



C-489-817
Administrative Review
POR: 1/1/2016 - 12/31/2016
Public Document
E&C AD/CVD OI: Team

DATE: October 3, 2018

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 P. Maeder
Associate Deputy Assistant Secretary
for Antidumping/Countervailing Duty Operations
performing the duties of Deputy Assistant Secretary for
Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of 2016
Countervailing Duty Administrative Review: Oil Country Tubular
Goods from the Republic of Turkey

I. Summary

The Department of Commerce (Commerce) is conducting an administrative review of countervailing duty (CVD) order on oil country tubular goods (OCTG) from the Republic of Turkey (Turkey) for the period of review (POR) January 1, 2016, through December 31, 2016. Commerce preliminarily determines that Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (BMB), and Borusan Istikbal Ticaret (Istikbal) (collectively, Borusan), received countervailable subsidies at a 0.66 percent *ad valorem* net countervailable subsidy rate during the POR.

II. Background

On September 10, 2014, Commerce published the CVD order on OCTG from Turkey.¹ On September 1, 2017, Commerce published a notice of opportunity to request an administrative review of the CVD order on OCTG from Turkey for the period January 1, 2016, through

¹ See *Certain Oil Country Tubular Goods from India and the Republic of Turkey: Countervailing Duty Orders and Amended Affirmative Final Countervailing Duty Determination for India*, 79 FR 53688 (September 10, 2014) (CVD order).



December 31, 2016.² On September 29, 2017, Commerce received a review request from Maverick Tube Corporation and TenarisBayCity (domestic interested parties), for the following seven exporters and/or producers of subject merchandise: 1) Borusan Mannesmann Boru Sanayi ve Ticaret A.S., 2) Borusan Istikbal Ticaret, 3) Cayirova Boru San A.S., 4) Cayirova Boru Sanayi ve Ticaret A.S., 5) HG Tubulars Canada Ltd., 6) Yucel Boru Ihracat ve Pazarlama A.S., and 7) Yucelboru Ihracat, Ithalat.³ On October 2, 2017, Borusan submitted a letter to Commerce requesting a review of itself.⁴ On November 13, 2017, Commerce published a notice of initiation of an administrative review of the CVD order on OCTG from Turkey.⁵ On December 13, 2017, Commerce released CBP entry data and requested comments from interested parties.⁶ No party submitted comments to Commerce. Consistent with section 777A(e) of the Tariff Act of 1930, as amended (the Act), Commerce is individually examining Borusan, the largest exporter and/or producer of the subject merchandise, by export volume, as the sole mandatory respondent.⁷

On January 18, 2018, Commerce issued the Initial Questionnaire to the Government of Turkey (GOT) and Borusan.⁸ Borusan timely responded to the affiliation section of the Initial Questionnaire on February 5, 2018.⁹ Borusan also timely responded to the remaining sections of the Initial Questionnaire on March 12, 2018.¹⁰ The GOT timely responded to the Initial Questionnaire on February 26, 2018.¹¹ On February 14, 2018, and April 10, 2018, Commerce issued Borusan supplemental questionnaires, to which Borusan timely responded on February 21, 2018, and May 1, 2018.¹² On April 10, 2018, and May 21, 2018, Commerce issued the GOT

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 41595 (September 1, 2017).

³ See Letter from Maverick Tube Corporation and TenarisBayCity, “Oil Country Tubular Goods from Turkey: Request for Administrative Review,” dated September 29, 2017. The domestic interested parties also requested a review of Tosyali Dis Ticaret A.S, Toscelik Profil ve Sac Endustrisi A.S., Tosyali Elektrik Enerjisi Toptan Satis, Ith. Ihr. A.S., Tosyali Demir Celik San.A.S., and Tosyali Holding A.S. (collectively, Toscelik). However, on October 5, 2017, Commerce published an amendment to the CVD order to exclude Toscelik. Thus, Commerce did not initiate an administrative review of Toscelik. See *Oil Country Tubular Goods from the Republic of Turkey: Amendment of Countervailing Duty Order*, 82 FR 46483 (October 5, 2017).

⁴ See Letter from Borusan, “Oil Country Tubular Goods from Turkey, Case No. C-489-817: Request for Countervailing Duty Administrative Review,” dated October 2, 2017. In the investigation, Commerce determined that Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Istikbal Ticaret are cross-owned and applied a single CVD rate to both companies. See *Certain Oil Country Tubular from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 41964 (July 18, 2014), and accompanying, Issues and Decisions Memorandum (IDM) at 4-5.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 52268 (November 13, 2017).

⁶ See Memorandum re: Release of Customs and Border Protection (CBP) Entry Data, dated December 13, 2017.

⁷ See Memorandum re: Countervailing Duty Administrative Review of Oil Country Tubular Goods from the Republic of Turkey: Respondent Selection, dated January 11, 2018.

⁸ See Commerce Letter re: Countervailing Duty Questionnaire, dated January 18, 2018 (Initial Questionnaire).

⁹ See Borusan’s February 5, 2018 Affiliation Response (Borusan’s Affiliation Response).

¹⁰ See Borusan’s March 12, 2018 Initial Questionnaire Response (Borusan’s March 12, 2018 IQR).

¹¹ See GOT’s February 26, 2018 Initial Questionnaire Response (GOT’s February 26, 2018 IQR).

¹² See Commerce Letter re: Borusan’s Supplemental Questionnaire, dated February 14, 2018 (Borusan’s February 14, 2018 SQ), see Commerce Letter re: Borusan’s Second Supplemental Questionnaire, dated April 10, 2018 (Borusan’s April 10, 2018 SQ), see Borusan’s February 21, 2018 Supplemental Questionnaire Response (Borusan’s

supplemental questionnaires, to which GOT timely responded on April 27, 2018, and June 4, 2018.¹³ On May 8, 2018, the domestic interested parties submitted information related to benchmark data for the provision of hot-rolled steel (HRS) for less than adequate remuneration (LTAR).¹⁴ On May 18, 2018, Borusan submitted rebuttal factual information related to the domestic interested parties' May 8, 2018, Benchmark Information submission.¹⁵

On July 17, 2018, domestic interested parties submitted pre-preliminary results comments.¹⁶ On July 25, 2018, Borusan responded to these pre-preliminary results comments.¹⁷ On July 26, 2018, and August 3, 2018, we issued supplemental questionnaires to Borusan, to which Borusan timely responded on August 6, 2018, and August 17, 2018.¹⁸ We have taken the additional information into consideration for these preliminary results.¹⁹

On August 3, 2018, we issued the GOT a supplemental questionnaire, to which the GOT timely responded on August 17, 2018.²⁰ On August 27, 2018, the domestic interested parties submitted comments regarding Borusan's and the GOT's supplemental questionnaire responses filed on August 17, 2018.²¹ On August 29, 2018, Borusan responded to the domestic interested parties' comments regarding Borusan's supplemental questionnaire.²² Commerce postponed the deadline for issuing the preliminary results of this administrative review to October 3, 2018.²³

February 21, 2018 SQR), *see* Borusan's May 1, 2018 Second Supplemental Questionnaire Response (Borusan's May 1, 2018 SQR).

¹³ *See* Commerce Letter re: GOT's Supplemental Questionnaire, dated April 10, 2018 (GOT's April 10, 2018 SQ), *see* Commerce Letter re: GOT's Second Supplemental Questionnaire, dated May 21, 2018 (GOT's May 21, 2018 SQ), *see* GOT's April 27, 2018 Supplemental Questionnaire Response (GOT's April 27, 2018 SQR); and GOT's June 4, 2018 Second Supplemental Questionnaire Response (GOT's June 4, 2018 SQR).

¹⁴ *See* Domestic Interested Parties' Letter re: Submission of Factual Information, dated May 8, 2018 (May 8, 2018 Benchmark Information).

¹⁵ *See* Borusan Letter re: "Certain Oil Country Tubular Goods from the Republic of Turkey, Case No. C-489-817: Borusan's Rebuttal Factual Information to Petitioners' Submission," dated May 18, 2018.

¹⁶ *See* Domestic Interested Parties' Letter re: Certain Oil Country Tubular Goods from Turkey: Pre-Preliminary Results Comments, dated July 17, 2018.

¹⁷ *See* Borusan's Letter re: "Certain Oil Country Tubular Goods from the Republic of Turkey, Case No. C-489-817: Reply to Petitioners' Pre-Preliminary Comments," dated July 25, 2018.

¹⁸ *See* Commerce Letter re: Borusan's Third Supplemental Questionnaire, dated July 26, 2018 (Borusan's July 26, 2018 SQ), *see* Commerce Letter re: Borusan's Fourth Supplemental Questionnaire, dated August 3, 2018 (Borusan's August 3, 2018 SQ), *see* Borusan's August 6, 2018 Supplemental Questionnaire Response (Borusan's August 6, 2018 SQR); and Borusan's August 17, 2018 Supplemental Questionnaire Response (Borusan's August 17, 2018 SQR).

¹⁹ *See also* Memorandum to the File, "Borusan's Syndicated Loan," dated concurrently with these preliminary results.

²⁰ *See* Commerce Letter re: GOT's Supplemental Questionnaire, dated August 3, 2018 (GOT's August 3, 2018 SQ), *see* GOT's August 17, 2018 Supplemental Questionnaire Response (GOT's August 13, 2018 SQR).

²¹ *See* Domestic Interested Parties' Letter re: "Certain Oil Country Tubular Goods from Turkey: Comments on Borusan's Fourth Supplemental Questionnaire Response and Request for English Translation of Exhibit 1 in GOT's Supplemental Questionnaire Response," dated August 27, 2018.

²² *See* Borusan's Letter re: "Certain Oil Country Tubular Goods from Turkey, Case No. C-489-817: Reply to Petitioners' Comments on Borusan's 4th Supplemental Questionnaire Response," dated August 29, 2018.

²³ *See* Memorandum re: "Extension of Deadline for Preliminary Results," dated August 29, 2018.

III. Scope of the Order

The merchandise covered by the order is oil country tubular goods (OCTG), which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (*e.g.*, whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (“API”) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the order also covers OCTG coupling stock.

Excluded from the scope of the order are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The merchandise subject to the order may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

IV. Subsidies Valuation Information

A. Allocation Period

Commerce 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, which is updated by the

Department of the Treasury.²⁴ This AUL applies unless a party claims and establishes that it does not reasonably reflect the AUL of the renewable physical assets of the company or industry under investigation. No party in this review disputed the allocation period. Commerce notified the respondents of the 15-year AUL in the Initial Questionnaire and requested data accordingly.²⁵

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), 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 Commerce allocates the benefit to the year of receipt rather than across the AUL.

B. Attribution of Subsidies

In accordance with 19 CFR 351.525(b)(6)(i), Commerce 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) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. These attribution rules cover subsidies to the following types of cross-owned affiliates: (ii) producers of the subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream product; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to a respondent.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce’s regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *Preamble* to the Commerce’s regulations further clarifies that the Commerce’s cross-ownership standard is met where:

the 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.²⁶

²⁴ See U.S. Internal Revenue Service Publication 946 (2008), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

²⁵ See Initial Questionnaire at II-2.

²⁶ See *Countervailing Duties, Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).

Thus, Commerce's regulations make clear that the agency must look at the facts in each case to determine whether cross-ownership exists. The U.S. Court of International Trade has upheld Commerce'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.²⁷

Borusan

Borusan responded to Commerce's initial questionnaire on behalf of BMB, Istikbal, Borusan Mannesmann Boru Yatirim Holding A.Ş. (BMBYH), and Borusan Holding A.Ş. (Borusan Holding).²⁸ Borusan reported that BMB produced all OCTG during the POR. Borusan also reported that during the POR, BMB exported OCTG to the United States while Istikbal, an export sales company, exported OCTG to countries other than the United States.²⁹ The majority of the equity share capital in both BMB and Istikbal is owned by BMBYH, a holding company, which is majority-owned by Borusan Holding.³⁰ By virtue of Borusan Holding's majority shareholdings of BMBYH, and BMBYH's majority shareholdings of BMB and Istikbal, we find that BMB, Istikbal, BMBYH, and Borusan Holding are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi). Borusan stated that, during the POR, neither BMBYH nor Borusan Holding were directly involved in the production or sales of BMB. Borusan also reported that neither Istikbal, BMBYH, nor Borusan Holding received any subsidies from the GOT.³¹

Under 19 CFR 351.525(b)(2) and (3), Commerce will attribute export subsidies to "products exported by a firm" and domestic subsidies to "all products sold by a firm, including products that are exported." The *Preamble* states that Commerce attributes "a subsidy to sales of the product or products to which it is tied. In this regard, one can view an 'untied' subsidy as a subsidy that is tied to sales of all products produced by a firm."³²

Under 19 CFR 351.525(b)(6), which addresses situations where there is cross-ownership between companies, (i) provides that "{Commerce} normally will attribute a subsidy to the products produced by the corporation that received the subsidy." In this review, BMB made domestic as well as export sales. Additionally, BMB made export sales through Istikbal, its cross-owned trading company. Thus, in order to properly account for the value of the sales of the products produced and exported by BMB, in light of the fact that BMB sells and/or exports a portion of its products through Istikbal, and BMB has received subsidies that are untied, or in the words of the *Preamble* "tied to sales of all products," it is appropriate to attribute the subsidies

²⁷ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

²⁸ See Borusan's Affiliation Response at 10; see also Borusan's March 12, 2018 IQR at 2.

²⁹ *Id.* at 3.

³⁰ *Id.* at 4, and Exhibit 3.

³¹ *Id.* at 10; see also Borusan's March 12, 2018 IQR at 12-38.

³² See *Preamble* at 65400.

received by BMB to the combined sales or export sales, as appropriate, of BMB and Istikbal, net of intercompany sales.³³ This approach is consistent with Commerce’s past practice.³⁴

We preliminarily find no record evidence that Borusan Holding, BMBYH received any countervailable subsidies that are attributable to BMB during the POR.

Finally, Borusan identified other affiliated companies, including subsidiaries that produce steel products (*e.g.*, Borçelik Çelik Sanayi ve Ticaret A.Ş., Kerim Çelik Marnulleri Imalat ve Ticaret A.Ş., Bortrade Uluslararası Ticaret A.Ş., and an engineering company).³⁵ However, because Borusan reported that these companies did not produce OCTG, did not supply inputs to BMB, and were not otherwise involved in the sale of OCTG or any other products produced by BMB, we preliminarily find that these companies do not meet any of the conditions of 19 CFR 351.525(b)(6)(ii)–(v).³⁶ Therefore, these companies are not included in our subsidy analysis.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)–(5), Commerce considers the basis for the 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 “Analysis of Programs - Programs Preliminarily Determined to Be Countervailable” section below, we describe the denominators used to calculate the countervailable subsidy rate for the various subsidy programs.

D. Benchmark Interest Rates

We are examining export loans.³⁷ In the section below, we discuss the derivation of the benchmarks for the POR and previous years.

Short-Term Interest Rate Benchmarks

Section 771(5)(E)(ii) of the Act explains 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,” indicating that a benchmark must be a market-based rate. To determine whether government-provided

³³ See *Certain Oil Country Tubular Goods from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 41964 (July 18, 2014) (*OCTG from Turkey Final Determination*) and accompanying IDM at Comment 10; *Circular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2015*, 82 FR 47479 (October 12, 2017) (*CWCS Pipes and Tubes 2015 Final Results AR*) and accompanying IDM at 4-5 and Comment 1.

³⁴ See *CWCS Pipes and Tubes 2015 Final Results AR* and accompanying Issues and Decision Memorandum at Comment 1, pg. 12.

³⁵ See Borusan’s Affiliation Response Exhibit 2; and Borusan’s February 21, 2018 SQR at 1-2.

³⁶ See Borusan’s February 21, 2018 SQR at 1-2.

³⁷ See 19 CFR 351.524(b)(1).

loans under review conferred a benefit, Commerce uses, where possible, company-specific interest rates for comparable commercial loans obtained by the company.³⁸ When loans are denominated in a foreign currency, 19 CFR 351.505(a)(2)(i) directs us to use a benchmark denominated in the same foreign currency as the loan. As discussed below, Borusan reported receiving short-term loans from a subsidy program under examination that were denominated in U.S. dollars (USD) and in Euros. Borusan also submitted information regarding the interest rates on its comparable commercial short-term loans.³⁹ Consistent with 19 CFR 351.505(a)(2)(ii), we are using the interest rates that Borusan paid on comparable commercial short-term loans as benchmarks to calculate the benefit. To calculate the short-term interest rate benchmarks for Borusan, we derived an annual average of the interest rates on comparable commercial loans that Borusan obtained during the years in which the government loans were issued, weighted by the principal amount of each loan.

V. Analysis of Programs

Based on our analysis and the responses to Commerce's questionnaires, we preliminarily find the following:

A. Programs Preliminarily Determined to be Countervailable

1. Deductions from Taxable Income for Export Revenue

Addendum 4108 of Article 40 of the Income Tax Law Number 193, effective June 2, 1995, all taxpayers engaged in export activities may claim a lump sum deduction from gross income resulting from exports, and from 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.⁴⁰ This deduction is granted to cover the expenditures, without documentation, incurred from exports, and from construction, maintenance, assembly, and transportation activities abroad.⁴¹ The deduction for export earnings may either be taken as a lump sum on a company's annual income tax return or be shown within the company's marketing, selling and distribution expense account of the income statement.⁴² Under this program, marketing, selling, and distribution expenses are deductible expenditures for tax purposes. The Ministry of Finance is responsible for administering the program.⁴³

³⁸ See 19 CFR 351.505(a)(2)(ii).

³⁹ See Borusan's March 12, 2018 IQR at 13 Exhibit A-1 and A-2. In its May 1, 2018 SQR, Borusan also submitted a revised benchmark loan chart that includes BMB's factoring loans at Exhibit A-4. Based on the information on the record, we were unable to determine whether these factoring loans are comparable and should, therefore, be included in the benchmark. On that basis, we are using the comparable commercial loans provided in Borusan's March 12, 2018 IQR at Exhibit A-2.

⁴⁰ See GOT's February 26, 2018 IQR at 10; see also *OCTG from Turkey Final Determination* and accompanying IDM at 8-9.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

Consistent with prior determinations, we preliminarily find that this tax deduction is a countervailable subsidy.⁴⁴ The income tax deduction provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, because it represents revenue forgone by the GOT. The deduction provides a benefit in the amount of the tax savings to the company pursuant to section 771(5)(E) of the Act. It is also specific under section 771(5A)(B) of the Act because its receipt is contingent upon export earnings. In this review, no new information or evidence of changed circumstances has been submitted to warrant reconsideration of Commerce's prior finding of countervailability for this program.

During the POR, BMB reported using the deduction for export earnings in 2015 against its 2015 income as shown on its 2015 income tax return, which was filed during the POR.⁴⁵ Borusan reported that Istikbal was in a tax loss position for 2015 and, thus, did not receive benefits from this program during the POR.⁴⁶

Commerce typically treats a tax deduction as a recurring benefit, in accordance with 19 CFR 351.524(c)(1). The amount of the benefit is equal to the amount of tax that would have been paid absent the program. The total POR benefit to BMB under this program, *i.e.*, the total tax savings in 2016, is the sum of the deductions for 2015, multiplied by the tax rate applicable to BMB. To calculate the countervailable subsidy rate for Borusan, we divided the total tax savings in 2016 by the sum of BMB's and Istikbal's total free-on-board (fob) export sales value, net of intercompany sales, for the POR. On this basis, we preliminarily determine the net countervailable subsidy for this program to be 0.09 percent *ad valorem* for Borusan.⁴⁷

2. Inward Processing Certificate

The Ministry of Economy administers the Inward Processing Certificate (IPC) program.⁴⁸ Under the IPC program, companies are exempt from paying customs duties and value added tax (VAT) on raw materials and intermediate unfinished goods that are imported and used in the production of exported goods, as well as goods sold domestically, as explained below.⁴⁹ Companies may choose to exercise an exemption from the applicable duties and taxes upon importation (*i.e.*, the suspension system) or to have the duties and taxes reimbursed after exportation of the finished goods (*i.e.* the duty drawback system). Under both systems, companies provide a letter of guarantee that is returned to them upon fulfillment of the export commitment.⁵⁰

To participate in this program, a company must hold an IPC, which lists the quantity of raw materials/intermediate unfinished goods to be imported and the quantity of product to be exported.⁵¹ To obtain an IPC, an exporter must submit an application which provides

⁴⁴ See *OCTG from Turkey Final Determination* and accompanying IDM at 13-14.

⁴⁵ See Borusan's March 12, 2018 IQR at 15 and Exhibits B-1, B-2.

⁴⁶ *Id.*

⁴⁷ See Memorandum to the File, "Preliminary Results Calculations for Borusan," dated concurrently with this memorandum (Borusan's Preliminary Calculation Memorandum).

⁴⁸ See GOT's February 26, 2018 IQR at 11.

⁴⁹ *Id.* at 12-14.

⁵⁰ *Id.*

⁵¹ *Id.*

information about the goods to be produced and the raw materials to be imported.⁵² There are two types of IPCs: (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.⁵³

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), the exemption upon export of indirect taxes provides a benefit to the extent that the Commerce determines that the amount of the exemption exceeds the VAT levied with respect to the production and distribution of like products when sold for domestic consumption

In prior reviews, Commerce found 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, making normal allowance for waste, and that the system is reasonable for the purposes intended.⁵⁴ Commerce also found that the exemption granted on certain methods of payment 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.⁵⁵ No new information is on the record of this review that would warrant a reconsideration of Commerce's earlier findings.

Borusan reported that BMB received VAT and duty exemptions on imported inputs under D-1 certificates of the IPC program.⁵⁶ Consistent with the Commerce's prior findings,⁵⁷ and based on our review of the information provided by Borusan regarding this program, we preliminarily find no evidence on the record of this administrative review indicating that the amounts of VAT and duty exemptions on inputs Borusan imported under the program using D-1 certificates were excessive or that BMB did not use the imported inputs to produce goods for export. Therefore, we preliminarily determine that the tax and duty exemptions that BMB received under D-1 certificates of the IPC program did not confer countervailable benefits because the exemptions were applied only to imported inputs consumed in the production of the exported product,

⁵² *Id.*

⁵³ *Id.*

⁵⁴ See, e.g., *Certain Welded Carbon Steel Pipes and Tubes from Turkey: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2015*, 82 FR 16994 (April 7, 2017) (*CWCS Pipes and Tubes Prelim Results 2015 AR*), and accompanying Preliminary Decision Memorandum (PDM) at 13-16; *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) (*CWCS Pipes and Tube Final Results 2013 AR*), and accompanying IDM at 11-13; and *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 10-12.

⁵⁵ *Id.*

⁵⁶ See Borusan's March 12, 2018 IQR at 16-17 and at Exhibits C-2, C-3.

⁵⁷ See, e.g., *CWCS Pipes and Tubes Prelim Results 2015 AR*, and accompanying PDM at 13-16.

making normal allowance for waste. We further preliminarily find that the VAT exemption did not confer countervailable benefits to Borusan because the exemption does not exceed the amount levied with respect to the production and distribution of like products when sold for domestic consumption.

Borusan also reported that BMB received duty exemptions on imported inputs under D-3 certificates of the IPC program.⁵⁸ Business activities under the D-3 certificate program are defined as “domestic sales and deliveries considered exports” and that the holder of the D-3 certificates makes domestic sales instead of export sales.⁵⁹ Export commitments are not required in connection with the use of D-3 certificates.⁶⁰ Based on our review of the information provided by Borusan, we preliminarily find use of D-3 certificates themselves is not contingent upon export performance. However, consistent with our finding in *CWCS Pipes and Tubes Final Results 2015 AR*, we preliminarily find that the eligibility for D-3 certificates is contingent upon the firm holding an IPC, and that in granting IPCs, the GOT solicits information regarding the applicants’ export activities.⁶¹

With regard to the duty exemptions associated with D-3 certificates, pursuant to 19 CFR 351.519(a)(1)(ii), in the case of the exemption of import charges, a benefit exists to the extent that Commerce determines that the duty exemption extends to imported inputs that are not consumed in the production of the exported product, making normal allowances for waste.⁶²

We preliminarily find that the duty exemptions under D-3 certificates provide a countervailable subsidy. The duty exemption provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, in the form of revenue forgone by the GOT. In accordance with the criteria specified under 19 CFR 351.519(a)(1)(ii), we preliminary determine that duty exemptions received in connection with D-3 certificates are provided on imported inputs that are not consumed in the production of the exported product and are used in the production of finished products for sale in the domestic market. Moreover, these duty exemptions result in a benefit within the meaning of section 771(5)(E) of the Act in the amount of the tax and duty exemption or rebate. We also find that the receipt of D-3 certificates is contingent upon firms receiving an IPC and that, in issuing IPCs, the GOT takes into account the level of a firm’s export activity. Thus, because the receipt of D-3 certificates is contingent upon export activities, as one or more eligibility conditions, the program is specific as an export subsidy under 771(5A)(B) of the Act.

Therefore, we preliminarily determine that the duty exemptions on inputs imported for the production of finished products sold in the domestic market that BMB received during the POR under D-3 certificates of the IPC program conferred countervailable benefits. To calculate the net subsidy rate attributable to BMB, we summed all of the duty exemptions provided for the D-

⁵⁸ See Borusan’s March 12, 2018 IQR at 16-17 and Exhibits C-2, C-3.

⁵⁹ See Borusan’s March 12, 2018 IQR at 17. See also *CWCS Pipes and Tubes Prelim Results 2015 AR*, and accompanying PDM at 15.

⁶⁰ See *CWCS Pipes and Tubes Prelim Results 2015 AR*, and accompanying PDM at 15.

⁶¹ *Id.*

⁶² *Id.* at 15-16.

3 certificate import purchases during the POR. We divided this sum of benefits by the sum of BMB's and Istikbal's total fob export sales, less intercompany sales, for the POR. On this basis, we find that Borusan received a net countervailable subsidy of 0.20 percent *ad valorem*.⁶³

3. Export Financing - Rediscount Program

Borusan reported that BMB received benefits from one Export Financing program, "Rediscount Program" from the Turk Eximbank-TE.⁶⁴ The "Rediscount Program," known previously as the "Short-Term Pre-Shipment Rediscount Program," was established in 1999 to provide financial support to Turkish exporters, manufacturer-exporters and manufacturers supplying exporters.⁶⁵ This program was previously administered only by the Export Credit Bank of Turkey (Turk Eximbank-TE).⁶⁶ However, the GOT reported that effective October 4, 2016, firms can also use this program *via* commercial banks that apply to the Central Bank of the Republic of Turkey (CBRT). As such, these commercial banks through the CBRT, also administer the program.⁶⁷ This program is contingent upon an export commitment.⁶⁸ Upon the approval of an exporter's program application, the CBRT instructs the disbursement of the approved Turkish Lira (TRY) loan amount, minus interest, to the recipient.⁶⁹ Companies can repay the principal and interest either in the foreign currency in which the loan was obtained, or in the TRY equivalent (using the exchange rate determined by the Turk Eximbank-TE).⁷⁰

Commerce previously found this program to be countervailable.⁷¹ Because the entity providing the assistance is the CBRT, either through the Turk Eximbank-TE or through approved commercial banks,⁷² we determine the program remains consistent with our findings in prior case segments. Additionally, because Borusan reported receiving the loans under this program through the Turk Eximbank-TE,⁷³ we continue to evaluate this program consistent with *OCTG from Turkey Final Determination*.⁷⁴ Thus, we preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT under section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1) equal to the difference between what the company paid on the loans during the POR and what the company would have paid on comparable commercial loans, including related

⁶³ See Borusan's Preliminary Calculation Memorandum.

⁶⁴ See Borusan's March 12, 2018 IQR at 12-15.

⁶⁵ See GOT's February 26, 2018 IQR at 3; see also *OCTG from Turkey Final Determination*, and accompanying IDM at 14.

⁶⁶ See *OCTG from Turkey Final Determination* and accompanying IDM at 14.

⁶⁷ See GOT's February 26, 2018 IQR at 3-6 and Exhibit 1, 2, and 4.

⁶⁸ *Id.*

⁶⁹ *Id.* at 7.

⁷⁰ *Id.*

⁷¹ See *OCTG from Turkey Final Determination* and accompanying IDM at 11-12; see, also e.g., *Heavy Walled Rectangular Welded Circular Steel Pipes and Tubes from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 81 FR 47349 (July 21, 2016) (*Heavy WRWC Pipe and Tube Turkey Final Determination*), and accompanying IDM at 16-17.

⁷² See GOT's February 26, 2018 IQR at 6.

⁷³ See Borusan's March 12, 2018 IQR at 12-13 and Exhibit A-1.

⁷⁴ See *OCTG from Turkey Final Determination*, and accompanying IDM at 11-12.

lending costs.⁷⁵ 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.

Because, under this program, the interest on the loan is paid when the loan is received, we have calculated the benefit based only on loans that were granted during the POR. To compute the benefit, we applied a discounted benchmark interest rate calculated using the respondent's short-term weighted-average commercial USD interest rate and Euro interest rate, as discussed above at "Benchmark Interest Rates." For each loan, we compared the effective interest that BMB paid to the effective interest that BMB would have paid at the appropriate USD or Euro benchmark interest rate for each loan. We summed the difference between the actual interest paid by BMB and the interest that BMB would have paid at the benchmark rates. In accordance with section 771(6)(A) of the Act, we subtracted from this benefit amount the fees BMB paid to commercial banks for the required letters of guarantee. Our approach in this regard is consistent with Commerce practice.⁷⁶ In accordance with 19 CFR 351.525(b)(2), we then divided BMB's net benefit amount by the sum of BMB and Istikbal's total fob export sales, less inter-company sales, for the POR. On this basis, we preliminarily calculate a net countervailable subsidy rate of 0.08 percent *ad valorem* for this program.⁷⁷

4. Provision of Hot Rolled Steel (HRS) for Less Than Adequate Remuneration

Commerce examined the provision of HRS to BMB during the POR. Commerce has previously found that this program provides countervailable subsidies.⁷⁸ BMB reported purchasing HRS from Erdemir and Isdemir during the POR.⁷⁹

The information submitted by the GOT in this review with regard to this program remains consistent with our previous findings. The GOT provided information on Eriği Demir ve Çelik Fabrikaları T.A.S. (Erdemir) and İskenderun Demir ve Çelik A.Ş. (Isdemir), producers of HRS, as well as Ordu Yardımlaşma Kurumu (OYAK), the Turkish military pension fund that is a shareholder of Erdemir and Isdemir.⁸⁰ During the POR, OYAK owned 49.29 percent of Erdemir's shares through a wholly-owned holding company, Ataer Holding A.S.⁸¹ Moreover, because 3.08 percent of Erdemir's shares were owned by Erdemir itself in the form of treasury shares,⁸² less than 48% were accounted for by other shareholders, thus making OYAK the single largest, and controlling, shareholder of Erdemir. During the POR, Erdemir owned 95.07 percent of Isdemir.⁸³

⁷⁵ It is Commerce's practice normally to compare effective interest rates rather than nominal rates in making the loan comparison. See *Countervailing Duties; Final Rule*, 63 FR 65348 (November 25, 1998) at 65362. "Effective" interest rates are intended to take into account the actual cost of the loan, including the amount of fees, commissions, compensating balances, government charges, or penalties paid in addition to the "nominal" interest rate.

⁷⁶ See, e.g., *CWCS Pipes and Tubes Final Results 2015 AR*, and accompanying IDM at 9.

⁷⁷ See Borusan's Preliminary Calculation Memorandum.

⁷⁸ See *OCTG from Turkey Final Determination*, and accompanying IDM at 26. See also *Heavy WRWC Pipe and Tube Turkey Final Determination* and *CWCS Pipes and Tubes Final Results 2015 AR*.

⁷⁹ See Borusan's March 12, 2018 IQR at 20.

⁸⁰ See GOT's February 26, 2018 IQR at 20.

⁸¹ *Id.* at 26 and Exhibit 8 and 8-N.

⁸² *Id.* at Exhibit 8 at 4-5 and Exhibit 8C.5 at 5.

⁸³ *Id.* at Exhibit 8.

In its initial questionnaire response, the GOT responded to the Input Producer Appendix for Erdemir, Isdemir, and OYAK.⁸⁴ In addition, we asked the GOT to submit certain documents relevant to the Turkish flat steel industry.⁸⁵ The GOT claimed it could not submit these documents under its confidentiality agreements with the European Union.⁸⁶ However, the GOT did provide limited public summaries of the contents of these documents.⁸⁷

The law establishing OYAK (the Military Personnel Assistance and Pension Fund Law), which was enacted on January 3, 1961, states that the GOT created OYAK “as an institution related to the Ministry of Defense.”⁸⁸ Information in the GOT’s questionnaire responses indicates the GOT’s significant involvement in OYAK. For example, pursuant to the pension fund law, OYAK’s Representative Assembly is comprised of not less than 50 and not more than 100 members of the Turkish Armed Forces “Designated by their respective commanders or superiors.”⁸⁹ The Representative Assembly, in turn, elects 20 of the 40 members of OYAK’s General Assembly.⁹⁰ Of the General Assembly’s remaining 20 members, 17 are, by statute, government officials (*e.g.*, Ministers of Finance and Defense). Members of the General Assembly elect the eight-person Board of Directors.⁹¹ Also, OYAK’s property has, by law, the “same rights and privileges of state property,” OYAK is exempt from corporate and other taxes, and members of the armed forces must, by law, contribute part of their salaries to OYAK.⁹²

Record evidence indicates that the GOT’s significant involvement in OYAK extends to Erdemir and Isdemir during the POR. For example, Erdemir’s 2016 Annual Report states, “In 2016 . . . flat steel exports increased by 29%,” and Erdemir “aims to meet the present and future needs of the Turkish industry to the highest level by investing in the production of value products.”⁹³ These policies are in line with the GOT’s stated policy in its 2012-2014 Medium Term Programme to improve Turkey’s balance of payments.⁹⁴ The 2016 Annual Report indicates sustained growth stating that its “sales revenues stood at US\$ 3.9 billion in 2016,” and that it “exported 1.1 million tons of finished products and increased the share of exports” in its “total sales to 12.4%.”⁹⁵ Also, the GOT explained that the Turkish Privatization Administration (TPA) holds veto power over decisions on reduction in capacity of Erdemir and Isdemir’s integrated

⁸⁴ *Id.*

⁸⁵ See GOT’s April 27, 2018 SQR at 3-8 and Exhibits 2-4. Specifically, we requested that the GOT provide: 1) Advanced assessment of Turkish state aids to the steel industry (the WYG Report); 2) The Turkish authorities’ observations on the WYG Report; 3) the National Restructuring Plan for the Turkish Steel Industry (National Restructuring Plan) and its annexes; and 4) two reports drafted by the Commission in 2008 (Point 2: State aid of May 7, 2008, and Point 3: Capacity Changes of May 7, 2008). See letter from Commerce to the GOT, dated April 10, 2018.

⁸⁶ *Id.* at 4 and Exhibit 3.

⁸⁷ *Id.* at 5-7.

⁸⁸ See GOT’s February 26, 2018 IQR at Exhibit 8G-2, Article 1.

⁸⁹ *Id.* at Exhibit 8G-2, Article 3.

⁹⁰ *Id.* at Exhibit 8G-2, Article 4.

⁹¹ *Id.* at Exhibit 8G-2, Article 5.

⁹² *Id.* at Exhibit 8G-2, Articles 18, 35, and 37.

⁹³ *Id.* at Exhibit 8C-5 (Erdemir 2016 Annual Report at 3 and 34, respectively).

⁹⁴ See *CWCS Pipes and Tubes Final Results 2013 AR*, and accompanying IDM at 8-11.

⁹⁵ *Id.* at Exhibit 8C-5 (Erdemir 2016 Annual Report at 11).

steel production facilities and mining facilities.⁹⁶ Further, Erdemir's 2016 Annual Report indicates that OYAK and the TPA continue to have members on Erdemir's Board of Directors.⁹⁷

We preliminarily determine that the record evidence cited above indicates that the GOT exercises meaningful control over Erdemir and Isdemir such that Erdemir and Isdemir possess, exercise or are vested with government authority. This meaningful control is evident from both the role of OYAK as an institution through which the GOT exercises control over Erdemir and Isdemir, and the alignment of Erdemir's Annual Report with the Medium Term Programme. Therefore, consistent with the *OCTG from Turkey Final Determination*, we preliminarily determine that Erdemir and Isdemir are public bodies, and hence "authorities," pursuant to section 771(5)(B) of the Act.⁹⁸ Consequently, we find that the HRS supplied by Erdemir and Isdemir to BMB is a financial contribution in the form of a governmental provision of a good under section 771(5)(D)(iii) of the Act.

Regarding the specificity of the provision of HRS for LTAR, the GOT provided a list of the industries that purchased HRS in Turkey during the POR: steel pipe and profile, rerolling producers, chain of distribution, machinery manufacturing, automotive, heavy industry, consumer products, pressure purposes (pressure vessels, steam boilers), panel radiator, white appliances, and shipbuilding.⁹⁹ Consistent with Commerce's prior determinations,¹⁰⁰ we preliminarily determine that the financial contribution provided by the GOT under this program is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the number of industries or enterprises using HRS is limited in number.¹⁰¹ We also preliminarily determine the financial contribution provided by the GOT under this program is specific within the meaning of section 771(5A)(D)(iii)(II) of the Act because the Steel Pipe and Profile industry is the predominant user of HRS.¹⁰²

Regarding benefit, Commerce identifies appropriate market-determined benchmarks for measuring the adequacy of remuneration for government-provided goods or services, in accordance with 19 CFR 351.511(a)(2). This section of Commerce's regulations specifies potential benchmarks in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As provided at 19 CFR 351.511(a)(2), the preferred benchmark in the hierarchy is an observed market price from

⁹⁶ *Id.* at Exhibit 8-A (Erdemir's Articles 21, 22, 27 of Association).

⁹⁷ *Id.* at Exhibit 8C-5 (Erdemir 2016 Annual Report at 64-65).

⁹⁸ See *OCTG from Turkey Final Determination*, and accompanying IDM at Comment 1. See also *Borusan*, 61 F.Supp.3d at 1324 (upheld Commerce's finding that Erdemir and Isdemir are "authorities").

⁹⁹ See GOT's April 27, 2018 SQR at 2. See also GOT's February 26, 2018 IQR at 27 and Exhibit 12.

¹⁰⁰ See *OCTG from Turkey Final Determination*, and accompanying IDM at 20-26; see also *Welded Line Pipe from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 80 FR 61371 (October 13, 2015) (*Welded Line Pipe from Turkey Final Determination*) and accompanying IDM at 11-14.

¹⁰¹ *Id.*

¹⁰² See GOT's April 27, 2018 SQR 2 at 1-3.

actual transactions within the country under investigation,¹⁰³ because such prices generally reflect most closely the prevailing market conditions of the purchaser under investigation.

Based on this hierarchy, we must first determine whether there are market prices from actual sales transactions involving Turkish buyers and sellers that can be used to determine whether Erdemir and Isdemir sold HRS to the respondent for LTAR. Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where Commerce finds that the government owns or controls the majority or a substantial portion of the market for the good or service, Commerce will consider such prices to be significantly distorted and not an appropriate basis of comparison for determining whether there is a benefit.¹⁰⁴

Consistent with Commerce's prior final determinations, we determine that the record evidence does not support a finding that the Turkish HRS market is so distorted that it cannot serve as a source for an appropriate benchmark.¹⁰⁵ The record shows that for 2014, 2015, and 2016, the combined domestic HRS production of Erdemir and Isdemir accounted for 44.76, 40.34, and 38.28 percent of supply, respectively, while imports of HRS accounted for 31.94, 39.53, and 38.73 percent in the same years, respectively.¹⁰⁶ Given the minority share of government production, the substantial levels of imports, and the lack of other record evidence indicative of distortion, such as an export tax on or export quota for the input, we preliminarily find, consistent with our prior determinations noted above, that the HRS market in Turkey was not distorted by the government's presence for this period. Therefore, we determine that the prices at which Borusan reported both purchasing HRS from domestic HRS producers (other than Erdemir and Isdemir) and importing HRS from foreign suppliers can serve as tier one benchmarks. Accordingly, pursuant to 19 CFR 351.511(a)(2)(i), we used the respondent's actual domestic and import prices for HRS as the benchmark against which to compare Borusan's purchases of HRS from Erdemir and Isdemir, during the POR.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier one or tier two, Commerce will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Because we are using actual domestic and import prices paid by Borusan, the benchmark prices are inclusive of delivery charges, import duties (where applicable), and value-added tax (VAT) paid.

We then compared the monthly average benchmark prices to BMB's actual purchase prices for HRS from Erdemir and Isdemir, including taxes and delivery charges, as appropriate. In instances in which BMB paid Erdemir and Isdemir a lower unit price than the benchmark unit

¹⁰³ See, e.g., *Notice of Affirmative Countervailing Duty Determination and Final Negative Critical Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002), and accompanying IDM at "Market-Based Benchmark."

¹⁰⁴ See *Preamble*, 63 FR at 65377.

¹⁰⁵ See *CWCS Pipes and Tube Final Results 2013 AR*, and accompanying IDM at 10-11; see also *Welded Line Pipe from Turkey Final Determination*, and accompanying IDM at 11-14; and *Heavy WRWC Pipe and Tube Turkey Final Determination*, and accompanying IDM at 13.

¹⁰⁶ See GOT's February 26, 2018 IQR at 23.

price, we multiplied the difference by the quantity of HRS purchased to calculate the benefit.¹⁰⁷ Under this methodology, we find that Borusan received a benefit to the extent that the prices paid for HRS produced by Erdemir and Isdemir were for LTAR.¹⁰⁸

To calculate the net subsidy rate attributable to Borusan, we summed the benefits resulting from purchases that were made at prices below the applicable benchmark price and we divided the aggregate of the benefits by the sum of BMB's and Istikbal's total sales, net of intercompany sales, during the POR. We preliminarily determine a net countervailable subsidy rate of 0.29 percent *ad valorem* for this program.¹⁰⁹

B. Programs Preliminarily Determined Not to Confer a Benefit During the POR¹¹⁰

Borusan reported receiving benefits under various additional programs. Based on the record evidence, we preliminarily determine that the benefits from these programs were less than 0.5 percent of the relevant sales value in the year of receipt, and thus, were fully expensed prior to the POR and not allocated to the POR. Thus, these programs do not confer countervailable benefits to Borusan during the POR.

1. Assistance to Offset Costs Related to AD/CVD Investigations
2. Support of Trade Expositions and Market Research
3. Investment Encouragement Program: VAT and Customs Duty Exemptions¹¹¹

C. Programs Preliminarily Found Not to be Countervailable

1. Minimum Wage Incentive Program

Borusan and its cross-owned affiliates self-reported receiving benefits under the Minimum Wage Incentive program.¹¹² The GOT also provided a response with respect to this program.¹¹³ According to the GOT, this program was introduced on January 14, 2016 under Article 68 of Law 5510.¹¹⁴ The Social Security Institution of the GOT administers this program.¹¹⁵ The purpose of this program, as set forth in Law 5510, is to support companies that employ minimum wage employees that are insured under one of the company's insurance plans by reducing the insurance premiums paid by these companies.¹¹⁶

We preliminarily find based on the record information that the program is not specific within the meaning of sections 771(5A)(A)-(C) of the Act. We also preliminarily find that the program is

¹⁰⁷ See Borusan's Preliminary Calculation Memorandum.

¹⁰⁸ See sections 771(5)(D)(iv) and 771(5)(E)(iv) of the Act.

¹⁰⁹ See Borusan's Preliminary Calculation Memorandum.

¹¹⁰ See Borusan's May 1, 2018 SQR at 6-7.

¹¹¹ See Borusan's Preliminary Calculation Memorandum.

¹¹² See Borusan's March 12, 2018 IQR at 38 and Exhibit 0.

¹¹³ See GOT's February 26, 2018 IQR at 30-39.

¹¹⁴ *Id.* at 31.

¹¹⁵ *Id.* at 33.

¹¹⁶ See GOT's February 26, 2018 IQR at 31; see also GOT's April 27, 2018 SQR at Exhibit 6.

not *de jure* specific to an enterprise or industry, or group(s) thereof, within the meaning of section 771(5A)(D)(i) of the Act. We further find preliminarily that the program is not used by a limited number of enterprises or industries, and that no enterprise or industry, or group(s) thereof, is a preponderant user or a disproportionate beneficiary of the minimum wage incentive program within the meaning of section 771(5A)(D)(iii) of the Act. In particular, the information on the record for this program demonstrates that: 1) Borusan's benefit compared to that received by other companies is insignificant; and 2) the steel pipe manufacturing sector's benefit compared to that received by other sectors is also insignificant.¹¹⁷ Finally, we preliminarily find that this program is not limited to enterprises located in designated geographic regions and thus not specific under section 771(5A)(D)(iv) of the Act. As a result, we preliminary find that this program did not confer countervailable benefits to Borusan during the POR.

D. Programs Preliminarily Determined to be Not Used During the POR

- a. Strategic Investment Incentives
 - i. Investment Encouragement Program: VAT and Customs Duty Exemptions
 - ii. Tax Reductions
 - iii. Income Tax Withholding
 - iv. Social Security and Interest Support
 - v. Land Allocation
- b. Large Scale Investment Incentives
 - i. VAT and Customs Duty Exemptions
 - ii. Tax Reductions
 - iii. Income Tax Withholdings
 - iv. Social Security and Interest Support
 - v. Land Allocation
- c. Export Insurance Provided by Turk Eximbank
- d. Preferential Tax Benefits for Turkish OCTG Producers Located in Free Zones
- e. Incentives for Research and Development Activities
 - i. Product Development R&D Support-UFT
 - ii. Tax Breaks
- f. Provision of Steam Coal for Less Than Adequate Remuneration
- g. Investment Encouragement Program: Customs Duty and VAT Exemptions
- h. Provision of Electricity for LTAR/Law 5084: Energy Support
- i. Provision of Land for Less Than Adequate Remuneration
- j. Law 5084: Withholding of Income Tax on Wage and Salaries
- k. Exemption from Property Tax
- l. Law 5084: Incentive for Employers' Share in Insurance Premiums
- m. Law 6486: Regional Program for Employer's Share of Social Security Withholding
- n. Eximbank Working Capital Loan
- o. Export Financing: Pre-Export Credit Program

¹¹⁷ See GOT's February 26, 2018 IQR at Exhibit 14; *see also* GOT's June 4, 2018 SQR.

VI. Recommendation

Based on our analysis, we recommend adopting the preliminary results described above. If this recommendation is accepted, we will publish the preliminary results of review in the *Federal Register*.



Agree



Disagree

10/3/2018

X



Signed by: GARY TAVERMAN