract and, therefore, the GOT did not purchase electricity from the respondent companies under those schemes during the POR.¹⁵⁰ Colakoglu and Icdas also reported that they did not have any BOO, BOT, or TOR contracts with the GOT for the sale of electricity during the POR.¹⁵¹ Therefore, we preliminarily determine that this program was not used during the POR.

2. Purchase of Electricity Generated from Renewable Resources for MTAR

As noted earlier, in the *Turkey Rebar First Review*, we determined that the Purchase of Electricity for MTAR – Sales on the Grid is not countervailable.¹⁵² On the record of this review, the GOT reported that, on the electricity grid, there is no difference in the sales process and pricing for electricity generated from renewable energy and electricity generated from traditional sources.¹⁵³ The GOT also explained that the *Balancing and Settlement Regulation*¹⁵⁴ is applicable to both electricity generated from traditional and renewable energy sources sold through the grid.¹⁵⁵ Moreover, the GOT stated that there are no separate licenses or participation agreements applicable to renewable energy generators which sell electricity on the grid.¹⁵⁶

The GOT, however, reported that power producers generating electricity from renewable energy sources can voluntarily participate in an alternative mechanism, known as YEKDEM.¹⁵⁷ Under YEKDEM, a price for renewable energy is guaranteed regardless of the price determined by market supply and demand on the electricity grid.¹⁵⁸ According to the GOT, the electricity generated from renewable energy sources is purchased by all electricity suppliers based on their market proportions.¹⁵⁹

The GOT further reported that renewable energy generators participating in YEKDEM cannot also sell their energy *via* the electricity grid.¹⁶⁰ A renewable energy generator must decide

¹⁵⁰ See GOT April 3, 2017 IQR at 56; and GOT April 19, 2017 QR Icdas Affiliates at 8.

¹⁵¹ See Colakoglu April 3, 2017 PQR at 37; Icdas April 6, 2017 PQR at 35; and Icdas April 19, 2017 Cross-Owned Affiliates Response at 14-15.

¹⁵² See *Turkey Rebar First Review* IDM at Comment 1.

¹⁵³ See GOT July 3, 2017 SQR at 3-4.

¹⁵⁴ This regulation covers the duties, powers, and responsibilities of the parties involved in the balancing mechanism and settlement of the electricity grid, and the principles and procedures applicable to the balancing of active electricity supply and demand as well as the financial settlement of the receivables and payables of license holder legal entities arising from participation in balancing mechanism and settlement. See GOT April 3, 2017 IQR at Exhibit 18.

¹⁵⁵ See GOT July 3, SQR at 4.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at 5.

¹⁵⁹ *Id.* at 6. See also GOT April 3, 2017 IQR at 57.

¹⁶⁰ See GOT July 3, 2017 SQR at 4-5.

annually whether it wants to sell its electricity *via* the grid or participate in YEKDEM; it cannot do both.¹⁶¹ The GOT stated that a renewable energy generator must apply to the Energy Market Regulatory Authority before October 31st of each year if it intends to participate in YEKDEM in the next calendar year.¹⁶²

Icdas, the only respondent company that generates renewable energy, did not participate in YEKDEM during the POR.¹⁶³ Colakoglu reported that neither it nor any of its responding affiliates has a renewable energy power plant.¹⁶⁴ We thus preliminarily find that the YEKDEM mechanism was not used during the POR.

3. Provision of Lignite for LTAR

Icdas reported that it did not purchase lignite from Turkish Coal Enterprises (TKI), a state-owned enterprise, but rather from two domestic private trading companies during the POR.¹⁶⁵ Icdas stated that the private traders did not purchase coal from TKI and provided supporting documentation.¹⁶⁶ Colakoglu Metalurji reported that it purchased steam coal, all of which was imported, and not lignite during the POR.¹⁶⁷ COTAS reported that it did not purchase coal from any source during the POR.¹⁶⁸ Similarly, the GOT reported that none of the respondent companies under review purchased lignite from TKI, either directly or through a supplier, during the POR,¹⁶⁹ and provided print-screens of queries conducted for the relevant entities (*i.e.*, the respondents and their cross-owned affiliates with a reporting obligation, domestic coal suppliers, and domestic lignite producers) within TKI's sales database.¹⁷⁰

After considering all the evidence on the record, we preliminarily find that no respondent company used the Provision of Lignite for LTAR during the POR.

4. Reduction and Exemption of Licensing Fees for Renewable Resource Power Plants¹⁷¹

5. Research and Development Grant Program

¹⁶¹ *Id.*

¹⁶² *Id.* at 5.

¹⁶³ *Id.*; and Icdas June 30, 2017 SQR at 7-8.

¹⁶⁴ See Colakoglu April 3, 2017 PQR at 38.

¹⁶⁵ See Icdas April 6, 2017 PQR at 22.

¹⁶⁶ *Id.*; and at Exhibit 12; and Icdas June 30, 2017 SQR at Exhibit S-7.

¹⁶⁷ See Colakoglu April 3, 2017 PQR at 21.

¹⁶⁸ *Id.* at 22.

¹⁶⁹ See GOT April 3, 2017 IQR at 26; GOT April 19, 2017 QR Icdas Affiliates at 4; and GOT July 3, 2017 SQR at 1-2.

¹⁷⁰ See GOT August 4, 2017 SQR at Exhibit 1; GOT October 18, 2017 SQR at Exhibit 3; and GOT November 7, 2017 SQR at 1-2, Exhibit 1, and Exhibit 2.

¹⁷¹ We addressed this program with regard to Icdas in the first administrative review. 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 Decision Memorandum at Programs Preliminarily Determined To Not Confer Countervailable Benefits – Reduction and Exemption of Licensing Fees for Renewable Resource Power Plants, unchanged in *Turkey Rebar First Review IDM at Programs Determined To Not Confer Countervailable Benefits – Reduction and Exemption of Licensing Fees for Renewable Resource Power Plants*.

6. Export Credits, Loans, and Insurance from Turk Eximbank
 - a. Pre-Shipment Export Credits
 - b. Foreign Trade Company Export Loans
 - c. Pre-Export Credits
 - d. Short-term Export Credit Discount Program
 - e. Export Insurance
7. Regional Investment Incentives
 - a. VAT and Customs Duty Exemptions
 - b. Income Tax Reductions
 - c. Social Security Support
 - d. Land Allocation
8. Large-Scale Investment Incentives
 - a. VAT and Customs Duty Exemptions
 - b. Tax Reduction
 - c. Income Tax Withholding Allowance
 - d. Social Security and Interest Support
 - e. Land Allocation
9. Strategic Investment Incentives
 - a. VAT and Customs Duty Exemptions
 - b. Tax Reduction
 - c. Income Tax Withholding Allowance
 - d. Social Security and Interest Support
 - e. Land Allocation
 - f. VAT Refunds
10. Incentives for Research & Development (R&D) Activities
 - a. Tax Breaks and Other Assistance
 - b. Product Development R&D Support – UFT
11. Regional Development Subsidies
 - a. Provision of Land for LTAR
 - b. Provision of Electricity for LTAR
 - c. Withholding of Income Tax on Wages and Salaries
 - d. Exemption from Property Tax
 - e. Employers' Share in Insurance Premiums
 - f. Preferential Tax Benefits for Turkish Rebar Producers Located in Free Zones

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

VIII. CONCLUSION

We recommend that you approve the preliminary results described above.



Agree



Disagree

11/30/2017

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