



C-489-819

Administrative Review

POR: 01/01/2016 - 12/31/2016

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E&C/VII: The Team

December 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 Maeder
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations
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; 2016

I. SUMMARY

The Department of Commerce (Commerce) 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, 2016, through December 31, 2016. The three mandatory respondents are: Colakoglu Dis Ticaret A.S. (COTAS) and Colakoglu Metalurji A.S. (Colakoglu Metalurji) (collectively, Colakoglu), Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas), and Kaptan Demir Celik Endustrisi ve Ticaret A.S. (Kaptan Demir) and Kaptan Metal Dis Ticaret Ve Nakliyat A.S. (Kaptan Metal) (collectively, Kaptan). We preliminarily find that each mandatory respondent received countervailable subsidies during the POR.

II. BACKGROUND

On November 6, 2014, we published the CVD *Order* on rebar from Turkey.¹ On November 1, 2017, we published the notice of opportunity to request an administrative review of the *Order* for

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



the period January 1, 2016, through December 31, 2016.² On November 28, 2017, Colakoglu, Icdas, and Kaptan,³ each requested an administrative review.⁴ On November 30, 2017, the Rebar Trade Action Coalition (RTAC or the petitioner)⁵ requested a review of 20 producers/exporters of subject merchandise,⁶ which included Colakoglu, Icdas, and Kaptan.⁷ On January 11, 2018, we published the notice initiating a review of 20 producers/exporters of rebar from Turkey.⁸ In the *Initiation Notice*, we stated our intention to select respondents based on entry data sourced from U.S. Customs and Border Protection (CBP).⁹ On January 15, 2018, Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas) filed an objection to its inclusion in the *Initiation Notice*, noting that it was excluded from the *Order*.¹⁰ As a result, we subsequently clarified that entries of subject merchandise produced and exported by Habas are not subject to countervailing duties, because Commerce's final determination with respect to this producer/exporter combination was negative.¹¹ On January 23, 2018, we released the CBP data and requested comments from interested parties.¹² The petitioner filed comments on February 2, 2018.¹³ On March 23, 2018, we selected Colakoglu, Icdas, and Kaptan as the mandatory respondents in this review.¹⁴

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 82 FR 50620, 50621 (November 1, 2017).

³ In its request for review, Kaptan listed "Kaptan Demir Celik Endustrisi Ticaret A.S." Subsequently, in response to a clarification request by Commerce, Kaptan clarified that its review request was intended for "Kaptan Demir Celik Endustrisi ve Ticaret A.S." See Kaptan's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Kaptan's Request for CVD Administrative Review," dated November 28, 2017 (Kaptan's Review Request); Commerce Letter re: Clarification of Request for Administrative Review, dated December 4, 2017; Memorandum, "Clarification of Review Request—Kaptan Demir," dated December 7, 2017; and Kaptan's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Response to Department's Request for Clarification," dated December 7, 2017.

⁴ See Colakoglu's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Colakoglu's Request for CVD Administrative Review," dated November 28, 2017; Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Icdas' Request for CVD Administrative Review," dated November 28, 2017; and Kaptan's Review Request.

⁵ The individual members of the Rebar Trade Action Coalition are Byer Steel Group, Inc., Commercial Metals Company, Gerdau Ameristeel US Inc., Nucor Corporation, and Steel Dynamics, Inc.

⁶ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from Turkey: Request for Administrative Review," dated November 30, 2017 (Petitioner's Review Request).

⁷ In its request for review, the petitioner listed "Kaptan Metal Dis Tic Ve Nak AS" and "Agir Haddecilik Makina Sanayi Ve Ti." Subsequently, in response to a clarification request by Commerce, the petitioner indicated that its review request was intended for "Kaptan Metal Dis Ticaret Ve Nakliyat A.S." and "Agir Haddecilik A.S." See Petitioner's Review Request at 2-3; Commerce Letter re: Clarification of Request for Administrative Review, dated December 4, 2017; and Petitioner's Letter, "Steel Concrete Reinforcing Bar from Turkey: Clarification of Request for Administrative Review," dated December 6, 2017.

⁸ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 1329, 1334 (January 11, 2018) (*Initiation Notice*).

⁹ *Id.*, 83 FR at 1329.

¹⁰ See Habas' Letter, "Steel Concrete Reinforcing Bar from Turkey Objection to initiation," dated January 15, 2018.

¹¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 8058, 8067 n.6 (February 23, 2018) (*Revised Initiation Notice*).

¹² See Memorandum, "Results of Customs and Border Protection Query," dated January 23, 2018.

¹³ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Comments on CBP Data and Respondent Selection," dated February 2, 2018.

¹⁴ See Memorandum, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Respondent Selection in Countervailing Duty Administrative Review for 2016," dated March 23, 2018.

We issued the initial questionnaire on March 27, 2018.¹⁵ Between April 10 and April 17, 2018, we received timely responses to the affiliation questions contained within section III of the initial questionnaire from Colakoglu, Icdas, and Kaptan.¹⁶ Based on information reported by Colakoglu, Icdas, and Kaptan in their affiliation submissions, we identified additional cross-owned affiliates of each mandatory respondent from whom questionnaire responses were required. Between April 12 and April 20, 2018, we issued supplemental affiliation questionnaires to Colakoglu, Icdas, and Kaptan, and requested questionnaire responses from their cross-owned affiliates.¹⁷ In light of information contained within Colakoglu's affiliation submission, we also requested that the Government of Turkey (GOT) submit a response to Section II of the CVD questionnaire pertaining to any benefits received by Demirsan Haddecilik San. Ve Tic. A.S. (Demirsan),¹⁸ the toller that produced rebar for Colakoglu Metalurji during the POR.¹⁹ We received timely supplemental affiliation questionnaire responses from each of the mandatory respondents.²⁰

In May 2018, we received timely initial questionnaire responses from the GOT, Colakoglu, Icdas, and Kaptan.²¹ On May 29, 2018, the petitioner submitted new factual information to rebut, clarify, or correct information contained within the initial questionnaire responses.²² Subsequently, on June 8, 2018, we received comments from the petitioner in response to the initial questionnaire responses.²³ On June 21, 2018, we issued supplemental questionnaires to the GOT, Colakoglu, Icdas, and Kaptan.²⁴ All parties timely responded to the supplemental

¹⁵ See Commerce Letter re: Steel Concrete Reinforcing Bar from the Republic of Turkey: Initial Questionnaire in Countervailing Duty Administrative Review for 2016, dated March 27, 2018.

¹⁶ See Colakoglu's April 17, 2018 Affiliation Response (Colakoglu AFFR); Icdas' April 10, 2018 Affiliation Response (Icdas April 10, 2018 AFFR); and Kaptan's April 17, 2018 Affiliation Response (Kaptan April 17, 2018 AFFR).

¹⁷ See Commerce Letter re: Request for Questionnaire Response from Certain Cross-Owned Affiliates and Supplemental Affiliation Questionnaire for Icdas, dated April 12, 2018; Commerce Letter re: Request for Questionnaire Response from Certain Cross-Owned Affiliates and Supplemental Affiliation Questionnaire for Colakoglu, dated April 20, 2018; and Commerce Letter re: Request for Questionnaire Response from Certain Cross-Owned Affiliates and Supplemental Affiliation Questionnaire for Kaptan, dated April 20, 2018.

¹⁸ See Memorandum, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Clarification Regarding Business Proprietary Treatment of Company Name in Countervailing Duty Administrative Review for 2016," dated June 14, 2018 (clarifying that Demirsan may be publicly identified in this proceeding).

¹⁹ See Commerce Letter re: Request for Questionnaire Response Pertaining to Additional Company, dated April 20, 2018.

²⁰ See Icdas' April 19, 2018 Supplemental Affiliation Response (Icdas April 19, 2018 SAFFR); Kaptan's April 25, 2018 Supplemental Affiliation Response (Kaptan April 25, 2018 SAFFR); and Colakoglu's April 27, 2018 Supplemental Affiliation Response (Colakoglu April 27, 2018 SAFFR).

²¹ See GOT's May 14, 2018 Initial Questionnaire Response (GOT May 14, 2018 IQR); Kaptan's May 14, 2018 Initial Questionnaire Response (Kaptan May 14, 2018 IQR); Colakoglu's May 15, 2018 Initial Questionnaire Response (Colakoglu May 15, 2018 IQR); and Icdas' May 15, 2018 Initial Questionnaire Response (Icdas May 15, 2018 IQR); and Colakoglu's May 29, 2018 Initial Questionnaire Response (Colakoglu May 29, 2018 IQR).

²² See Petitioner's Letter, "Steel Concrete Reinforcing Bar from Turkey: RTAC's Submission of Information to Rebut, Correct, or Clarify Initial Questionnaire Responses," dated May 29, 2018.

²³ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: RTAC's Comments on Initial Questionnaire Responses," dated June 8, 2018.

²⁴ See Commerce Letter re: Supplemental Questionnaire for GOT, dated June 21, 2018; Commerce Letter re: Supplemental Questionnaire for Colakoglu, dated June 21, 2018; Commerce Letter re: Supplemental Questionnaire

questionnaires.²⁵

On June 18, 2018, the petitioner filed timely new subsidy allegations (NSA), and requested that Commerce examine two additional programs that were self-reported by the respondents in this proceeding (*i.e.*, Minimum Wage Support and Participation in Trade Fairs Abroad),²⁶ which we were already investigating. Based on the evidence contained within the NSA, on August 10, 2018, we initiated an investigation into the following programs: Comprehensive Investment Incentives, Preferential Loans from the Turkish Development Bank, Preferential Loans from the Industrial Development Bank of Turkey, Provision of Liquefied Natural Gas (LNG) for Less Than Adequate Remuneration (LTAR).²⁷ On August 13, 2018, we issued NSA questionnaires to the GOT, and each of the mandatory respondents.²⁸ Between August 23 and September 5, 2018, we received timely responses to the initial NSA questionnaires from the GOT, Colakoglu, Icdas, and Kaptan.²⁹ We issued supplemental NSA questionnaires to the GOT, Colakoglu, Icdas, and Kaptan between September 26 and October 11, 2018.³⁰ We received timely responses to the supplemental NSA questionnaires in October 2018.³¹

for Icdas, dated June 21, 2018; and Commerce Letter re: Supplemental Questionnaire for Kaptan, dated June 21, 2018.

²⁵ See GOT's July 12, 2018 Supplemental Questionnaire Response (GOT July 12, 2018 SQR); Kaptan's July 12, 2018 Supplemental Questionnaire Response (Kaptan July 12, 2018 SQR); Colakoglu's July 13, 2018 Supplemental Questionnaire Response (Colakoglu July 13, 2018 SQR); and Icdas' July 13, 2018 Supplemental Questionnaire Response (Icdas July 13, 2018 SQR).

²⁶ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: New Subsidy Allegations," dated June 18, 2018 (Petitioner's NSA).

²⁷ See Memorandum, "Steel Concrete Reinforcing Bar from the Republic of Turkey: New Subsidy Allegations in Countervailing Duty Administrative Review for 2016," dated August 10, 2018 (NSA Memorandum).

²⁸ See Commerce Letter re: New Subsidy Allegation Questionnaire for the GOT, dated August 10, 2018; Commerce Letter re: New Subsidy Allegation Questionnaire for Colakoglu, dated August 10, 2018; Commerce Letter re: New Subsidy Allegation Questionnaire for Icdas, dated August 10, 2018; and Commerce Letter re: New Subsidy Allegation Questionnaire for Kaptan, dated August 10, 2018.

²⁹ See Colakoglu's August 23, 2018 New Subsidy Allegation Questionnaire Response (Colakoglu August 23, 2018 NSAQR); Kaptan's August 31, 2018 New Subsidy Allegation Questionnaire Response (Kaptan August 31, 2018 NSAQR); Icdas' September 4, 2018 New Subsidy Allegation Questionnaire Response (Icdas September 4, 2018 NSAQR); and GOT's September 5, 2018 New Subsidy Allegation Questionnaire Response (GOT September 5, 2018 NSAQR).

³⁰ See Commerce Letter re: Supplemental New Subsidy Allegation Questionnaire for Colakoglu, dated September 26, 2018; Commerce Letter re: Supplemental New Subsidy Allegation Questionnaire for Icdas, dated October 2, 2018; Commerce Letter re: Supplemental New Subsidy Allegation Questionnaire for Kaptan, dated October 2, 2018; and Commerce Letter re: Supplemental New Subsidy Allegation Questionnaire for GOT, dated October 2, 2018.

³¹ See Colakoglu's October 3, 2018 New Subsidy Allegation Supplemental Questionnaire Response (Colakoglu October 3, 2018 NSAR); Kaptan's October 13, 2018 New Subsidy Allegation Supplemental Questionnaire Response (Kaptan October 13, 2018 NSAR); GOT's October 16, 2018 New Subsidy Allegation Supplemental Questionnaire Response (GOT October 16, 2018 NSAR); GOT's October 25, 2018 New Subsidy Allegation Supplemental Questionnaire Response (GOT October 25, 2018 NSAR); and Icdas' October 17, 2018 New Subsidy Allegation Questionnaire Response (Icdas October 17, 2018 NSAR).

Colakoglu submitted natural gas benchmark pricing data on June 25, 2018.³² On July 2, 2018, the petitioner submitted rebuttal comments on Colakoglu's benchmark submission.³³ On July 9, 2018, the petitioner submitted benchmark pricing data for natural gas.³⁴ Colakoglu submitted rebuttal comments on July 12, 2018.³⁵ On November 5, 2018, the petitioner submitted additional natural gas benchmarks.³⁶ The petitioner filed pre-preliminary comments on November 14, 2018.³⁷ On November 20, 2018, Colakoglu and Icdas submitted pre-preliminary comments.³⁸

On July 10, 2018, we extended the deadline for these preliminary results from August 6, 2018, to December 3, 2018.³⁹

III. INTENT TO RESCIND THE 2016 ADMINISTRATIVE REVIEW, IN PART

A. DufEnergy Trading SA (DufEnergy); Duferco Celik Ticaret Limited (Duferco); and Ekinciler Demir ve Celik Sanayi A.S. (Ekinciler)

We received timely filed no-shipments certifications from DufEnergy, Duferco, and Ekinciler.⁴⁰ Because there is no evidence on the record to indicate that DufEnergy, Duferco, or Ekinciler 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 these companies.

Additionally, we intend to issue no-shipments inquiries to CBP with regard to imports of subject merchandise from each company during the POR. A final decision on whether to rescind the review with respect to DufEnergy, Duferco, and Ekinciler will be made in the final results of this review.

³² See Colakoglu's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Colakoglu's Submission Regarding Natural Gas Benchmark Pricing Data," dated June 22, 2018 (Colakoglu's June 25, 2018 Benchmark Submission).

³³ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from Turkey: RTAC's Rebuttal to Colakoglu's Benchmark Data," dated July 2, 2018 (Petitioner's July 2, 2018 Benchmark Rebuttal Submission).

³⁴ See Petitioner's Letter, "Benchmark Information," dated July 9, 2018 (Petitioner's July 9, 2018 Benchmark Submission).

³⁵ See Colakoglu's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Colakoglu's Response to RTAC's Rebuttal to Colakoglu Submission Regarding Natural Gas Benchmark Pricing Data," dated July 12, 2018 (Colakoglu's July 12, 2018 Benchmark Rebuttal Submission).

³⁶ See Petitioner's Letter, "Certain Steel Concrete Reinforcing Bar from the Republic of Turkey: Additional Benchmark Data," dated November 5, 2018 (Petitioner's November 5, 2018 Additional Benchmark Submission).

³⁷ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: RTAC's Pre-Preliminary Determination Comments," dated November 13, 2018 (Petitioner's Pre-Preliminary Comments).

³⁸ See Colakoglu and Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Colakoglu and Icdas Response to RTAC Pre-Preliminary Comments," dated November 20, 2018 (Colakoglu and Icdas' Pre-Preliminary Comments).

³⁹ See Memorandum, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Extension of Deadline for Preliminary Results in 2016 Countervailing Duty Administrative Review," dated July 10, 2018.

⁴⁰ See Ekinciler's Letter, "Hot-Rolled Steel Products from Turkey (C-489-819): Countervailing Duty Administrative Review (01/01/16– 12/31/16)," dated January 24, 2018; Duferco's Letter, "Steel Concrete Reinforcing Bar from Turkey; No Shipments Letter for Duferco Celik Ticaret Limited," dated January 29, 2018; and DufEnergy's Letter, "Steel Concrete Reinforcing Bar from Turkey; No Shipments Letter for DufEnergy Trading SA (formerly known as Duferco Investment Services SA)," dated January 29, 2018.

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 the *Order* because Commerce's final determination in the investigation was negative with respect to subject merchandise produced and exported by Habas.⁴¹ 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 the *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 Commerce's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Tariff Act of 1930, as amended (the Act). Generally, Commerce 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, Commerce'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.⁴² For these preliminary results, Icdas is the sole mandatory respondent with a calculated rate above *de minimis*. Therefore, we are preliminarily assigning Icdas' net countervailable subsidy rate of 1.37 percent *ad valorem* to the 11 remaining non-selected companies,⁴³ for which an individual rate was not calculated.

⁴¹ 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*); see also *Revised Initiation Notice*, 83 FR at 8067 n.6. (clarifying that entries produced and exported by Habas are not subject to the *Order*).

⁴² See, e.g., *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386, 37387 (June 29, 2010).

⁴³ Of the twenty companies included in the *Initiation Notice*, we calculated rates for Colakoglu Metalurji, COTAS, Kaptan Demir, Kaptan Metal, and Icdas, and preliminarily intend to rescind this review with respect to DufEnergy, Duferco, Ekinciler, and Habas. Therefore, there are 11 companies that will be subject to the rate determined for non-selected companies (20 minus the nine companies listed in the previous sentence).

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

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.⁴⁴ No party in this review 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 allocated benefits over the AUL in this review.

B. Cross-Ownership

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) directs that Commerce 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.

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

⁴⁴ See *Turkey Rebar Final Determination* IDM at Allocation Period.

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 Commerce's regulations further clarifies Commerce's cross-ownership standard.⁴⁵ 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.⁴⁶

Thus, Commerce'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 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.⁴⁷

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.⁴⁸ 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.⁴⁹ 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.⁵⁰ COTAS handles the export sales of subject merchandise to the United States and other markets.⁵¹

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). COTAS reported that it is a trading company that handles Colakoglu Metalurji's export sales and

⁴⁵ See *Countervailing Duties, Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).

⁴⁶ *Id.*, 63 FR at 65401.

⁴⁷ See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

⁴⁸ See Colakoglu AFR at 3.

⁴⁹ *Id.* at 5.

⁵⁰ *Id.* at 3.

⁵¹ *Id.*

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).

In the second CVD investigation of rebar from Turkey (*Rebar II*), we found that it was appropriate to attribute subsidies received by certain tolling companies to a company respondent when the relationship between the tolling company and the respondent is akin to the relationship between a producer and its trading company under 19 CFR 351.525(c) (*i.e.*, the tolling company performs all production activities and the respondent sells the finished product).⁵² In this review, Colakoglu reported that a portion of its rebar was produced by Demirsan, a tolling company.⁵³ At Commerce's request, Demirsan provided full questionnaire responses through counsel for Colakoglu. Information on the record indicates that Colakoglu provides billets to Demirsan, Demirsan produces rebar in accordance with Colakoglu's specified standards and specifications, and then packages the rebar for the final customer.⁵⁴ Because Demirsan was heavily involved in Colakoglu's production of rebar during the POR, we are attributing those subsidies to Colakoglu based on the ratio of Colakoglu's POR sales produced by Demirsan.⁵⁵

Additionally, although Colakoglu provided details of numerous other affiliated companies, none satisfy the requirements of the attribution rules under 19 CFR 351.525. Therefore, we have not included these companies in our subsidy analysis.⁵⁶

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, and electricity trading, in addition to travel, catering, and accommodation services.⁵⁷ All companies in the Icdas Group have common family ownership, corporate officers, and interlocking directorates.⁵⁸

Icdas is the Icdas Group's only manufacturer and exporter of rebar to the United States.⁵⁹ 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 attribution rule under 19 CFR 351.525(b)(6)(iv): Mardas Marmara Deniz Isletmeciligi A.S. (Mardas); Oraysan Insaat Sanayi

⁵² See *Steel Concrete Reinforcing Bar from the Republic of Turkey, Final Affirmative Countervailing Duty Determination*, 82 FR 23188 (May 22, 2017) (*Turkey Rebar II*), and accompanying IDM at 12 ("cumulating" subsidies provided to Habas' toller under similar circumstances), and accompanying Preliminary Decision Memorandum (PDM) at 13-14.

⁵³ See Colakoglu April 27, 2018 SAFFR at 1.

⁵⁴ *Id.*

⁵⁵ 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); see also *Turkey Rebar II Final Determination* IDM at 12 ("cumulating" subsidies provided to Habas' toller under similar circumstances).

⁵⁶ See Colakoglu AFFR at 5-7 and Exhibit 1.

⁵⁷ See Icdas AFFR at 3.

⁵⁸ *Id.* at 5-6.

⁵⁹ *Id.* at 3.

ve Ticaret A.S. (Oraysan); Artmak Denizcilik Ticaret ve Sanayi A.S. (Artmak), and Icdas Elektrik Enerjisi Uretim ve Yatirim A.S. (Icdas Elektrik).⁶⁰ Using the sales information reported by Icdas, Mardas, Oraysan, Artmak, and Icdas Elektrik, we are attributing any subsidies received by these companies to Icdas, in accordance with 19 CFR 351.525(b)(6)(iv).

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,⁶¹ we preliminarily find that these companies do not meet the attribution rules under 19 CFR 351.525. Therefore, we have not included these companies in our subsidy analysis.

3. Kaptan

Kaptan Demir is a privately-owned corporation and parent company of a group of companies (*i.e.*, the Kaptan Group) whose operations include, but are not limited to, steel manufacturing, steel trading, ocean and inland transportation, construction, shipping agency, and seaport operations.⁶² Kaptan Demir is the main manufacturing company of subject merchandise.⁶³ Kaptan also provided responses on behalf of the following affiliates, which sold scrap rebar to Kaptan during the POR: Martas Marmara Ereglisi Liman Tesisleri A.S. (Martas), Aset Madencilik A.S. (Aset), and Kaptan Is Makinalari Hurda Alim Satim Ltd. Sti. (Kaptan Is Makinalari).⁶⁴ Commerce preliminarily determines that the production of scrap is primarily dedicated to the production of the downstream product (Kaptan Demir is a fully integrated producer that produces billet from scrap, and rebar from billet) in accordance with 19 CFR 351.525(b)(6)(iv).⁶⁵

All of the Kaptan Group companies are ultimately owned by members of the Cebi family.⁶⁶ Kaptan Demir's primary shareholders are members of the Cebi family, their children and spouses, and there is significant overlap in the executive management of all Kaptan Group companies.⁶⁷ Because the Kaptan Group companies are either directly or indirectly owned or managed by the Cebi family, they satisfy the definition of cross-ownership at 19 CFR 351.525(b)(6)(vi). Further, because the Kaptan Group companies were involved in the production of rebar during the POR, either as producers of subject merchandise or as suppliers of scrap for rebar production, we preliminarily find that the Kaptan Group companies meet the requirements of the attribution rules under 19 CFR 351.525(i) and (iv); thus, we have included these companies in our subsidy analysis.

⁶⁰ The inputs provided by these companies is business proprietary information. *Id.* at 4.

⁶¹ See Icdas AFFR at 4.

⁶² See Kaptan AFFR at 4.

⁶³ *Id.*

⁶⁴ See Kaptan May 14, 2018 IQR at 1

⁶⁵ *Id.* at 1 and 3.

⁶⁶ See Kaptan AFFR at 4.

⁶⁷ *Id.*

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce 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. Loan Benchmarks and Discount Rates

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.⁶⁸ Under 19 CFR 351.505(a)(2)(iv), when calculating a company-specific short-term benchmark interest rate, Commerce 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. Colakoglu, Icdas, and Kaptan 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.⁶⁹

To calculate the benefit from the rediscount loans, we preliminarily used USD short-term commercial loans that originated in 2016 to derive a weighted-average benchmark rate specific to each respondent, because those are comparable commercial loans that the companies could actually obtain on the market during the POR pursuant to 19 CFR 351.505(a)(3).⁷⁰

To calculate the benefit from the Investment Incentive Certificates program, we relied on long-term interest rates taken from *International Financial Statistics*, published by the International Monetary Fund.

⁶⁸ See 19 CFR 351.505(a)(2)(i).

⁶⁹ See Colakoglu May 14, 2018 IQR at CVD-33 and Exhibit 18 and May 29, 2018 SQR at Exhibit CVD-9; Icdas May 15, 2018 IQR at CVD-28 and Exhibit 20; and Kaptan May 14, 2018 IQR at Exhibit 27 and July 12, 2018 SQR at 6.

⁷⁰ This approach is consistent with Commerce'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.

E. Uncreditworthiness of Icdas Elektrik

Pursuant to 19 CFR 351.505(a)(6)(i), Commerce will not consider the uncreditworthiness of a firm absent a specific allegation of uncreditworthiness by the petitioner, that is supported by information establishing a reasonable basis to believe or suspect that the firm is uncreditworthy. In its pre-preliminary comments, the petitioner alleged that Icdas Elektrik was uncreditworthy from 2007-2011⁷¹ based on information placed on the record by Icdas. Accordingly, we must examine whether the evidence on the record provides a reasonable basis to believe or suspect that Icdas Elektrik was uncreditworthy during the years in question.

For these preliminary results, Commerce is not relying on any long-term interest rate benchmarks or discount rates in its calculations for Icdas Elektrik. Nevertheless, Commerce preliminarily determines that Icdas Elektrik was uncreditworthy from 2007 to 2011, in accordance with 19 CFR 351.505(a)(4).

The examination of creditworthiness is an attempt to determine if the company in question could obtain long-term financing from conventional commercial sources.⁷² According to 19 CFR 351.505(a)(4)(i), Commerce will generally consider a firm to be uncreditworthy if, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources. In determining the creditworthiness of a company, Commerce examines the criteria outlined in 19 CFR 351.505(a)(4)(i)(A)-(D) including: 1) the receipt of comparable commercial long-term loans; 2) the present and past financial health of the firm, as reflected in various financial indicators calculated from the firm's financial statements and accounts; 3) the firm's recent past and present ability to meet its costs and fixed financial obligations with its cash flow; and (4) evidence of the firm's future financial position, such as market studies, country and industry economic forecasts, and project and loan appraisals prepared prior to the agreement between the lender and the firm on the terms of the loan. Procurement of long-term commercial loans not backed by a government guarantee is dispositive evidence of creditworthiness.

During the years in question, the only long-term financing extended to Icdas Elektrik came from a consortium of banks Commerce determines to be dominated by GOT-controlled institutions, including TSKB (discussed below). Such financing is not considered the type of commercial lending that is dispositive of creditworthiness under 19 CFR 351.505(a)(4).⁷³

Turning to the other three factors, Commerce's recent practice has focused on whether the firm has adequate cash flow, cash on hand, and other current and liquid assets available to cover existing and upcoming short-term obligations. Commerce has also considered the assessment of third parties, such as banks or rating agencies, undertaken before or during the years in question.

⁷¹ See Petitioner's Pre-Preliminary Comments at 28-35.

⁷² See 19 CFR 351.505(a)(4).

⁷³ See, e.g., *Countervailing Duty Investigation of Certain Corrosion-Resistant Steel Product from the Republic of Korea: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 81 FR 35310 (June 2, 2016), and accompanying IDM at Comments 4, 5, and 6 (concluding lending from a consortium of Korean banks was not dispositive evidence of creditworthiness, despite the consortium including some commercial banks, because of the significant involvement of government of Korea institutions).

Commerce has focused particularly on two ratios that indicate whether a firm has sufficient cash and other liquid assets on hand to cover short-term obligations without having to additional borrowing: the firm's current and quick ratios.⁷⁴ As benchmarks, Commerce considers whether the firm's current ratio (current assets over current obligations) is above or below 2.0, and whether the firm's quick ratio (liquid assets over current obligations) is above or below 1.0. Commerce also considers a firm's debt-to-equity ratios under this factor and cash flow and any other factors raised by interested parties in their comments. Our analysis of Icdas Elektrik's financial statements indicates that the company was uncreditworthy during the years 2007-2011.⁷⁵ Accordingly, consistent with Commerce's past practice, described above, we preliminarily find that Icdas Elektrik was uncreditworthy during the years 2007-2011.⁷⁶

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. Deduction from Taxable Income for Export Revenue

COTAS reported that it claimed this deduction in its fiscal year 2015 income tax return which was filed with the tax authorities during the POR.⁷⁷ We found this tax program to be countervailable in the underlying investigation, and previous administrative reviews.⁷⁸ 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.⁷⁹ This deduction is to cover the expenditures without documentation incurred from exports, construction, maintenance, assembly, and transportation activities abroad.⁸⁰

In this review, the GOT reported no changes during the POR that would affect the countervailability of the program.⁸¹ We therefore continue to find that this income tax deduction

⁷⁴ See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012), and accompanying IDM at 56.

⁷⁵ 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).

⁷⁶ *Id.*

⁷⁷ See Colakoglu May 15, 2018 IQR at CVD-28.

⁷⁸ See *Turkey Rebar Final Determination* IDM at Deduction from Taxable Income for Export Revenue; *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 IDM at Deduction from Taxable Income for Export Revenue; and *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2015*, 83 FR 16051 (April 13, 2018) (*Turkey Rebar Second Review*), and accompanying IDM at Deduction from Taxable Income for Export Revenue.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ See GOT May 14, 2018 IQR at 31.

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.⁸²

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 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. We then attributed the rate determined for COTAS to Colakoglu Metalurji based on the percentage of the latter's exported products sold by COTAS. On this basis, we preliminarily calculate a net countervailable subsidy rate of 0.03 percent *ad valorem* for Colakoglu.⁸³

Neither Icdas nor Kaptan, nor any of their responding cross-owned affiliates used this program during the POR.⁸⁴

2. Rediscount Program

COTAS, Colakoglu Metalurji, Icdas, and Kaptan Demir reported that they paid interest on rediscount export loans which were outstanding during the POR.⁸⁵ We found this export loan program to be countervailable in the underlying investigation and subsequent administrative reviews.⁸⁶ 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.⁸⁷ 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.⁸⁸

In this review, the GOT reported no changes to the program during the POR that would affect the countervailability of the program.⁸⁹ 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 (plus any fees) the company would have paid on comparable commercial loans and the amount of interest (plus any fees) the company actually

⁸² *Id.*; see also *Turkey Rebar Final Determination* IDM at Deduction from Taxable Income for Export Revenue.

⁸³ See Colakoglu Preliminary Calculations.

⁸⁴ See Icdas May 15, 2018 IQR at CVD-26; and Kaptan May 14, 2018 IQR at 18.

⁸⁵ See Colakoglu May 15, 2018 IQR at CVD-30; Icdas May 15, 2018 IQR at CVD-27; and Kaptan May 14, 2018 IQR at 26.

⁸⁶ See *Turkey Rebar Final Determination* IDM at Rediscount Program; *Turkey Rebar First Review* IDM at Rediscount Program; and *Turkey Rebar Second Review* IDM at Rediscount Program.

⁸⁷ See GOT May 14, 2018 IQR at 33; and *Turkey Rebar Final Determination* IDM at Rediscount Program.

⁸⁸ *Id.*

⁸⁹ See GOT May 14, 2018 IQR at 31-39.

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," and following the methodology used for this program in prior reviews. 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 2016. We attributed the rate determined for COTAS to Colakoglu Metalurji based on the percentage of the latter's exported products sold by COTAS. On this basis, we preliminarily calculate a net countervailable subsidy rate of 0.22 percent *ad valorem* for Kaptan,⁹⁰ and a rate of 0.01 percent *ad valorem* for Colakoglu.⁹¹ The net countervailable subsidy rate for Icdas was less than 0.005 percent *ad valorem*, considered non-measurable under our practice and thus excluded from the company's total rate.⁹²

3. Purchase of Electricity Generated from Renewable Resources for More Than Adequate Remuneration (MTAR) – Renewable Energy Sources Support Mechanism (YEKDEM)

Icdas, the only respondent company that generates renewable energy, participated in YEKDEM during the POR.⁹³ We have examined this program in prior segments of the *Order* but had found it unused.

The GOT reported that power producers generating electricity from renewable energy sources can voluntarily participate in an alternative mechanism, known as YEKDEM.⁹⁴ Under this price support program, the GOT guarantees that participating electricity producers using renewable energy sources will obtain a certain minimum price for electricity sold through Enerji Piyasaları İşletme A.Ş. (EPIAS), the electricity marketplace operator.⁹⁵ The guaranteed minimum price is calculated by the GOT based on the type of renewable energy source and whether the producer purchased domestically produced equipment for its power plant.⁹⁶ If the YEKDEM producer's electricity sells for below the guaranteed minimum price, then, pursuant to Law No. 5346, *all* non-YEKDEM EPIAS suppliers are billed for a portion of the difference between the minimum price and the actual EPIAS price, and the YEKDEM suppliers receive commensurate support payments out of the proceeds.⁹⁷ Icdas reported receiving such support payments from YEKDEM for all eligible months of the POR.⁹⁸

⁹⁰ See Memorandum, "Preliminary Results Calculations for Kaptan," dated concurrently with this Preliminary Decision Memorandum (Kaptan Preliminary Calculations).

⁹¹ See Colakoglu Preliminary Calculations.

⁹² See Icdas Preliminary Calculations.

⁹³ See Icdas May 15, 2018 IQR at CVD-44; and GOT May 14, 2018 IQR at 60.

⁹⁴ See GOT May 14, 2018 IQR at 58.

⁹⁵ *Id.*

⁹⁶ *Id.* at 59.

⁹⁷ *Id.* at 58 and 61.

⁹⁸ See Icdas May 15, 2018 IQR at Exhibit CVD-30.

We preliminarily determine that this program confers a countervailable subsidy within the meaning of section 771(5) of the Act. The program provides a financial contribution within the meaning of sections 771(5)(B)(iii) and 771(5)(D)(i) of the Act because, through a government regulation, the GOT is directing a direct transfer funds (*i.e.*, the YEKDEM support amount) from non-YEKDEM EPIAS sellers to YEKDEM participants that sold electricity through the EPIAS marketplace for less than the guaranteed minimum price. This program is *de jure* specific under section 771(5A)(D)(i) of the Act because it is limited by law to renewable energy producers.

While Commerce initiated its investigation of the program as a government purchase of a good for MTAR, our review of the responses provided by the GOT and Icdas indicates that the program provides price support payments in the form of recurring grants. The record, as described above, demonstrates that, in this situation, the government is not acquiring or procuring goods but, rather, facilitating a market between the respondent and its customer through the provision of assistance to certain companies. This assistance, although referred to as “payments” by the GOT and Icdas, does not constitute payments in exchange for goods, but, rather, grants provided to companies that generate electricity using certain fuel sources, and a direct transfer of funds from the GOT to the respondent.⁹⁹ Therefore, this program provides a benefit in the amount of the support payments to the respondent, as reported by Icdas, in accordance with 19 CFR 351.504(a). Treating the benefit amount as a recurring grant, we divided the total payment amount by the total sales denominator to determine a subsidy rate for the POR.¹⁰⁰ Thus, we preliminarily calculate a net countervailable subsidy rate of 0.45 percent *ad valorem* for Icdas.¹⁰¹

Colakoglu and Kaptan reported that neither they nor any of their responding affiliates used this program.¹⁰²

4. Investment Incentive Certificates

The Council of Ministers’ Decree 2012/3305, which has been in effect since June 2012, provides companies with investment incentive certificates to receive customs duty exemptions on imported machinery and equipment, as well as value-added tax (VAT) exemptions for both imported and domestic purchases of machinery and equipment.¹⁰³ The Ministry of Economy administers this program, also known as the Investment Encouragement Program (IEP).¹⁰⁴ According to the GOT, this program is designed to, *inter alia*, channel savings into value-added

⁹⁹ See *Biodiesel from the Republic of Indonesia, Final Affirmative Countervailing Duty Determination*, 82 FR 53471 (November 16, 2017) (*Indonesian Biodiesel*), and accompanying IDM at Comment 2 (where Commerce determined similar support payments provided to biodiesel producers that sold at less than market value to fuel blenders constituted grants, not MTAR).

¹⁰⁰ Although Commerce typically treats grants as non-recurring, grants of this nature tied to sales of a product (not to capital expenses) that a respondent can expect to receive on an annual basis as the result of the structure of the subsidy program are treated as recurring. See *Indonesian Biodiesel*.

¹⁰¹ See Icdas Preliminary Calculations.

¹⁰² See Colakoglu May 15, 2018 IQR at CVD-46; and Kaptan May 14, 2018 IQR at 25.

¹⁰³ See GOT May 14, 2018 IQR at 83-84.

¹⁰⁴ *Id.* at 84.

investments, and to increase production and employment rates, international competitiveness, and foreign direct investments.¹⁰⁵

Decree 2012/3305 stipulates different minimum investment amounts for participation in this program.¹⁰⁶ These minimum amounts are based on the region in which an investment is made (*i.e.*, companies applying for this program in Regions 1 and 2 must make a minimum 1,000,000 Turkish lira (TL) investment, while companies in Regions 3, 4, 5 and 6 must make a minimum 500,000 TL investment).¹⁰⁷ Article 9 of Decree 2012/3305, which regulates customs duty exemptions, excludes certain items from this benefit (*e.g.*, tow trucks, furniture, forklifts, concrete pumps, and used print, press, and textile equipment).¹⁰⁸ Additionally, Article 10, which regulates VAT exemptions, limits this benefit for building construction expenditures to those over a fixed investment amount of 500,000,000 TL.¹⁰⁹ Moreover, Decree 2012/3305 excludes numerous sectors from participation in this program.¹¹⁰ Therefore, we preliminarily find this program is specific under section 771(5A)(D)(i) of the Act, and regionally specific under section 771(5A)(D)(iv) of the Act. Additionally, this program provides a financial contribution pursuant to section 771(5)(D)(ii) of the Act in the form of revenue foregone by the GOT.

In prior segments of the *Order*, Commerce examined this program as a tax program, and countervailed the amounts of import duties and VAT that were exempted during the review or investigation period, based upon each purchase, performed the 0.5 percent test on the foregone taxes and duties, and either expensed the benefit in the year of receipt or allocated the benefit, in accordance with 19 CFR 351.524(c)(2)(iii) and (d)(1).

However, in *Welded Line Pipe from Turkey 2015*,¹¹¹ Commerce revised its analysis of this program.¹¹² The GOT reported that under this program, exempted import duties and VAT remain payable to the GOT, with interest, if the exempted company fails its final onsite inspection by the GOT to close out the relevant investment incentive certificate and issue a “completion visa.”¹¹³ Thus, pending a successful close-out of the investment incentive certificate, the company continues to be liable for the exempted duties and VAT. It is Commerce’s practice to treat any balance on an unpaid liability, that may be waived in the future, as a contingent-liability interest-free loan pursuant to 19 CFR 351.505(d)(1). Accordingly, since the unpaid IEP duties and VAT under the program are a liability contingent on subsequent events, we regard the unpaid amounts as an interest-free contingent-liability loan. Accordingly, we find that the amount the respondent would have paid during the POR, had it borrowed the full amount of the duty and VAT exemption or reduction at the time of

¹⁰⁵ *Id.*

¹⁰⁶ See GOT May 14, 2018 IQR Exhibit 25 at 4 and Article 5.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at Article 9.

¹⁰⁹ *Id.* at Article 10.

¹¹⁰ *Id.* at Annex-4.

¹¹¹ See *Welded Line Pipe from the Republic of Turkey, Final Results of Countervailing Duty Administrative Review, 2015*, 83 FR 34113 (July 19, 2018) (*Welded Line Pipe from Turkey 2015*), and accompanying IDM at 7-11, and PDM at 14-17.

¹¹² *Id.*

¹¹³ See GOT August 27, 2018 SQR at 2-3.

importation, to constitute the first benefit under the IEP customs duty and VAT exemption program.

Furthermore, we find that a second benefit arises based on the amount of customs duties and VAT foregone by the GOT on the imports and/or domestic purchases covered by an IEP certificate at the time the GOT certifies that the investment requirements have been met and issues a completion visa. Pursuant to 19 CFR 351.505(d)(2), under such circumstances, we treat the total customs duty and VAT exemptions under a given IEP certificate as grants received in the year in which the GOT waived the contingent liability on those exemptions. Additionally, in accordance with 19 CFR 351.524(c)(2)(iii), because the import duty and VAT exemptions under this program are approved for the purchase of capital equipment, and thus tied to the company's capital assets, we are treating the exemptions as a non-recurring benefit as of the date of the receipt of the completion visa from the GOT.

Icdas reported imports under this program during the POR, and accordingly paid no customs duties or VAT on those imports.¹¹⁴ Certain imports entered pursuant to certificates completed during the POR. Therefore, the import duty and VAT exemptions received by Icdas constitute deferrals on the payment of the import duties and VAT during the POR, *i.e.*, contingent liabilities within the meaning of 19 CFR 351.505(d) for all or part of the POR. Consistent with *Welded Line Pipe from Turkey 2015*, we are calculating a subsidy rate based on the interest otherwise payable on the amounts outstanding during the POR before completion.

As indicated above, the time period between exempted importation under the program and the final waiver of liabilities, in the form of a "completion visa" issued by the GOT, may span a certain number of years. As such, pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring this benefit is a long-term interest rate, because the event upon which repayment of the duties is contingent (*i.e.*, the date of expiration of the time period to satisfy the contingency) occurs at a point in time that is more than one year after the date of importation of the capital goods. Accordingly, for the benchmark interest rate, we used the long-term interest rate as discussed in the "Loan Benchmarks and Interest Rates" section, above. We calculated a daily interest rate based on the long-term benchmark interest rate for the year in which the capital good was imported. We then multiplied the daily rate by the number of days the loan was outstanding during the POR, and by the amount of unpaid customs duties and VAT under Icdas' investment incentive certificates. We summed these amounts to determine the total benefit from the interest free liability. For certificates completed during the POR, we calculated an additional benefit in the amount of the total import duty and VAT waived for the duration of each certificate pursuant to completion. After first performing the "0.5 percent test" of 19 CFR 351.524, we allocated this amount to the POR in accordance with 19 CFR 351.524(d).

To calculate the net countervailable subsidy rate attributable to Icdas, we divided the total benefit to Icdas, determined as discussed above, from the interest free liability by the company's total sales during the POR. We then added to that rate a rate determined by dividing the total benefit to Icdas Elektrik by the total sales of Icdas during the POR plus the sales of Icdas Elektrik of the

¹¹⁴ See Icdas May 15, 2018 IQR at Exhibit CVD-34.

input primarily dedicated to the production of the downstream product. On this basis, we preliminarily find that Icdas received a net countervailable subsidy rate of 0.92 percent *ad valorem* for this program.¹¹⁵

Colakoglu and Kaptan reported that neither they nor any of their responding affiliates used this program.

5. Provision of Natural Gas for LTAR

In the *Turkey Rebar Final Determination*, Commerce found that Turkish companies receive countervailable subsidies through the provision of natural gas from Boru Hatlari Ile Petrol Tasima A.S. (BOTAS) for LTAR, a state-economic enterprise.¹¹⁶ Colakoglu Metalurji reported that, during the POR, it purchased natural gas from BOTAS for use in its electricity generation plant.¹¹⁷ Colakoglu Metalurji provided a copy of its contract with BOTAS and invoices.¹¹⁸ Kaptan Demir reported purchase of natural gas from BOTAS during the POR for purposes other than electricity generation.¹¹⁹ Icdas and its responding cross-owned affiliates reported that they did not purchase any natural gas from BOTAS during the POR.¹²⁰ The GOT reported that there was no change to the ownership structure of BOTAS during 2016.¹²¹ 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.¹²² The GOT also reported that *Decree Law No. 233 (Law 233)* was still in effect during the POR.¹²³ In accordance with Article 6 of *Law 233*, all of BOTAS's board members are appointed by the Turkish President and the Turkish Prime Minister.¹²⁴ The GOT stated that all board members and senior managers are government officials.¹²⁵ Further, under Articles 29-32 of *Law 233*, all of BOTAS's investment decisions must be approved by the GOT's Council of Ministers and be "in line with determined government programs."¹²⁶ Additionally, all of BOTAS' profits are "transferred to the Treasury" in line with Article 36 of *Law 233*.¹²⁷ 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

¹¹⁵ See Icdas Preliminary Calculations.

¹¹⁶ See *Turkey Rebar Final Determination* IDM at 8-13.

¹¹⁷ See Colakoglu May 15, 2018 IQR at CVD-18.

¹¹⁸ *Id.* at CVD-21 and Exhibit CVD-12.

¹¹⁹ See Kaptan May 14, 2018 IQR at 11-12 and Exhibit 17.

¹²⁰ See Icdas May 15, 2018 IQR at CVD-14-15.

¹²¹ See GOT May 14, 2018 IQR at 13.

¹²² *Id.* and Exhibit 4 (BOTAS's Articles of Incorporation at Article 3).

¹²³ *Id.* at 14, and Exhibit 7 (*Law 233*).

¹²⁴ *Id.*

¹²⁵ *Id.* at 18.

¹²⁶ *Id.* at Exhibit 7 (*Law 233*).

¹²⁷ *Id.*

771(5)(D)(iii) of the Act, consistent with the *Turkey Rebar Final Determination* and previous administrative review.¹²⁸

We also preliminarily find that there is no evidence indicating that BOTAS's 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*.¹²⁹ Regarding usage, the GOT reported that, in 2016, the total consumption of natural gas in Turkey was 46,395.06 million standard cubic meters (Sm³)¹³⁰ and that BOTAS sold a significant majority of the natural gas consumed.¹³¹ The GOT provided a breakdown of six industries/sectors that purchased natural gas in Turkey during the POR.¹³² The data indicate that power producers (*i.e.*, the Conversion Sector) accounted for the highest sector-specific share of natural gas purchases in 2016 at 36.06 percent. The Industry Sector, the Service Sector, the Transportation Sector, and the Energy Sector (*i.e.*, the other four non-miscellaneous industries/sectors) accounted for 30.38 percent, 6.68 percent, 0.86 percent, and 0.75 percent of all natural gas purchased during the POR, respectively.¹³³

On the basis of this evidence, we preliminarily find that the natural gas sold by BOTAS is *de facto* specific to power producers as the predominant users, including Colakoglu Metalurji, within the meaning of section 771(5A)(D)(iii)(II) of the Act.¹³⁴ 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 adequate remuneration as measured against the benchmark price.

With regard to benefit, under 19 CFR 351.511(a)(2), Commerce 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

¹²⁸ See *Turkey Rebar Final Determination* IDM at Provision of Natural Gas for LTAR; *Turkey Rebar First Review* PDM at Natural Gas for LTAR; and *Turkey Rebar Second Review* PDM at Natural Gas for LTAR.

¹²⁹ *Id.*

¹³⁰ See GOT May 14, 2018 IQR at 5.

¹³¹ *Id.* at 20. The total volume of domestic sales that were accounted for by BOTAS in 2016 is business proprietary information.

¹³² *Id.* at 8-9.

¹³³ *Id.*

¹³⁴ 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.

is an observed market price for the good at issue from actual transactions within the country in question.¹³⁵ Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country where Commerce 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.¹³⁶ As explained above, BOTAS's natural gas sales account for a significant majority of Turkey's natural gas consumption during the POR.¹³⁷ The GOT also reported that domestically-produced natural gas, half of which is produced by a GOT entity, accounts for only 0.79 percent of Turkey's total natural gas consumption in 2016.¹³⁸ 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.¹³⁹

Consequently, because of the GOT's overwhelming dominance 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).¹⁴⁰ Therefore, we preliminarily conclude that there is no viable "tier one" benchmark for natural gas in Turkey during the POR, consistent with our findings in the prior segments in this proceeding.¹⁴¹ 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).¹⁴² Colakoglu Metalurji provided natural gas domestic and export price data for Russia and Azerbaijan obtained from BMI Research.¹⁴³ Colakoglu Metalurji also provided prices of European Union (EU) imports of natural gas from Russia,

¹³⁵ 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.").

¹³⁶ See *Preamble*, 63 FR at 65377.

¹³⁷ See GOT May 14, 2018 IQR at 20. The total volume of domestic sales that were accounted for by BOTAS in 2016 is business proprietary information.

¹³⁸ *Id.* at 5 (reporting that TPAO, a wholly-owned GOT entity produced 235.06 million Sm³ of natural gas and total domestic production was 367.28 million Sm³).

¹³⁹ See GOT May 14, 2018 IQR at 21; *Turkey Rebar Second Review* PDM at 15.

¹⁴⁰ 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.").

¹⁴¹ See, e.g., *Turkey Rebar Final Determination* IDM at 10-11.

¹⁴² See Colakoglu Benchmark Submission at 3.

¹⁴³ See Colakoglu Benchmark Submission at 3.

published by Eurostat, which were used as the benchmarks in the recent *Carbon and Alloy Steel Wire Rod from Turkey* investigation.¹⁴⁴

We have previously found that Russia's domestic natural gas market is distorted by the Government of Russia (GOR)'s monopoly over the sale and distribution of natural gas through Gazprom, a state-owned entity,¹⁴⁵ and thus unsuitable for deriving "tier two" benchmarks. We continue to reject Russian domestic gas prices for these reasons. In this review, the petitioner submitted information suggesting that the GOR's control over the domestic prices of natural gas also extends to Russian export pricing.¹⁴⁶ Specifically, the record shows that the GOR's position as a dominant supplier of natural gas in the international market enables it to leverage prices and supplies for geo-political purposes. The petitioner cites instances where Russia cut off natural gas supplies to Belarus in order to induce its cooperation during the negotiation of gas transfer prices,¹⁴⁷ as well as examples of Russia cutting off supplies of natural gas to Latvia and Lithuania in retaliation for policies unfavorable to the GOR.¹⁴⁸ Information on the record also suggests that the GOR provides subsidized gas to countries that advance its policies.¹⁴⁹ Consequently, the evidence indicates that Russian exports of natural gas are driven to a great extent by the GOR's geo-political concerns and, thus, are not sufficiently market-determined to serve as viable "tier two" benchmarks. Therefore, as with the administered domestic prices, we preliminarily find that we cannot rely on Russian export prices of natural gas as a tier-two benchmark.

Further, because 39.5 percent of the EU's imports of natural gas in 2016 were supplied by Russia,¹⁵⁰ and because we are unable to remove these Russian exports from the International Energy Agency (IEA) data provided by Colakoglu and the petitioner, we preliminarily determine that it is not appropriate to rely on IEA data as a benchmark, in light of our finding above that Russian export prices for natural gas are unsuitable as tier-two benchmarks.

Similarly, information on the record also shows that the Azerbaijani natural gas market is fully controlled by the Government of Azerbaijan (GOA) through various regulatory measures and wholly-state-owned entities and that prices are thereby state-administered. In particular, the record indicates that the State Oil Company of the Azerbaijan Republic (SOCAR), which is 100 percent owned by the GOA, produces the majority of Azerbaijan's gas, and controls the

¹⁴⁴ See *Carbon and Alloy Steel Wire Rod from the Republic of Turkey, Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination, in Part*, 83 FR 13239 (March 28, 2018) (*Carbon and Alloy Steel Wire Rod from Turkey*) and accompanying IDM.

¹⁴⁵ 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.

¹⁴⁶ See Petitioner's Pre-Preliminary Comments at 11- 13.

¹⁴⁷ *Id.*; and Petitioner's July 2, 2018 Benchmark Rebuttal Submission at Exhibit 10.

¹⁴⁸ *Id.* at Exhibit 14; Pre-Preliminary Comments at 12.

¹⁴⁹ *Id.*; and Petitioner's July 2, 2018 Benchmark Rebuttal Submission at Exhibit 13.

¹⁵⁰ See Colakoglu's July 12, 2018 Benchmark Rebuttal Submission at 4 and Exhibit 1.

refinement, transport, storage, and distribution of natural gas in Azerbaijan directly, and through various wholly-owned subsidiaries, such as Azerenergy OJSC, which manages all gas pipelines in Azerbaijan as well as all cross-border exchanges.¹⁵¹ SOCAR also serves as Azerbaijan's largest exporter of natural gas.¹⁵² Further, the Tariff Council of Azerbaijan sets domestic gas prices in consideration of the GOA's policy objectives, and all 13 of the Council's members are government officials appointed by the President of Azerbaijan. An examination of SOCAR's financial statements also indicates that it received hundreds of millions of dollars in subsidies from the GOA. Information on the record thus indicates that the GOA administers Azerbaijani natural gas prices, and no party has provided information to rebut this information. Therefore, we preliminarily determine that we cannot rely on any Azerbaijani prices of natural gas to use as tier-two benchmarks.

The petitioner proposed that we use LNG as a tier-two benchmark, but we find that doing so falls outside of the regulatory scheme under 19 CFR 351.511(a)(2). As an initial matter, under the regulation and our practice, the fundamental task is to compare "the government price to a market-determined price for *the good* or service" being provided by the government. (Emphasis added.) We have found in other proceedings that LNG is not "the good" being provided by the government, *i.e.*, it is not identical to the gaseous natural gas but, rather, a downstream product derived from natural gas through an industrial production process. Second,¹⁵³ Commerce determined in the *Turkey Rebar Second Review* IDM: "Because natural gas in gaseous form can be transported only by pipeline - and not shipped via canisters like liquified or compressed natural gas - there are inherent supply limitations for natural gas ... Pursuant to 19 CFR 351.511(a)(2)(ii) (*i.e.*, tier-two of the hierarchy). Commerce will use a tier-two world market price where it is reasonable to conclude that such a price would be available to purchasers in the country in question. Commerce has found that pipeline connections are salient facts to consider when applying a tier-two benchmark price for natural gas."¹⁵⁴ Commerce concluded in those final results, that "Consistent with Commerce's findings in *Cold-Rolled Steel from Russia* and *Melamine from Trinidad and Tobago*, we determine that an accurate tier-two benchmark price for natural gas would be a price that is available in those countries which are connected to Turkey through natural gas pipelines."¹⁵⁵ LNG must be shipped in specialized containers, not delivered by pipelines.¹⁵⁶ Therefore, we preliminarily find that LNG prices cannot properly serve as tier-two prices within the meaning of our regulation.

¹⁵¹ See Petitioner's Pre-Preliminary Comments at 13-15.

¹⁵² *Id.*

¹⁵³ See Petitioner's Pre-Preliminary Comments at 4-7.

¹⁵⁴ *Turkey Rebar Second Review* IDM at 12.

¹⁵⁵ *Id.* (citing *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016), and accompanying IDM at Comment 5; and *Melamine from Trinidad and Tobago: Final Affirmative Countervailing Duty Determination*, 80 FR 68849 (November 6, 2015), and accompanying IDM at 9.

¹⁵⁶ *Id.* (citing *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination*, 81 FR 49935 (July 29, 2016), and accompanying IDM at Comment 5; and *Melamine from Trinidad and Tobago: Final Affirmative Countervailing Duty Determination*, 80 FR 68849 (November 6, 2015), and accompanying IDM at 9.

Consequently, we preliminarily find that there are no tier-two “world market” prices of natural gas on the record in this review by which to measure the adequacy of remuneration for the natural gas supplied by BOTAS. Thus, we must move to the next step and turn to a “tier three” assessment of adequate remuneration under 19 CFR 351.511(a)(2)(iii), specifically assessing whether BOTAS’s pricing for natural gas is consistent with market principles and, if not, to derive an indicative value for a market-consistent price using any relevant sources from the record.

As discussed above, the GOT is the dominant gas supplier in Turkey and the market is distorted through the presence of GOT-controlled entities, such as BOTAS. The record indicates that BOTAS’s prices are not consistent with market principles. For example, the Turkish Competition Authority has stated that BOTAS does “not operate as a ‘profit seeking independent venture.’”¹⁵⁷ The same report indicates that BOTAS’s pricing is such that it prevents the existence of a competitive market (*i.e.*, competition against BOTAS’s prices is not a realistic option). Moreover, the IEA has found that Turkey still lacks a fully market-based system in its provision of natural gas, specifically that a “transparent and cost-based mechanism for electricity and gas remains to be properly implemented.”¹⁵⁸ These statements indicate that BOTAS’s natural gas prices are not set so as to maximize profit or to fully recover cost as would be expected by a market-oriented supplier, but rather are set at artificially low levels for policy purposes. Therefore, we preliminarily determine that the government price in Turkey is not consistent with market principles within the meaning of 19 CFR 351.511(a)(2)(iii).

In order to determine the extent to which GOT-determined prices fall below market values, we have relied on a benchmark derived from the LNG values available on the record.¹⁵⁹ The petitioner placed several sets of LNG data on the record, including: Bluegold Research, which reflect landed values with no notes or units of measure indicated; LNG landed prices published by the Government of Japan; data from Energy Intelligence, which includes no notes regarding delivery terms or units of measure; World Bank values for Japanese import prices on a CIF basis; and EIA data for U.S. LNG export prices with no indication of delivery terms. The petitioner also placed on the record U.S. export prices for LNG exports on an FOB basis in U.S. dollars (USD) per million BTUs (MMBTU), and sourced from the U.S. Department of Energy (DOE).¹⁶⁰ For this preliminary determination, we have relied on the DOE prices since they are the only values for LNG on the record for which units of measure are indicated and that do not include embedded transportation costs (we have no record information to allow us to “back out” these costs). Further, the DOE prices represent a range of global exports, including shipments to Brazil, India, U.A.E., Argentina, South Korea, etc. Moreover, the data, presented on a transaction-specific basis, allow us to eliminate shipments to the countries determined above to have distorted markets, or markets with administered prices (*i.e.*, Turkey, Russia, and Azerbaijan). We then subtracted from the monthly averages of these prices the cost of

¹⁵⁷ See Petitioner’s Pre-Preliminary Comments at 16.

¹⁵⁸ *Id.*

¹⁵⁹ See Petitioner’s July 2, 2018 Benchmark Rebuttal Submission.

¹⁶⁰ *Id.*

converting natural gas to LNG (liquefaction costs), also placed on the record by the petitioner, and also in USD per MMBTU, in order to derive values for natural gas in gaseous form in USD per MMBTU. This is because the natural gas used by the respondents was in gaseous form and did not include the additional expense of liquification.

Finally, we converted the USD per MMBTU values to USD per kWh values to match the prices reported by the respondent, using conversion factors placed on the record by the petitioner. We compared these benchmark values to the reported natural gas prices of the respondent to determine a benefit amount. We then summed the monthly benefit amounts (ignoring negative results) to determine a total benefit amount for the POR, which we divided by the total sales of Colakoglu Metalurji to derive a countervailable subsidy rate of 0.00 percent *ad valorem*.

B. Programs Preliminarily Determined Not To Be Countervailable

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

In the prior review, we determined 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.¹⁶¹ No information on the record of this segment of the proceeding contradicts that finding. Thus, consistent with the previous segment, we preliminarily find that there is no financial contribution provided by the government, and that the Payments from MESS for Social Security Premium Support Program is not countervailable.

2. Payments from MESS – Occupational Health and Safety Support

As discussed above, we previously determined that MESS is not a government authority within the meaning of section 771(5)(B) of the Act. Thus, we preliminarily find that the Payments from MESS for the Occupational Health and Safety Support Program is not countervailable because there is no financial contribution provided by the government.

3. Preferential Financing from the Industrial Development Bank of Turkey (TSKB)

This program was alleged in the petitioner's NSA.¹⁶² Kaptan Demir reported outstanding financing from TSKB during the POR in the form of letters of credit for scrap purchases.¹⁶³ Icdas Elektrik obtained a ten-year loan from a consortium of banks, to include the TSKB, in 2011.¹⁶⁴ According to the GOT, the TSKB is the largest privately-owned development and investment bank in Turkey.¹⁶⁵

¹⁶¹ *Turkey Rebar Second Review* IDM at MESS Social Security Premium Support.

¹⁶² See Petitioner's NSA; NSA Memorandum.

¹⁶³ See Kaptan August 31, 2018 NSAR at 3.

¹⁶⁴ See Icdas September 4, 2018 NSAR at 4.

¹⁶⁵ See GOT September 5, 2018 NSAR at 4.

The GOT reported that the Central Bank of the Republic of Turkey appoints one of the TSKB's 11 board members.¹⁶⁶ Although the GOT appoints one TSKB board member, the remaining board members are elected by the Shareholders General Assembly of TSKB.¹⁶⁷ The GOT also reported that, as a development and investment bank, the TSKB has access to guarantees from the Undersecretariat of Treasury for loan agreements under Article 3 of Law No. 4749, the TSKB.¹⁶⁸ During the POR, 87% of the TSKB's long-term funding was guaranteed by the Undersecretariat of Treasury, and the GOT provided the TSKB with approximately \$473 million USD worth of repayment guarantees in 2016.¹⁶⁹ The petitioner also cited evidence on the record indicating that TSKB is only able to receive funds from international development organizations (e.g., the World Bank and the European Investment Bank) due to the government guarantees. None of the respondents reported loan guarantees from the TSKB.¹⁷⁰

Based on the information on the record, we preliminarily determine that there is no basis to find that the TSKB is a government authority, or that the GOT entrusts or directs the TSKB, within the meaning of section 771(5)(B) of the Act. The record does not indicate that the TSKB is meaningfully controlled by the GOT. Only one of 11 board members is appointed by the GOT (far short of a controlling vote),¹⁷¹ and although the record demonstrates that the GOT helps the TSKB to secure funding through the provision of guarantees, that fact does not demonstrate, alone or in combination with the appointment of one board member, that the GOT has meaningful control over the TSKB or its lending decisions. Moreover, there is no direct legislation, a policy, or a pattern of practices to entrust or direct the TSKB to provide preferential lending to respondents or any other borrowers.¹⁷² Thus, we preliminarily find that this program is not countervailable on the basis that there is no financial contribution provided by the GOT.

4. Minimum Wage Support

According to the GOT, this program was introduced in January 2016, under Article 68 of Law No. 5510 and appended by Law No. 6661.¹⁷³ The purpose of this program 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.¹⁷⁴ The assistance under this program is available to all companies that employ disabled, elderly, and "death insured" employees. The Social Security Institution of the GOT administers this program.¹⁷⁵

¹⁶⁶ *Id* at 6.

¹⁶⁷ *Id.*

¹⁶⁸ *See* GOT October 10, 2018 SQR at 8.

¹⁶⁹ *Id.*

¹⁷⁰ *See* Kaptan August 31, 2018 NSAR at 7; and Icdas September 4, 2018 NSAR at 13.

¹⁷¹ *See* GOT September 5, 2018 NSAR at 6.

¹⁷² *See Indonesian Biodiesel* IDM at 17.

¹⁷³ *See* GOT May 14, 2018 IQR at 112-118.

¹⁷⁴ *Id* at 113.

¹⁷⁵ *Id* at 114.

Each of the mandatory respondents reported using this program;¹⁷⁶ however, consistent with *OCTG Turkey 2016*,¹⁷⁷ we preliminarily find that the program is not specific within the meaning of sections 771(5A)(A)-(D) of the Act. Information provided by the GOT on the record of this review indicates that eligibility for this program is not limited to specific enterprises or industries, groups of enterprises or industries, or regions, and that the support is not export-contingent.¹⁷⁸ Assistance under this program is received automatically and the amount is determined solely by established criteria found in Law No. 5510.¹⁷⁹ As a result, we preliminarily find that this program is not countervailable.

C. Programs Preliminarily Determined Not To Confer Countervailable Benefits

1. Inward Processing Regime (IPR)¹⁸⁰

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.¹⁸¹ The Ministry of Economy administers the IPR and the Ministry of Customs and Trade implements the IPCs.¹⁸²

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.¹⁸³ 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).¹⁸⁴ An approved certificate lists the goods that can be imported without the obligation to pay the normally applicable duties and taxes.¹⁸⁵

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.¹⁸⁶ Companies holding a D-3 certificate may only utilize the Suspension System, as the finished

¹⁷⁶ See Icdas May 15, 2018 IQR CVD-61; Colakoglu May 15, 2018 IQR at CVD-49; and Kaptan May 14, 2018 IQR at 32.

¹⁷⁷ See, e.g., *Oil Country Tubular Goods from the Republic of Turkey, Preliminary Results of Countervailing Duty Administrative Review, 2016*, 83 FR 51440 (October 11, 2018) (*OCTG Turkey 2016*), and accompanying PDM at 17-18.

¹⁷⁸ See GOT May 14, 2018 IQR at 118.

¹⁷⁹ *Id.* at 119.

¹⁸⁰ This program is also known as Inward Processing Certificate Exemption.

¹⁸¹ See GOT May 14, 2018 IQR at 45.

¹⁸² *Id.* at 48.

¹⁸³ *Id.* at 46.

¹⁸⁴ *Id.* at 51.

¹⁸⁵ *Turkey Rebar Second Review* PDM at Inward Processing Regime.

¹⁸⁶ *Id.*

goods are not exported.¹⁸⁷ Colakoglu, Icdas, and Kaptan reported importing goods under D-1 certificates using the Suspension System during the POR.¹⁸⁸ No company in this review reported utilizing D-3 certificates to import goods.¹⁸⁹

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

Consistent with the prior 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.¹⁹⁰ This finding is consistent with Commerce's determinations in prior proceedings.¹⁹¹ We also preliminarily find, consistent with Commerce's prior determinations,¹⁹² 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, Icdas, and Kaptan each 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 Commerce's prior determinations on the IPR and D-1 certificates,¹⁹³ we preliminarily find that the tax and duty exemptions, which Colakoglu, Icdas, and Kaptan 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

¹⁸⁷ *Id.*

¹⁸⁸ See Colakoglu May 15, 2018 IQR at CVD-39; Icdas May 15, 2018 IQR at CVD-37; Kaptan May 14, 2018 IQR at 21.

¹⁸⁹ *Id.*

¹⁹⁰ *Turkey Rebar Second Review* PDM at Inward Processing Regime.

¹⁹¹ 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.

¹⁹² *Id.*

¹⁹³ *Id.*

product, making normal allowance for waste. Furthermore, we preliminarily find that the VAT exemption did not confer countervailable benefits to Colakoglu, Icdas, or Kaptan, because the exemption did 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, Icdas, or Kaptan during the POR.

2. Regional Investment Incentives

Icdas reported receiving regional investment incentive certificates in 2014 and 2015.¹⁹⁴ Consistent with the previous administrative reviews of the *Order*,¹⁹⁵ we find that these investment incentive certificates were tied to the production of and/or investment in non-subject merchandise; therefore, any benefits received by Icdas under these certificates are tied to non-subject merchandise. Thus, none of the respondents received countervailable benefits under this program during the POR.

D. Programs Preliminarily Determined to Provide No Measurable Benefit During the POR

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

1. Assistance to Offset Costs Related to Antidumping/CVD Investigations
2. Reduction and Exemption of Licensing Fees for Renewable Resource Power Plants
3. Assistance for Participation in Trade Fairs Abroad

E. Programs Preliminarily Determined to Not Be Used

1. Provision of Lignite for LTAR
2. Purchase of Electricity for MTAR – Sales via Build-Operate-Own, Build-Operate-Transfer, and Transfer of Operating Rights Contracts
3. Research and Development Grant Program
4. Export Credits, Loans, and Insurance from Turk Eximbank
5. Large-Scale Investment Incentives
6. Strategic Investment Incentives
7. Incentives for Research & Development Activities
8. Regional Development Subsidies
9. Comprehensive Investment Incentives
10. Preferential Financing from the Turkish Development Bank

¹⁹⁴ Icdas May 15, 2018 IQR at CVD-58.

¹⁹⁵ See *Turkey Rebar First Review* IDM at 6; and *Turkey Rebar Second Review* IDM at 5.

11. Liquefied Natural Gas for LTAR

VIII. CONCLUSION

We recommend that you approve the preliminary results described above.



Agree



Disagree

12/3/2018

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