



C-489-502

Administrative Review

POR: 01/01/2017 – 12/31/2017

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DATE: May 8, 2019

MEMORANDUM TO: Christian Marsh
Deputy Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of
Countervailing Duty Administrative Review: Circular Welded
Carbon Steel Pipes and Tubes from the Republic of Turkey

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty order (CVD) order on circular welded carbon steel pipes and tubes (pipes and tubes) from the Republic of Turkey (Turkey). The period of review (POR) is January 1, 2017, through December 31, 2017. We preliminarily determine that producers/exporters of subject merchandise received countervailable subsidies during the POR.

II. BACKGROUND

On March 7, 1986, Commerce published in the *Federal Register* the CVD order on pipes and tubes from Turkey.¹ On March 5, 2018, Commerce published the notice of opportunity to request an administrative review of the *Order* for the period January 1, 2017, through December 31, 2017.² We received timely requests for Commerce to conduct an administrative review of 25 exporters and/or producers, including members of the Borusan Companies and the Toscelik

¹ See *Countervailing Duty Order; Certain Welded Carbon Steel Pipe and Tube Products from Turkey*, 51 FR 7984 (March 7, 1986) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 9284 (March 5, 2018).



Companies.³ On May 2, 2018, Commerce initiated a CVD review of the *Order*, covering the 25 exporters and/or producers for which a review was requested.⁴

On May 14, 2018, Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan), one of the Turkish firms for which a CVD review was requested, timely submitted a no-shipment claim certifying that it had no entries, exports, or sales of subject merchandise to the United States during the POR.⁵

We stated in the *Initiation Notice* that, in the event we limited the number of respondents for individual examination, we intended to base our selection of mandatory respondents on U.S. Customs and Border Protection (CBP) entry data for the POR.⁶ Accordingly, on May 17, 2018, we released the CBP entry data under administrative protective order (APO) and requested interested parties to comment on the CBP data for purposes of respondent selection.⁷ Commerce did not receive comments from interested parties.

On May 23, 2018, we transmitted a “No-Shipment Inquiry” to CBP regarding Erbosan.⁸ Commerce did not receive information from CBP that contradicted Erbosan’s claim of no sales, shipments, or entries of subject merchandise to the United States during the POR. Wheatland and the petitioners did not comment on Erbosan’s claims of no sales, shipments, or entries.

³ See Letter from Tosçelik Companies, “Circular Welded Carbon Steel Pipes and Tubes from Turkey; Request for administrative review,” dated March 31, 2018; Letter from Borusan Companies, “Circular Welded Carbon Steel Pipe and Tubes from Turkey, Case No. C-489-502: Request for Administrative Review,” dated April 2, 2018; Letter from Wheatland Tube, a division of the JMC Steel Group, a domestic producer (hereinafter referred to as Wheatland), “Circular Welded Carbon Steel Pipes And Tubes From Turkey: Request For Administrative Review Of Countervailing Duties,” dated March 30, 2018; Letter from Independence Tube Corporation, a Nucor company, and Southland Tube, Incorporated, a Nucor company (hereinafter referred collectively as the petitioners), “Circular Welded Carbon Steel Pipes and Tubes From Turkey: Request for Administrative Review,” dated April 2, 2018; Letter from the Petitioners, “Circular Welded Carbon Steel Pipes and Tubes From Turkey: Clarification of Request for Administrative Review,” dated April 12, 2018, at 2 and Attachment A, in which the petitioners revised the spelling of the names of firms for which they requested a review to better reflect the firms’ names as listed in U.S. Customs and Border Protection’s Automated Commercial Environment (ACE). Unless otherwise noted, we use the terms the Borusan Companies and the Toscelik Companies to refer to the following firms for which net subsidy rates were calculated: Borusan Holding A.S. (Borusan Holding), Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan), and Borusan Istikbal Ticaret T.A.S. (Istikbal) (collectively the Borusan Companies) and Toscelik Profil ve Sac Endustrisi A.S. (Toscelik Profil), Tsyali Dis Ticaret A.S. (TDT), Tsyali Holding, Toscelik Toyo Celik (Toscelik Toyo), Tsyali Filmasin ve Insaat Demir (Tsyali Filmasin), Toscelik Spiral Boru (Toscelik Spiral), Tsyali Demir Celik San A.S. (TDC), Toscelik Granul San A.S. (Toselik Granul), and Tsyali Celik Ticaret A.S. (TCT) (collectively, the Toscelik Companies). As indicated in the accompanying notice of preliminary results, the *Initiation Notice* includes additional firms not included in our subsidy analysis that interested parties requested in connection with the Borusan Companies and the Toscelik Companies.

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 19215, 19217-19218 (May 2, 2018) (*Initiation Notice*).

⁵ See Letter from Erbosan, “No Shipment Certification of Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan) in the 2017 Administrative Review of the Countervailing Duty Order Involving Certain Welded Carbon Steel Standard Pipe from Turkey,” dated May 14, 2018.

⁶ See *Initiation Notice*, 83 FR at 19215.

⁷ See Memorandum, “Results of Customs and Border Protection Query Results,” dated May 17, 2018.

⁸ See Memorandum, “Placement of No-Shipment Inquiry for Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan) on Record of Review,” dated April 3, 2019.

On June 1, 2018, the Borusan Companies submitted a letter to Commerce timely certifying that its affiliated companies - Istikbal, Borusan Birlesik Boru Fabrikalari San ve Tic (Borusan Birlesik), Borusan Gemlik Boru Tesisleri A.S. (Borusan Gemlik), Borusan Ithicat ve Dagitim A.S. (Borusan Ithicat), Borusan Ihacat Ithalat ve Dagitim A.S., (Borusan Ithalat), Tubeco Pipe and Steel Corporation, and Borusan Holding A.S. - had no entries, exports, or sales of subject merchandise to the United States during the POR.⁹ Wheatland and the petitioners did not comment on Borusan's claims of no sales, shipments, or entries.

On June 1, 2018, we issued the Respondent Selection Memorandum, in which we noted that the CBP query results indicated that Borusan and Toscelik Profil accounted for the largest volumes of U.S. imports of pipes and tubes from Turkey that entered the United States during the POR.¹⁰ Accordingly, pursuant to section 777A(e)(2) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.204(c)(2), we selected Borusan and Toscelik Profil as mandatory respondents.¹¹

On June 4, 2018, we issued the CVD questionnaire to the Government of Turkey (GOT). In the instructions to the questionnaire, we notified the GOT of the companies selected as mandatory respondents in this review and stated that the GOT "is responsible for forwarding a copy of *Section I* and *Section II* of this questionnaire to the companies subject to administrative review."¹²

On June 8, 2018, Cimtas Boru Imalatlari Ve Tic Ltd. Sti. (Cimtas) submitted a claim of no shipments.¹³ Cimtas filed its no-shipment claim after the deadline Commerce established in the *Initiation Notice*, and Cimtas did not submit a request for an extension pursuant to 19 CFR 351.302(c).¹⁴ Accordingly, we found Cimtas' no shipment letter to be untimely and rejected its filing.¹⁵

On June 16, 2018, and June 19, 2018, we received timely responses to the "affiliated companies" section of the Initial Questionnaire from the Toscelik Companies and Borusan Companies.¹⁶ On

⁹ See Letter from Borusan "Circular Welded Carbon Steel Pipes and Tubes from Turkey: No-Shipment Letter," dated June 1, 2018.

¹⁰ See Memorandum, "2017 Administrative Review of the Countervailing Duty Order on Circular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Respondent Selection," dated June 1, 2018.

¹¹ *Id.*

¹² See Letter from Commerce, "Countervailing Duty Questionnaire," dated June 4, 2018 (Initial Questionnaire). Section II of the Initial Questionnaire contained questions for the GOT, while Section III contained questions for the respondent firms.

¹³ See Letter from Cimtas, "Circular Welded Carbon Steel Pipes and Tubes From Turkey: Request for Administrative Review, Submission about "Notice of No Sales," dated June 8, 2018.

¹⁴ In the *Initiation Notice*, Commerce informed the public that, "{i}f a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the *Federal Register*." See *Initiation Notice*, 83 FR at 19215. Thus, the deadline to submit a "no shipment" letter to Commerce was Friday, June 1, 2018.

¹⁵ See Letter from Commerce, "Rejection of Submission," dated July 27, 2018.

¹⁶ See Letter from Toscelik Companies, "Welded Carbon Steel Standard Pipe and Tube from Turkey; Toscelik Affiliation Questionnaire Response," dated June 16, 2018 (Toscelik Companies Affiliation QR); see also Letter from Borusan Companies, "Circular Welded Carbon Steel Pipes and Tubes from Turkey. Case No. C-489-502: Response to Affiliated Companies Section of Initial Questionnaire," dated June 19, 2018 (Borusan Companies Affiliation QR).

July 13, 2018, we received the Borusan Companies' response to Section III of the Initial Questionnaire.¹⁷ On July 18, 2018, we received the GOT's response to the Initial Questionnaire.¹⁸ On July 25, 2018, we received the Toscelik Companies' response to Section III of the Initial Questionnaire.¹⁹

On August 17, 2018, we issued a supplemental questionnaire to the Borusan Companies, to which they responded on September 4, 2018.²⁰

On November 15, 2018, Commerce extended the deadline for the preliminary results of this administrative review until March 29, 2019.²¹

On November 19, 2018, we issued a supplemental questionnaire to the Toscelik Companies, to which they responded on December 20, 2018.²²

On January 28, 2019, Commerce exercised its discretion to toll all deadlines affected by the partial closure of the Federal Government from December 22, 2018, through the resumption of operations on January 29, 2019.²³ Accordingly, the revised deadline for the preliminary results is now May 8, 2019.

On February 15, 2019, Commerce issued a third supplemental questionnaire to the Toscelik Companies, to which they responded on February 23, 2019.²⁴ On February 22, 2019, we issued a second supplemental questionnaire to the Borusan Companies, to which they responded on March 1, 2019.²⁵

¹⁷ See Letter from the Borusan Companies, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. C-489-502: Borusan's Response to Section III of Initial Questionnaire," dated July 13, 2019 (Borusan Companies Initial QR).

¹⁸ See letter from the GOT, "Response of the Government of Turkey in the 2017 Countervailing Duty Administrative Review on Imports of Certain Welded Carbon Steel Pipe and Tube from Turkey," dated July 18, 2018 (GOT Initial QR).

¹⁹ See Letter from Toscelik Companies, "Welded Carbon Steel Standard Pipe and Tube from Turkey: Toscelik Questionnaire Response," dated July 25, 2018 (Toscelik Companies Initial QR).

²⁰ See Letter from the Borusan Companies, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. C-489-502: Borusan's First Supplemental Questionnaire Response," dated September 5, 2018 (Borusan Companies Supplemental QR1).

²¹ See Memorandum, "Circular Welded Carbon Steel Pipes and Tubes from Turkey: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review," dated November 15, 2018.

²² See Letter from the Toscelik Companies, "Welded Carbon Steel Standard Pipe and Tube from Turkey; Toscelik Companies Supplemental Questionnaire Response," dated December 20, 2018 (Toscelik Companies Supplemental QR1).

²³ See Memo from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operation, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadline Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding affected by the partial closure of the Federal government have been extended by 40 days.

²⁴ See Letter from Toscelik Companies, "Welded Carbon Steel Standard Pipe and Tube from Turkey: Toscelik Second Supplemental Questionnaire Response," dated February 23, 2019 (Toscelik Companies Supplemental QR2).

²⁵ See Letter from Borusan Companies, "Circular Welded Carbon Steel Pipes and Tubes from Turkey, Case No. C-489-502: Borusan's Second Supplemental Questionnaire Response," dated March 1, 2019 (Borusan Companies Supplemental QR2).

On April 11, 2019, Commerce issued a supplemental questionnaire to the Toscelik Companies and the Borusan Companies, to which they responded on April 14, 2019 and April 16, 2019, respectively.²⁶

On April 26, 2019, the petitioners submitted pre-preliminary results comments.²⁷ On May 1, 2019, the Borusan Companies responded to the petitioners' pre-preliminary results comments.²⁸

III. PERIOD OF REVIEW

The POR is January 1, 2017, through December 31, 2017.

IV. SCOPE OF THE ORDER

The products covered by this order are certain welded carbon steel pipe and tube with an outside diameter of 0.375 inch or more, but not over 16 inches, of any wall thickness (pipe and tube) from Turkey. These products are currently provided for under the Harmonized Tariff Schedule of the United States (HTSUS) as item numbers 7306.30.10, 7306.30.50, and 7306.90.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

V. 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.²⁹

Commerce finds the AUL in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System, as revised.³⁰ Commerce notified the respondents of the 15-year AUL in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period.

Furthermore, for non-recurring subsidies, we have applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for 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.

²⁶ See Letter from Borusan Companies, dated April 15, 2019 (Borusan Companies Supplemental QR3); *see also* Letter from Toscelik Companies, dated April 15, 2019 (Toscelik Companies Supplemental QR3).

²⁷ See Letter from the Petitioners, "*Circular Welded Carbon Steel Pipes and Tubes from Turkey: Pre-Preliminary Results Comments*," dated April 25, 2019.

²⁸ See Letter from the Borusan Companies, "*Circular Welded Carbon Steel and Tubes from Turkey. Case No. C-489-502: Borusan's Response to Petitioners' Pre-Preliminary Results Comments*," dated May 1, 2019.

²⁹ See 19 CFR 351.524(b).

³⁰ See U.S. Internal Revenue Service Publication 946 (2017), "How to Depreciate Property," at Table B-2: Table of Class Lives and Recovery Periods.

B. Attribution of Subsidies

1. Cross-Ownership

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

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The preamble to Commerce's regulations further clarifies Commerce's cross-ownership standard. 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.³¹

Thus, Commerce's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists.

The U.S. Court of International Trade has upheld Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.³²

2. The Borusan Companies

Borusan Holding is the parent holding company of the Borusan Companies. Borusan is affiliated with other companies in the Borusan Group through direct and indirect ownership of Borusan

³¹ See *Countervailing Duties: Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

³² See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

Holding. Borusan and its affiliated foreign trading company, Istikbal, are both part of the Borusan Companies and are cross-owned under 19 CFR 351.525(b)(vi) by common ownership.³³

In its affiliation questionnaire response, the Borusan Companies stated that neither Borusan Mannesmann Yatirim Holding (BMBYH) nor Borusan Holding engaged in production or sales activities that would make them eligible for any of the alleged subsidies in this review.³⁴ The Borusan Companies stated BMBYH and Borusan Holding did not receive any subsidies from the programs listed in Commerce's CVD questionnaire.³⁵ Therefore, while we preliminarily find that BMBYH and Borusan Holding are cross-owned with Borusan within the meaning of 19 CFR 351.525(b)(6)(vi), we find no evidence that Borusan Holding or BMBYH received any countervailable subsidies attributable to Borusan during the POR. In accordance with 19 CFR 351.525(b)(6)(i), we are preliminarily attributing subsidies received by Borusan (the only member of the Borusan Companies that reported receiving subsidies) to the sales reported by Borusan.

The Borusan Companies identified numerous additional companies with which it was affiliated during the POR based on cross-ownership with Borusan Holding.³⁶ However, the Borusan Companies reported that none of these affiliates were involved in the production or sale of subject merchandise.³⁷ Therefore, we preliminarily determine that these affiliated companies do not meet any of the conditions set forth in 19 CFR 351.525(b)(6)(ii)-(v); as a result, we have not included them in our subsidy analysis.

Borusan produces subject merchandise for both the home and export markets. During the POR, Borusan accounted for all subject merchandise exported to the United States by the Borusan Companies. Borusan reported that Istikbal exported its subject merchandise only to non-U.S. locations during the POR;³⁸ thus, the attribution rule under 19 CFR 351.525(c) does not apply.³⁹ Moreover, Borusan reported that Istikbal received no subsidies allocable to the POR. Accordingly, for these preliminary results, we are attributing no subsidy benefits with regard to Istikbal.⁴⁰

³³ See Borusan Companies Affiliation QR at 9, 18, and Exhibits 2 and 3. Our approach in this regard is consistent with our practice. See, e.g., *Circular Welded Carbon Steel Pipe and Tube Products From Turkey: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2012 and Intent To Rescind Countervailing Duty Administrative Review, in Part*, 79 FR 22625 (April 17, 2014) (*Pipe from Turkey 2012 Preliminary Results*) and accompanying Preliminary Issues and Decision Memorandum (PDM) at 5, unchanged in *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2012 and Rescission of Countervailing Duty Administrative Review, in Part*, 79 FR 51140 (August 27, 2014) (*Pipe 2012 from Turkey Final Results*), and accompanying Issues and Decision Memorandum (IDM) at 2.

³⁴ See Borusan Companies Affiliation QR at 9.

³⁵ *Id.*

³⁶ *Id.* at 5-8.

³⁷ *Id.*

³⁸ See Borusan Companies Affiliation QR at 3 and 5.

³⁹ See, e.g., *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 82 FR 23188 (May 22, 2017) and accompanying IDM under "Attribution of Subsidies."

⁴⁰ See Borusan Companies Affiliation QR at 3 and 5.

The denominators we used to calculate the countervailable subsidy rate for the various subsidy programs described below are explained in further detail in the Borusan Companies' Preliminary Calculation Memorandum.⁴¹

3. Toscelik Companies

Toscelik Profil and its affiliated foreign trading company, TDT, are owned by Tosyali Holding, a Turkish holding company, and therefore are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi).⁴² Toscelik Profil, which produces subject merchandise for both the domestic and export markets, was established in 1992.⁴³ TDT, founded in 1996, is the exporter of record with respect to Toscelik Profil's export sales and sells subject merchandise to unaffiliated customers in the United States.⁴⁴ Tosyali Holding is a holding company that owns Toscelik Profil and TDT.

Additionally, the Toscelik Companies reported that Toscelik Profil obtained scrap during the POR from the following cross-owned companies: Tosyali Toyo Celik (Tosyali Toyo), Tosyali Filmasin ve Inssaat Demir (Tosyali Filmasin), Toscelik Spiral Boru (Toscelik Spiral), Tosyali Demir Celik San A.S. (TDC), Toselik Granul San A.S. (Toscelik Granul), and Tosyali Celik Ticaret A.S. (TCT). Consistent with our prior findings, we find that scrap obtained by Toscelik Profil is an input that is primarily dedicated to the production of subject merchandise within the meaning of 19 CFR 351.525(b)(6)(iv).⁴⁵ Toscelik Profil uses the scrap steel to produce intermediate products (*i.e.*, slab and hot-rolled steel coil), which Toscelik Profil uses in turn to produce subject merchandise.⁴⁶ Therefore, we have examined the aforementioned scrap producers as cross-owned input providers in accordance with 19 CFR 351.525(b)(6)(iv).

To attribute a subsidy received by Toscelik Profil, we used the company's total sales or total export sales for the POR as the denominator consistent with 19 CFR 351.525(b)(6)(i) and (b)(2).⁴⁷ For subsidies received by TDT, we applied the trading company rule at 19 CFR 351.525(c) by cumulating TDT's benefits with those of Toscelik Profil and dividing any benefits received by the two companies' combined total sales or export sales for the POR, net of intra-company sales. For subsidies received by the cross-owned scrap producers, we used the firms' respective total sales or export sales for the POR plus the sales of Toscelik Profil, net of intra-company sales, in accordance with 19 CFR 351.525(b)(6)(iv).

⁴¹ See Memorandum to the File, "Preliminary Results Calculations for the Borusan Companies," dated concurrently with this memorandum (Borusan Companies' Preliminary Calculation Memorandum).

⁴² See Toscelik Companies Affiliation QR at 5 and Exhibit 8.

⁴³ *Id.* at 3.

⁴⁴ *Id.* at 7.

⁴⁵ See, e.g., *Certain Oil Country Tubular Goods from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 41964 (July 18, 2014), and accompanying IDM at 8.

⁴⁶ See Toscelik Companies Initial QR at 13-14.

⁴⁷ Record evidence submitted by the Toscelik Companies indicates that Tosyali Holding did not receive any subsidies during the POR. See Toscelik Companies Affiliation QR.

The denominators we used to calculate the countervailable subsidy rate for the various subsidy programs described below are explained in further detail in the Toscelik Companies' Preliminary Calculation Memorandum.⁴⁸

C. Denominators

In accordance with 19 CFR 351.525(b), when selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondents' receipt of benefits under each program. As discussed in further detail below in the "Programs Preliminarily Determined to be Countervailable" section, where the program has been found to be countervailable as a domestic subsidy, we used the recipient's total sales as the denominator (or the total combined sales of the cross-owned affiliates, as described above). Similarly, where the program has been found to be countervailable as an export subsidy, we used the recipient's total export sales as the denominator (or the total export sales of the cross-owned affiliates, as described above). In the sections below, we describe the denominators we used to calculate the countervailable subsidy rates for the various subsidy programs.⁴⁹

D. Benchmark Interest Rates

We are examining export loans and non-recurring, allocable subsidies that the respondents received.⁵⁰ In the section below, we discuss the derivation of the benchmarks and discount rates for the POR and previous years.

Short-Term Benchmarks

To determine whether government-provided loans under investigation conferred a benefit, Commerce uses, where possible, company-specific interest rates for comparable commercial loans.⁵¹ When loans are denominated in a foreign currency, 19 CFR 351.505(a)(2)(i) directs us to use a benchmark denominated in the same foreign currency as the loan. The Borusan Companies and the Toscelik Companies submitted weighted-average interest rates, along with the underlying data, that they paid on comparable short-term commercial loans.⁵² Consistent with 19 CFR 351.505(a)(2)(ii), we are preliminarily using the interest rates that the Borusan Companies and the Toscelik Companies submitted on comparable short-term loans as benchmarks.

Long-Term Benchmark

As discussed above, to determine whether government-provided loans under investigation conferred a benefit, Commerce uses, where possible, company-specific interest rates for

⁴⁸ See Memorandum to the File, "Preliminary Results Calculations for the Toscelik Companies," dated concurrently with this memorandum (Toscelik Companies' Preliminary Calculation Memorandum).

⁴⁹ See Borusan Companies' Preliminary Calculation Memorandum and Toscelik Companies' Preliminary Calculation Memorandum.

⁵⁰ See 19 CFR 351.524(b)(1).

⁵¹ See 19 CFR 351.505(a)(2)(ii).

⁵² See Borusan Companies Initial QR at Exhibit G-5; see also Toscelik Companies Initial QR at Exhibit 20 at 2.

comparable commercial loans.⁵³ Where such benchmark rates are unavailable, consistent with 19 CFR 351.505(a)(3)(ii), we use lending rate data from the International Monetary Fund's International Financial Statistics as our national average benchmark.⁵⁴

Discount Rates

Consistent with 19 CFR 351.524(d)(3)(i)(A), in instances requiring the use of a long-term discount rate, we have used the long-term interest rate calculated according to the methodology described above for the year in which the government approved non-recurring subsidies were received.

VI. INTENT TO RESCIND THE ADMINISTRATIVE REVIEW, IN PART

We received a timely filed no-shipments certification from Erbosan.⁵⁵ To confirm Erbosan's statement, we issued a no-shipment inquiry to CBP regarding imports of subject merchandise from Erbosan during the POR.⁵⁶ Because no evidence currently on the record contradicts Erbosan's certification of no-shipments, we preliminarily intend to rescind this review regarding Erbosan. A final decision on whether to rescind the review with respect to Erbosan will be made in the final results of this review.

On June 1, 2018, Borusan submitted a letter to Commerce timely certifying that Borusan Istikbal, Borusan Birlesik, Borusan Gemlik, Borusan Ithicat, Borusan Ihacat, and Tubeco had no entries, exports, or sales of subject merchandise during the POR.⁵⁷ A final decision on whether to rescind the review with respect to these aforementioned companies for which a review was requested will be made in the final results of this review.

VII. NON-SELECTED RATE

The Act and Commerce's regulations do not address the establishment of a rate to be applied to respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. Generally, when determining the rate for such respondents in an administrative review, Commerce looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 705(c)(5)(A)(i) of the Act instructs Commerce to use the average of the individually calculated rates as the all-others rate, excluding rates which are zero, *de minimis*, or based

⁵³ See 19 CFR 351.505(a)(2)(ii).

⁵⁴ See *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2011*, 78 FR 64916 (October 30, 2013) (*Pipe from Turkey 2011*) and accompanying IDM at "Benchmarks and Interest Rates."

⁵⁵ See Letter from Erbosan, "No Shipment Certification of Erbosan Erciyas Boru Sanayi ve Ticaret A.S. ("ERBOSAN") in the 2017 Administrative Review of the Countervailing Duty Order Involving Certain Welded Carbon Steel Standard Pipe from Turkey," dated May 14, 2018.

⁵⁶ See Memorandum, "Placement of No-Shipment Inquiry for Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan) on Record of Review," dated April 3, 2019.

⁵⁷ See Letter from Borusan, "Circular Welded Carbon Steel Pipes and Tubes from Turkey. Case No. C-489-502: No Shipment Letter," dated June 1, 2018.

entirely on facts available. Accordingly, Commerce’s usual practice in administrative reviews for determining the rate for respondents not selected for individual examination has been to average the weighted-average net subsidy rates for the selected companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.⁵⁸ However, section 705(c)(5)(A)(ii) of the Act provides that, where all the individually calculated rates are zero, *de minimis*, or based entirely on facts available, we may use “any reasonable method” for assigning the all-others rate, including averaging the estimated weighted-average net subsidy rates determined for the exporters and producers individually investigated.

In these preliminary results, we have calculated above-*de minimis* net subsidy rates for the Borusan Companies and for the Toscelik Companies during the POR that are not based entirely on facts available. Therefore, in keeping with our practice,⁵⁹ we used net subsidy rates calculated for the Borusan Companies and the Toscelik Companies as the non-selected rate applicable to the firms listed below that were not selected for individual examination. Because there are only two mandatory respondents, we cannot rely on the proprietary sales data of the Borusan Companies and the Toscelik Companies to derive a weighted-average subsidy rate assigned to the non-selected firms because to do so would risk divulging the proprietary information of the Borusan Companies and the Toscelik Companies. Further, as of the preliminary results, we lack publicly-ranged sales data from the Borusan Companies and the Toscelik Companies that we could use for purposes of calculating a weighted-average non-selected rate. Therefore, in these preliminary results, we have calculated the non-selected rate as the simple average of the total net subsidy rates calculated for the Borusan Companies and the Toscelik Companies.

VIII. ANALYSIS OF PROGRAMS

A. Programs Preliminarily Determined to be Countervailable

1. Provision of Hot-Rolled Steel (HRS) for Less than Adequate Remuneration (LTAR)

We examined the provision of HRS to the Borusan Companies and the Toscelik Companies during the POR. The Borusan Companies and the Toscelik Companies reported purchasing HRS from Eregli Demir ve Celik Fabrikalari T.A.S. (Erdemir) or İskenderun Demir ve Çelik A.Ş. (Isdemir) during the POR.⁶⁰ Additionally, the Toscelik Companies reported that Toscelik Spiral and TCT purchased HRS from Erdemir or Isdemir during the POR.⁶¹

The information submitted by the GOT regarding this program remains consistent with our findings in prior segments of this proceeding, as well as other Turkish CVD proceedings, where

⁵⁸ See, e.g., *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386, 37387 (June 29, 2010) (*Pasta from Italy 2008*).

⁵⁹ See, e.g., *Pasta from Italy 2008*, 75 FR at 37387.

⁶⁰ See Borusan Companies March 1, 2019, Supplemental QR at 22-23 and Exhibit N-11; see also Toscelik Companies Initial QR at 25 and Exhibit 25.

⁶¹ See Toscelik Companies Supplemental QR1 at 12-13 and Exhibit 22.

Commerce found that this program provides countervailable subsidies.⁶² The GOT provided information on Erdemir and Isdemir, suppliers of HRS, as well as Ordu Yardımlaşma Kurumu (OYAK), the Turkish military pension fund that is the controlling shareholder of Erdemir and Isdemir. During the POR, OYAK owned 49.28 percent of Erdemir's shares through a wholly-owned holding company, Ataer Holding A.S.⁶³ Because 3.08 percent of Erdemir's shares were owned by Erdemir itself in the form of treasury shares,⁶⁴ OYAK was the controlling shareholder of Erdemir. During the POR, Erdemir in turn owned 95.07 percent of Isdemir.⁶⁵

In its initial questionnaire response, the GOT responded to the Input Producer Appendix for Erdemir, Isdemir, and OYAK.⁶⁶ The law establishing OYAK (the Military Personnel Assistance and Pension Fund Law), which was enacted on January 3, 1961, states that the GOT created OYAK "as an institution related to the Ministry of National Defense."⁶⁷ Information in the GOT's questionnaire responses indicates the GOT's significant involvement in OYAK. For example, pursuant to the pension fund law, OYAK's Representative Assembly shall be composed of not less than 50 and not more than 100 members of the Turkish Armed Forces "designated by their respective commanders or superiors."⁶⁸ The Representatives Assembly, in turn, elects 20 of the 40 members of OYAK's General Assembly.⁶⁹ Of the General Assembly's other 20 members, 17 are by statute government officials (*e.g.*, Ministers of Finance and Defense). Members of the General Assembly elect the eight-person Board of Directors.⁷⁰ Also, OYAK's property has, by law, the "same rights and privileges of state property," OYAK is exempt from corporate and other taxes, and members of the armed forces must by law contribute part of their salaries to OYAK.⁷¹

Record evidence indicates that the GOT's significant involvement in OYAK extends to Erdemir and Isdemir. For example, Erdemir's 2016 Annual Report states it "aims to meet the present and future needs of Turkish industry to the highest level by investing in the production of high value

⁶² See, *e.g.*, *Pipe from Turkey 2015* IDM at 15; see also *Welded Line Pipe from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 80 FR 61371 (October 13, 2015) (*Welded Line Pipe from Turkey 2013*), and accompanying IDM at 13–17; *Welded Line Pipe from the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2015*, 83 FR 1237 (January 10, 2018) (*Welded Line Pipe from Turkey Preliminary Results 2015*) and accompanying PDM at 8–12, unchanged in *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 3; and *Large Diameter Welded Pipe From the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 83 FR 30697 (June 29, 2018) (*LDWP from Turkey Preliminary Determination*) and accompanying PDM at 7–11, unchanged in *Large Diameter Welded Pipe from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 84 FR 6367 (February 27, 2019) (*LDWP from Turkey*) and accompanying IDM at 4 and Comment 1 and 2. We note that the period of investigation examined in *LDWP from Turkey* covered calendar year 2017, which is the same time period examined in the instant review.

⁶³ See GOT Initial QR at 46.

⁶⁴ *Id.* at Exhibit 9 (Input Producer Appendix).

⁶⁵ *Id.* at Exhibit 9G 1A at 17; see also Exhibit 9 (Input Producer Appendix).

⁶⁶ See GOT Initial QR at Exhibit 9.

⁶⁷ *Id.* at Exhibit 9-G2 at Article 1.

⁶⁸ *Id.* at Exhibit 9-G2 at Article 3; see also Exhibit 9G 1A at 16, which contains OYAK's 2017 Annual Report.

⁶⁹ *Id.* at Exhibit 9-G2 at Article 4.

⁷⁰ *Id.* at Exhibit 9 G2 at Articles 5 and 8.

⁷¹ *Id.* at Exhibit 9 G2 at Articles 18, 35, and 37.

added products.”⁷² These policies are in line with the GOT’s stated policy in its 2012-2014 Medium Term Program to improve Turkey’s balance of payments.⁷³ Also, the GOT explained that the Turkish Privatization Administration (TPA) holds veto power over any decisions related to the closedown, sale, de-merger, merger, or liquidation of both Erdemir and Isdemir.⁷⁴ Additionally, the TPA also holds veto power over decisions on the reduction in capacity of Erdemir and Isdemir’s integrated steel production facilities and mining facilities.⁷⁵ Further, Erdemir’s 2016 Annual Report indicates that OYAK and the TPA both have members on Erdemir’s Board of Directors.⁷⁶

We preliminarily determine that the record evidence cited above indicates that the GOT exercises meaningful control over Erdemir and Isdemir, such that Erdemir and Isdemir possessed, exercised, or were vested with government authority during the POR. This meaningful control is evident from both the role of OYAK as an institution through which the GOT exercises control over Erdemir and Isdemir, and the alignment of Erdemir’s Annual Report with the Medium-Term Program. Therefore, consistent with prior segments of this proceeding and other Turkish CVD proceedings, as well as the Court’s holding in *Borusan*, we determine that Erdemir and Isdemir are public bodies, and hence “authorities,” pursuant to section 771(5)(B) of the Act.⁷⁷ Consequently, we find that the HRS supplied by Erdemir and Isdemir to Borusan and the HRS supplied by Erdemir to Toscelik Profil, Toscelik Spiral, and TCT are financial contributions in the form of a governmental provision of a good under section 771(5)(D)(iii) of the Act.

Regarding the specificity of the HRS for LTAR program, the GOT provided a list of the industries that purchased HRS in Turkey during the POR.⁷⁸ Specifically, the GOT identified the following industries as purchasers of HRS during the POR: steel pipe and profile, rerolling producers, machinery manufacturing, automotive, heavy industry, consumer products, pressure purposes (pressure vessels, steam boilers), panel radiator, white appliances, and shipbuilding.⁷⁹ Consistent with Commerce’s prior determinations, we preliminarily determine that the financial contribution provided by the GOT under this program is specific within the meaning of section

⁷² *Id.* at Exhibit 9 C3 (which contains Erdemir’s 2016 Annual Report) at 3 and 34, respectively.

⁷³ See *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) (*Pipe from Turkey 2013*) and accompanying IDM at 8-11.

⁷⁴ See GOT Initial QR at Exhibit 9 and Exhibit 8-A.

⁷⁵ See GOT Initial QR at Exhibit 9 C3 (which contains Erdemir’s 2016 Annual Report) at page 71.

⁷⁶ *Id.* at Exhibit 9 C3 (Erdemir’s 2016 Annual Report) at pages 64-65.

⁷⁷ See *Certain Oil Country Tubular Goods from the Republic of Turkey: Final Determination in the Countervailing Duty Determination and Final Affirmation Critical Circumstances Determination*, 79 FR 41964 (July 18, 2014) (*OCTG from Turkey*) and accompanying IDM at Comment 1; see also *LDWP from Turkey* PDM at 7-11, unchanged in *LDWP from Turkey* IDM at 4 and Comment 1 and 2. See also *Borusan Mannesmann Boru Sanayi Ve Ticaret A.S. & Borusan Istikbal Ticaret v. United States*, 61 F. Supp. 3d 1306, 1314-24 (CIT 2015) (*Borusan*), *aff’d on other grounds*, 857 F.3d 1353 (Fed. Cir. 2017), in which the Court upheld Commerce’s finding that Erdemir and Isdemir are “authorities” within the meaning of section 771(5)(B) of the Act.

⁷⁸ See GOT Initial QR at 45. The existence of this program is evident from both the repeated provision of HRS by Erdemir and Isdemir and the Annual Reports of Erdemir.

⁷⁹ *Id.*

771(5A)(D)(iii)(I) of the Act because the number of industries or enterprises using HRS is limited in number.⁸⁰

Regarding benefit, Commerce identifies appropriate market-determined benchmarks for measuring the adequacy of remuneration for government-provided goods or services, in accordance with 19 CFR 351.511(a)(2). This section of Commerce's regulations specifies potential benchmarks in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As provided at 19 CFR 351.511(a)(2), the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation.⁸¹ This is because such prices generally reflect most closely the prevailing market conditions of the purchaser under investigation.

Based on this hierarchy, we must first determine whether there are market prices from actual sales transactions involving Turkish buyers and sellers that can be used to determine whether Erdemir and Isdemir sold HRS to the respondents for LTAR. Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where Commerce finds that the government owns or controls the majority or, in certain circumstances, a substantial portion of the market for the good or service, Commerce will consider such prices to be significantly distorted and not an appropriate basis of comparison for determining whether there is a benefit.⁸²

Consistent with Commerce's prior findings in this proceeding and other Turkish CVD proceedings, we determine that the record evidence does not support a finding that the Turkish HRS market is so distorted that it cannot serve as a source for an appropriate benchmark.⁸³ The record information indicates that for 2015, 2016 and 2017, the combined domestic HRS production of Erdemir and Isdemir accounted for 40.27, 38.44, and 36.22 percent of supply, respectively, while total imports of HRS accounted for 39.63, 38.67, and 34.15 percent in the same years, respectively.⁸⁴ Given the minority share of government production, the substantial levels of imports, and the lack of other record evidence indicative of distortion, such as an export tax on or export quota for the input, we preliminarily find, consistent with our prior determinations noted above, that the HRS market in Turkey was not distorted by the government's presence during this period. Therefore, we determine that the respondent's reported prices for domestic HRS (other than from Erdemir and Isdemir) and imported HRS can serve as tier-one benchmarks. Accordingly, pursuant to 19 CFR 351.511(a)(2)(i), we used the

⁸⁰ See, *e.g.*, *OCTG from Turkey* IDM at 20-26; see also *Welded Line Pipe from Turkey* 2013 IDM at 11-14; and *LDWP from Turkey* PDM at 7-11, unchanged in *LDWP from Turkey* IDM at 4 and Comment 1 and 2.

⁸¹ See, *e.g.*, *Notice of Affirmative Countervailing Duty Determination and Final Negative Critical Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) (*Softwood Lumber from Canada*), and accompanying IDM at "Market Based Benchmark."

⁸² See *CVD Preamble*, 63 FR at 65277.

⁸³ See, *e.g.*, *Pipe from Turkey* 2015 IDM at 15; see also *Welded Line Pipe from Turkey* 2013 IDM at 15-16; and *LDWP from Turkey* PDM at 7-11, unchanged in *LDWP from Turkey* IDM at 4 and Comment 1 and 2.

⁸⁴ See GOT Initial QR at 42.

respondents' actual domestic and import prices for HRS to calculate the benefit from their respective purchases of HRS from Erdemir and Isdemir, where applicable, during the POR.

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

The Borusan Companies reported that Borusan purchased HRS of grade X-70 as well as non-X-series grade HRS from private parties during the POR and that Borusan made purchases of only non-X-series grade HRS from Erdemir and Isdemir during the POR.⁸⁵ Consistent with Commerce's approach in *OCTG from Turkey 2016*, we excluded Borusan's purchases of X-70 grade HRS from the HRS benchmark calculation because Borusan had no comparable purchases from Erdemir and Isdemir.⁸⁶ Thus, in determining whether Borusan purchased non-X-series grade HRS from Erdemir and Isdemir for LTAR, we limited our benchmark to non-X-series grade HRS that Borusan purchased from private parties.

The data reported by the Toscelik Companies indicate that Toscelik Profil, Toscelik Spiral, and TCT acquired X-series and non-X-series grades of HRS from Erdemir and Isdemir as well as X-series and non-X-series grade HRS from private parties.⁸⁷ The Toscelik Companies argue that X-series grades of HRS are not compatible with the production of subject merchandise. In support of this contention, the Toscelik Companies cite to Toscelik Profil's product catalogues that specify the "material qualities" of HRS grades required to produce "standard pipe" and "structural pipe," the pipe products that are within the scope of the *Order*, as well as the "material qualities" of HRS grades required to produce "line pipe" products, which are outside the scope of the *Order*. The catalogues for in-scope pipe products list only non-X-series grade HRS as inputs, while the out-of-scope products list only X-series grade HRS as inputs.⁸⁸ On this basis, the Toscelik Companies argue that Commerce should not include their purchases of X-series grade HRS from Erdemir and Isdemir in the LTAR benefit calculation.

⁸⁵ See, e.g., Borusan Companies Initial QR at 30-31 and Exhibit N-1.

⁸⁶ See Memorandum, "Placement of Public Version of the Borusan Companies Calculation Memorandum from OCTG from Turkey 2016 on Record of Instant Review," dated concurrently with this Preliminary Decision Memorandum at 4. This memorandum contains the public version of the calculation memorandum for the Borusan Companies that Commerce issued in connection with *Oil Country Tubular Goods From the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2016*, 83 FR 51440 (October 11, 2018) (*OCTG from Turkey Preliminary Results 2016*) and accompanying PDM. Commerce made no changes to the Borusan Companies' subsidy calculations in the final results of that review. See *Oil Country Tubular Goods from the Republic of Turkey: Final Results of Countervailing Duty Administrative Review; 2016*, 84 FR 11504 (March 27, 2019) (*OCTG from Turkey 2016*) and accompanying IDM.

⁸⁷ The narrative of the Toscelik Companies' supplemental questionnaire response indicates that Toscelik Toyo purchased HRS during the POR. However, the data table submitted for Toscelik Toyo indicates that it only purchased HRS from private parties during the POR. See Toscelik Companies Supplemental QR1 at 13-14 and Exhibit 22. Therefore, we limited Toscelik Toyo's HRS purchases to our benchmark calculation.

⁸⁸ See Toscelik Companies Affiliation Exhibits 1-6; see also Toscelik Companies Initial QR at 25-27.

In these preliminary results, we disagree with the Toscelik Companies' proposed benefit calculation. Per Commerce practice, and consistent with the statute and our regulations, Commerce does not track what a respondent does with a subsidy to determine whether a benefit is conferred.⁸⁹ In this review, although the Toscelik Companies provided information that delineates HRS purchases by grade, we preliminarily determine there is no evidence to support a finding that the provision of X-series grade HRS to the Toscelik Companies by Erdemir and Isdemir was, at the point of bestowal, tied to non-subject merchandise, *i.e.*, specifically intended to benefit the Toscelik Companies' production of non-subject merchandise. Accordingly, we included in the LTAR benefit calculation all the HRS the Toscelik Companies purchased from Erdemir and Isdemir during the POR, regardless of grade. However, as with our approach to the Borusan Companies described above, in determining whether the Toscelik Companies purchased X-series grade and non-X-series grade HRS from Erdemir and Isdemir for LTAR, we differentiated the benchmarking by comparing the X-series grade HRS from Erdemir and Isdemir to the X-series grade HRS from private suppliers, and the non-X-series grade HRS from Erdemir and Isdemir to the non-X-series grade HRS from private suppliers.

In comparing the monthly benchmark prices to the respondents' actual purchase prices for HRS from Erdemir and/or Isdemir, we included taxes and delivery charges, as appropriate. In instances in which the respondents paid Erdemir and/or Isdemir a lower unit price than the benchmark unit price, we multiplied the difference by the quantity purchased to calculate the benefit. Under this methodology, we find that Borusan and the Toscelik Companies received a benefit to the extent that the prices they paid for HRS produced by Erdemir and Isdemir were for LTAR.⁹⁰

For Borusan and Toscelik Profil, we divided each company's benefit by their respective total sales. For Toscelik Spiral and TCT, we divided each company's benefit by their respective total sales plus the total sales of Toscelik Profil (net of intra-company sales). On this basis, we find that the Borusan Companies received a countervailable subsidy of 0.42 percent *ad valorem*, and the Toscelik Companies received a countervailable subsidy rate of 0.33 percent *ad valorem*.⁹¹

2. Deduction from Taxable Income for Export Revenue

Addendum 4108 of Article 40 of the Income Tax Law Number 193, effective June 2, 1995, allows taxpayers engaged in export activities to 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.⁹² This deduction is to cover the expenditures without documentation incurred from

⁸⁹ See section 771(5)(C) of the Act; 19 CFR 351.503(c); and *OCTG from Turkey* IDM at 53-54, where Commerce determined it would not exclude HRS that the respondent claimed was incompatible with the production of subject merchandise absent evidence that the provision of that HRS was tied, at the point of bestowal, to the production of non-subject merchandise.

⁹⁰ See sections 771(5)(D)(iv) and 771(5)(E)(iv) of the Act.

⁹¹ See Borusan Companies' Preliminary Calculation Memorandum; *see also* Toscelik Companies' Preliminary Calculation Memorandum.

⁹² See Borusan Initial QR at Exhibit A-1 and Exhibit A-3.

exports, construction, maintenance, assembly, and transportation activities abroad.⁹³ The deduction for export earnings may either be taken as a lump sum on a company's annual income tax return or be shown within the company's marketing, selling and distribution expense account of the income statement.⁹⁴ Under this program, marketing, selling, and distribution expenses are deductible expenditures for tax purposes. The Borusan Companies reported that Borusan received the deduction for export earnings with respect to the tax return it filed during the POR.⁹⁵ The Toscelik Companies reported that they did not receive a deduction for export earnings with respect to the tax return they filed during the POR.⁹⁶

Consistent with prior determinations, we preliminarily find that this tax deduction is a countervailable subsidy.⁹⁷ The income tax deduction provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, because it represents revenue foregone by the GOT. The deduction provides a benefit in the amount of the tax savings to the company pursuant to section 771(5)(E) of the Act. It is also specific under section 771(5A)(B) of the Act because its receipt is contingent upon export earnings.

Commerce typically treats a tax deduction as a recurring benefit in accordance with 19 CFR 351.524(c)(1). The amount of the benefit is equal to the amount of tax that would have been paid absent the program. We preliminarily find that Borusan received a benefit under this program during the POR, consistent with section 771(5)(E) of the Act and 19 CFR 351.509(b).

For the Borusan Companies, we divided Borusan's tax savings by its total export sales for the POR. On this basis, we preliminarily determine the net countervailable subsidy for this program to be 0.07 percent *ad valorem* for the Borusan Companies.

3. Export Financing: Short Term Pre-shipment Rediscount Program

The Rediscount Program was established in 1999 and is administered by the Export Credit Bank of Turkey (Turk Eximbank).⁹⁸ The Rediscount Program was designed to provide financing to exporters.⁹⁹ This program is contingent upon an export commitment.¹⁰⁰ Under the Rediscount Program, there is a minimum loan amount of 50,000 U.S. dollars per small- and medium-sized company.¹⁰¹ Loan payments shall be made within the credit period or at maturity to the Turk Eximbank.¹⁰²

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ See Borusan Companies Initial QR at 12 and Exhibit A-1.

⁹⁶ See Toscelik Companies Initial QR at 10.

⁹⁷ See, e.g., *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review*, 77 FR 46713 (August 6, 2012) (*Pipe from Turkey 2010*) and accompanying IDM at "Deduction from Taxable Income for Export Revenue"; and *OCTG from Turkey* IDM at 13.

⁹⁸ *Id.* at 7-8.

⁹⁹ *Id.* at 7.

¹⁰⁰ *Id.* at 9.

¹⁰¹ *Id.* at Exhibit 1.

¹⁰² *Id.* at 13.

Companies can repay either in the foreign currency in which the loan was obtained or in a Turkish-lira equivalent of the principal and interest based on exchange rates determined by the Turk Eximbank.¹⁰³ The Borusan Companies reported that Borusan had loans outstanding during the POR under the program.¹⁰⁴ The Toscelik Companies reported that Toscelik Profil and TDC had loans outstanding under this program during the POR.¹⁰⁵

We preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT under 771(5)(D)(i) of the Act. The program is specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance. Commerce's finding in this regard is consistent with its practice.¹⁰⁶ 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 paid by the company for the loans during the POR and the amount the company would have paid on comparable commercial loans.

In calculating the benefit pursuant to section 771(5)(E) of the Act and 19 CFR 351.505(a)(1), we applied a discounted benchmark interest rate because a borrower pays the interest due upfront when the loan is received. Further, in accordance with section 771(6)(A) of the Act, we subtracted any fees paid for guarantees required for receipt of the loans from the benefit calculation.

To calculate the countervailable subsidy rate, we divided the benefit amounts received by Borusan and Toscelik Profil by their respective total export sales value for the POR. Regarding TDC, we divided the benefits it received by the combined total export sales for the POR of TDC and Toscelik Profil, net of intra-company sales. On this basis, we preliminarily determine the net countervailable subsidy rate for this program to be 0.33 percent *ad valorem* for the Borusan Companies and 0.84 percent *ad valorem* for the Toscelik Companies.

4. Inward Processing Certificate Exemption Program

The Ministry of Economy is the authority responsible for granting the Inward Processing Certificate program (IPC). Under the IPC program, companies are exempt from paying customs duties and value added taxes (VAT) on raw materials and intermediate unfinished goods that are imported and used in the production of exported goods. Companies may choose whether to be exempt from the applicable duties and taxes upon importation (*i.e.*, the Suspension System) or have the duties and taxes reimbursed after exportation of the finished goods (*i.e.*, the Drawback System). Under both systems, companies provide a letter of guarantee that is returned to them upon fulfillment of the export commitment.¹⁰⁷

¹⁰³ *Id.*

¹⁰⁴ See Borusan Companies Initial QR at 16 and Exhibit G-5

¹⁰⁵ See Toscelik Companies Initial QR at 14 and Exhibit 20; see also Toscelik Companies Supplemental QR1 at 7 and Exhibit 15; and GOT Initial QR at 8 and Exhibit 3.

¹⁰⁶ See, e.g., *Pipe from Turkey 2011* IDM at 6-7; and *OCTG from Turkey* IDM at 11-12.

¹⁰⁷ See the GOT's IQR at 5, which states that there have been no changes to this program during the POR from what Commerce found countervailable in the previous review.

To participate in this program, a company must hold an IPC, which specifies the types and amounts of raw materials/intermediate unfinished goods to be imported and the amount of the resulting finished product to be exported. To obtain an IPC, an exporter must submit an application, which provides information about the goods to be produced and the raw materials to be imported. There are two types of IPCs: (1) D-1 certificates for imported raw materials or intermediate unfinished goods used in the production of exported goods; and (2) D-3 certificates for imported raw materials or intermediate unfinished goods used in the production of goods sold in the domestic market. D-1 certificates provide for exemption or drawback of both import duties and VAT, while D-3 certificates only provide for exemption of import duties (*i.e.*, for D-3 the VAT is payable).¹⁰⁸

Concerning the duty drawback under the 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. Regarding the VAT exemption granted under the same certificates, pursuant to 19 CFR 351.517(a), 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.¹⁰⁹

In prior reviews, Commerce found with regard to the duty drawback 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.¹¹⁰ Commerce also found that the VAT 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.¹¹¹ We have no new information on the record of this proceeding to warrant a reconsideration of Commerce's earlier findings.

During the POR, Borusan, Toscelik Profil, Toscelik Toyo, Tosyali Filmasin, and TDC used D-1 certificates to receive duty and VAT exemptions on certain imported inputs used in the production of exported pipes and tubes.¹¹² Consistent with Commerce's prior findings and based on our review of the information supplied by the respondents regarding this program in this administrative review, we preliminarily find no evidence on the record of this proceeding indicating that the amounts of VAT and duty exemptions on inputs Borusan and Toscelik Profil, Toscelik Toyo, Tosyali Filmasin, and TDC imported under the program were excessive or that

¹⁰⁸ *Id.* at 5. The GOT provided a listing of all the Inward Processing Certificates used by the Borusan Companies and the Toscelik Companies during the POR.

¹⁰⁹ See *Pipe from Turkey 2015* IDM at 7.

¹¹⁰ See, e.g., *Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 71 FR 43111 (July 31, 2006) (*Pipe from Turkey 2004*) and accompanying IDM at 12-19.

¹¹¹ See *Pipe from Turkey 2004* IDM at 12-19; see also *Turkey Pipe 2013* IDM at 7-8.

¹¹² See Borusan Companies Initial QR at 14-15 and Exhibit E-3; see also Toscelik Companies Initial QR at 12 and Exhibit 18; Toscelik Companies Supplemental QR1 at 8-9 and Exhibit 18; and GOT Initial QR at 5.

these aforementioned companies used the imported inputs for any other product besides those exported, respectively.¹¹³

Therefore, consistent with past cases, we preliminarily determine that the duty exemptions received by Borusan and the aforementioned members of the Toscelik Companies received on imported inputs under D-1 certificates of the IPC program, did not confer countervailable benefits as the exemptions were applied only to the imported inputs consumed in the production of the exported product, making normal allowance for waste.¹¹⁴ We further preliminarily find that the VAT exemption did not confer countervailable benefits to Borusan and the aforementioned members of the Toscelik Companies because the exemptions do not exceed the amount levied with respect to the production and distribution of like products when sold for domestic consumption.

During the POR, Borusan also used D-3 certificates for duty-free imports of raw materials for use in the production of carbon steel pipe and tube sold domestically.¹¹⁵ The Toscelik Companies reported that they did not use D-3 certificates for duty-free imports.¹¹⁶ The D-3 certificates are associated with imports of raw materials for use in products sold domestically.¹¹⁷ Based on our review of the information supplied by the Borusan Companies and the GOT regarding D-3 certificates, we preliminarily determine that the use of D-3 certificates themselves are not *per se* contingent upon export performance. However, we find that record evidence indicates that the receipt of D-3 certificates is contingent upon the firm holding an IPC, and that in granting IPCs, the GOT solicits information regarding the export activities of the applying firms.

We preliminarily find that the duty exemption from D-3 certificates provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, in the form of revenue foregone by the GOT. Information on the record indicates that D-3 certificates allow for duty exemptions on imported items that are physically incorporated into products that are sold domestically. We also find that the receipt of D-3 certificates is contingent upon firms receiving an IPC and that, in issuing IPCs, the GOT considers firms' export levels. Thus, because the receipt of D-3 certificates is ultimately contingent upon export activities as a part of one or more conditions, the program is specific under section 771(5A) (B) of the Act. Pursuant to 19 CFR 351.519(a)(1)(ii), a benefit exists to the extent that the import duty 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. Thus, per the criteria specified in 19 CFR 351.519(a), we preliminarily determine that duty exemptions Borusan received in connection with D-3 certificates provide over-rebates that result in a benefit within the meaning of section 771(5)(E) of the Act.

¹¹³ See *Turkey Pipe 2013* IDM at 12-13; see also *Welded Line Pipe from Turkey 2013* IDM at 13-17.

¹¹⁴ *Id.*

¹¹⁵ See Borusan Initial QR at 15 and Exhibit E-3.

¹¹⁶ See Toscelik Companies IQR at 12.

¹¹⁷ See Borusan Initial QR at 14 and Exhibits E-1 and E-3.

To calculate the net subsidy rate attributable to the Borusan Companies for Borusan's use of the D-3 certificate program, we divided the benefit Borusan received by Borusan's total export sales during the POR. On this basis, we find that the Borusan Companies received a countervailable subsidy of 0.10 percent *ad valorem* under this program.¹¹⁸

5. Export Financing: Export-Oriented Working Capital Loans

The Export-Oriented Working Capital Program was established in January 2012. This program is administered by the Turk Eximbank.¹¹⁹ This program is designed to provide financial support to manufacturer-exporters and manufacturers supplying exporters purchasing raw materials, intermediate goods, and machinery and equipment.¹²⁰ This program is contingent upon an export commitment.¹²¹

The Toscelik Companies reported that Toscelik Profil and Toscelik Toyo had loans outstanding under this program during the POR.¹²² The Borusan Companies reported that they did not have any outstanding loans under this program. Consistent with *Welded Line Pipe from Turkey 2013*, we find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act.¹²³ The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT 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 loan 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 paid by the company for the loans during the POR and the amount the company would have paid on comparable commercial loans.

In computing the benefit pursuant to section 771(6)(A) of the Act and 19 CFR 351.505(a)(1), we calculated the difference between the interest rates Toscelik Profil and Toscelik Toyo paid on these loans and the benchmark rate discussed above in the "Subsidies Valuation" section of this memorandum.¹²⁴ To calculate the countervailable subsidy rate, we divided Toscelik Profil's benefit amount by Toscelik Profil's total export sales for the POR. Regarding Toscelik Toyo, we divided its benefit by the sum of the total export sales for the POR for Toscelik Toyo and Toscelik Profil, net of intra-company sales. On this basis, we determine that the net countervailable subsidy rate for this program is 0.22 percent *ad valorem* for the Toscelik Companies.

¹¹⁸ See Borusan Companies' Preliminary Calculation Memorandum.

¹¹⁹ See GOT Initial QR at 66-67 and Exhibit 16.

¹²⁰ *Id.* at Exhibit 16.

¹²¹ *Id.*

¹²² See Toscelik Companies Initial QR at 18 and Exhibit 21; *see also* Toscelik Companies Supplemental QR1 at 7 and Exhibit 15.

¹²³ See *Welded Line Pipe from Turkey 2013* IDM at 26-27.

¹²⁴ See Toscelik Companies' Prelim Calculation Memorandum.

6. Law 6486: Social Security Premium Incentive

According to the GOT, this program was established in May 2013 under Law 6486 as a provision added to Law 5510; under Turkish law, the program took effect on January 1, 2013.¹²⁵ The Social Security Institution (SSI) of the GOT administers this program.¹²⁶ The purpose of this program, as set forth in Article 1 of Decree No. 2013/4966, is to support production and employment levels in certain provinces by reducing the cost of the insurance premiums paid by employers to thereby reduce unregistered employment.¹²⁷ Companies employing at least 10 workers and operating in the provinces determined by the Council of Ministers are eligible for this program.¹²⁸ Employers can benefit from this program by not paying the employers' share of long-term social security insurance premiums (11 percent in total).¹²⁹ The Toscelik Companies reported that Toscelik Profil, Tosyali Holding, Tosyali Toyo, Toscelik Spiral, TCT, TDC, and Tosyali Filmasin benefited from this program during the POR.¹³⁰ The Borusan Companies reported that they did not use this program.

Consistent with *Welded Line Pipe from Turkey 2013*,¹³¹ we find that the exemption the aforementioned members of the Toscelik Companies received from paying their share of insurance premiums under this program during the POR constitutes a financial contribution in the form of revenue forgone to the GOT within the meaning of section 771(5)(D)(ii) of the Act. We also find that this program is regionally-specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in the eligible provinces. We further determine that the Toscelik Companies benefitted under this program pursuant to section 771(5)(E) of the Act in the amount of the insurance premiums that the Toscelik Companies did not pay.

To calculate the net subsidy rate for Toscelik Profil, we divided the benefit it received by its total sales for the POR. For Tosyali Toyo, Toscelik Spiral, TCT, TDC, and Tosyali Filmasin, we divided each company's benefit by its total sales for the POR plus the sales of Toscelik Profil's total sales for the POR, net of intra-company sales. On this basis, we determine the Toscelik Companies' net subsidy rate under this program to be 0.08 percent *ad valorem*.

7. Law 5084: Allocation of Free Land and Purchase of Land for LTAR

As explained in *Pipe from Turkey 2015*, Commerce found that Toscelik Profil received an allocable, countervailable benefit under this program during the 2010 and 2011 administrative reviews.¹³² We found that the subsidies provided under this program are regionally-specific under section 771(5A)(D)(iv) of the Act, because it is limited to companies located in the 49

¹²⁵ See GOT Initial QR at 89-90.

¹²⁶ *Id.* at 90.

¹²⁷ *Id.* and Exhibit 21.

¹²⁸ *Id.* at Exhibit 21.

¹²⁹ *Id.* at 92.

¹³⁰ See Toscelik Companies Initial QR at 91; see also Toscelik Companies Supplemental QR1 at 16-17 and Exhibit 23.

¹³¹ See *Welded Line Pipe from Turkey 2013* IDM at 25.

¹³² See *Pipe from Turkey 2015* IDM at 17-18.

eligible provinces.¹³³ Also, we found that the provisions of land for LTAR constitute financial contributions in the form of a provision of a good, within the meaning of section 771(5)(D)(iii) of the Act.¹³⁴ Further, we found that Toscelik Profil benefitted from the provision of free land under this Organized Industrial Zones (OIZ) program, pursuant to section 771(5)(E)(iv) of the Act, in that it was able to obtain goods, *i.e.*, land, for less than it would otherwise pay in the absence of this subsidy.¹³⁵ The Toscelik Companies reported receiving no additional benefits under this program.¹³⁶ The Borusan Companies reported that they did not use this program.

To calculate the net subsidy rate in the instant review, we divided the benefits Toscelik Profil received in connection with the land transactions at issue by its total sales during the POR. On this basis, we preliminarily determine the Toscelik Companies' net subsidy rate under this program to be 0.05 percent *ad valorem*.

8. Organized Industrial Zone: Exemption from Property Tax

The program is administered by the Ministry of Finance and was enacted pursuant to Article 4 of Law No. 3365, which came into force on January 1, 1987.¹³⁷ Under this program, the GOT provides an exemption of property tax for the first five years following the completion date of the construction of buildings. In July 1, 2017, the GOT repealed Law No. 3365 and, pursuant to Article 10 of Law No. 7033, companies that operate in OIZs are permanently exempted from property taxes.¹³⁸ The Toscelik Companies reported that Toscelik Profil, TDC, and Toscelik Spiral received exemptions for certain buildings located in an OIZ under the program during the POR.¹³⁹ The Borusan Companies reported that they did not use this program.

We find that this program constitutes a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. We also determine that this program is regionally-specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in the OIZ. Further, we determine that tax benefits under the program conferred a benefit under section 771(5)(E) of the Act. Our findings in this regard are consistent with Commerce's practice.¹⁴⁰ No new information has been presented in this review that leads us to reconsider our prior findings in these preliminary results.

To calculate the benefit from the tax relief that Toscelik Profil received under the property tax exemption program, we summed the total amount of property tax savings reported by Toscelik Profil during the POR and divided the amount of the benefit by its total sales for the POR. For Toscelik Spiral and TDC, we divided each firm's benefit by the sum of each firm's respective

¹³³ *Id.* at 17.

¹³⁴ *Id.*

¹³⁵ *Id.* at 17-18.

¹³⁶ See Toscelik Companies Initial QR at 28 and Exhibit 22.

¹³⁷ See GOT Initial QR at 20.

¹³⁸ *Id.*

¹³⁹ See Toscelik Companies Initial QR at 21 and Exhibit 23; see also Toscelik Companies Supplemental QR1 at 10-11 and Exhibit 19.

¹⁴⁰ See *Pipe from Turkey 2015 PDM* at 19, unchanged in *Pipe from Turkey 2015 IDM* at 8.

total sales for the POR plus Toscelik Profil's total sales for the POR. On this basis we determine the Toscelik Companies' net subsidy rate under this program to be 0.01 percent *ad valorem*.

B. Programs Preliminarily Found Not To Be Countervailable

1. Law 687: Social Security Premium Support Program

According to the GOT, this program was established in February 2017 under Decree Law 687 as a provision added to Law 4447; under Turkish law, the program took effect on February 9, 2017.¹⁴¹ The SSI under the GOT of the Ministry of Labor and Social Security administers this program.¹⁴² The purpose of this program, as set forth in Article 17 of Decree No. 687, is to support all companies that hire new employees, who were previously unemployed, by reducing the cost of the insurance premiums paid by employers.¹⁴³

This program was not alleged by Wheatland or the petitioners, but the Borusan Companies and the Toscelik Companies both reported that member companies received benefits under this program in their questionnaire responses.¹⁴⁴

We preliminarily determine that the program is not specific within the meaning of sections 771(5A)(A)-(C) of the Act. We also preliminarily find that the program is not *de jure* specific to an enterprise or industry, or group(s) thereof, within the meaning of section 771(5A)(D)(i) of the Act. We further preliminarily find that the program is not used by a limited number of enterprises or industries, and that no enterprise or industry, or group(s) thereof, is a preponderant user or a disproportionate beneficiary of the social security premium support program within the meaning of section 771(5A) (D)(iii) of the Act.¹⁴⁵ Finally, we also preliminarily find that this program is not limited to enterprises located in designated geographic regions and thus not specific under section 771(5A) (D)(iv) of the Act. As a result, we preliminarily find that this program is not countervailable during the POR. Our preliminary determination regarding this program is consistent with Commerce's prior findings.¹⁴⁶

2. Law 5510: Minimum Wage Incentive Program

According to the GOT, this program was introduced on January 14, 2016, under Article 68 of Law 5510 which was appended by the Law No. 6661 following a substantial increase in the minimum wage by the year 2016.¹⁴⁷ The SSI of the GOT administers this program.¹⁴⁸ The purpose of this program, as set forth in Article 71 of Law 5510, is to support companies that

¹⁴¹ See GOT's July 18, IQR at 79.

¹⁴² *Id.*

¹⁴³ *Id.* at 18-19 and Exhibit 12.

¹⁴⁴ See Borusan Companies Initial QR at 42 and Exhibit O-5; *see also* Toscelik Companies Initial QR at 30 and Exhibit 27.

¹⁴⁵ See GOI IQR at 81, 86, and Exhibit 20.

¹⁴⁶ See *LDWP from Turkey* PDM at 23-24, unchanged in *LDWP from Turkey* IDM at 6. As noted above, the period examined in *LDWP from Turkey* is the same as the period examined in the instant review.

¹⁴⁷ *Id.* at 67.

¹⁴⁸ *Id.* at 69.

employ minimum wage employees that are insured under one of the company's insurance plans by reducing the insurance premiums paid by these companies.¹⁴⁹ This program was extended for the year 2017 with the provisional article 71 of Law 5510, which was appended by Law No. 6770.¹⁵⁰

This program was not alleged by Wheatland or the petitioners, but the Borusan Companies and the Toscelik Companies reported that member companies received benefits under this program in their questionnaire responses.¹⁵¹

We preliminarily determine that the program is not specific within the meaning of sections 771(5A) (A)-(C) of the Act. We also preliminarily find that the program is not *de jure* specific to an enterprise or industry, or group(s) thereof, within the meaning of section 771(5A) (D)(i) of the Act. We further preliminarily find that the program is not used by a limited number of enterprises or industries, and that no enterprise or industry, or group(s) thereof, is a preponderant user or a disproportionate beneficiary of the minimum wage incentive program within the meaning of section 771(5A) (D)(iii) of the Act.¹⁵² Finally, we preliminarily find that this program is not limited to enterprises located in designated geographic regions and thus not specific under section 771(5A)(D)(iv) of the Act. As a result, we preliminarily find that this program is not countervailable during the POR. Our preliminary determination regarding this program is consistent with Commerce's prior findings.¹⁵³

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

1. Various Programs

The Borusan Companies and the Toscelik Companies reported receiving benefits under various programs, some of which were specifically alleged, and some were self-reported. Based on the record evidence, we preliminarily determine that the benefits from certain programs: 1) were fully expensed prior and thus not allocable to the POR; or 2) if allocable to the POR, are less than 0.005 percent *ad valorem* in the POR when attributed to the respondent's applicable sales as discussed above in the "Attribution of Subsidies" section above. Consistent with Commerce's practice,¹⁵⁴ we have not included these programs in our preliminary subsidy rate calculations for the Borusan Companies and the Toscelik Companies.¹⁵⁵

¹⁴⁹ *Id.* and at Exhibit 17.

¹⁵⁰ *Id.* at 68.

¹⁵¹ See Borusan Companies Initial QR at 41 and Exhibit O-3; *see also* Toscelik Companies Initial QR at 30 and Exhibit 27; and GOT Initial QR at 70.

¹⁵² See Toscelik Companies Initial QR at Exhibit 27; *see also* Borusan Companies Initial QR at Exhibits O-1 and O-3; GOT IQR at Exhibit 18.

¹⁵³ See *LDWP from Turkey* PDM at 23-24, unchanged in *LDWP from Turkey* IDM at 6. As noted above, the period examined in *LDWP from Turkey* is the same as the period examined in the instant review.

¹⁵⁴ See, e.g., *Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) and accompanying IDM at 32, footnote 144.

¹⁵⁵ See the Borusan Companies Preliminary Calculation Memorandum; *see also* the Toscelik Companies Preliminary Calculation Memorandum.

The Borusan Companies

1. Assistance to Offset Costs Related to AD/CVD Investigations
2. Support for Report and Consultancy Services
3. Support for Market Research
4. Intern Salary Support

The Toscelik Companies

1. Support for Expositions (Participation in Trade Fairs)
2. Eximbank Export Credit Insurance
3. Participation in Trade Fairs

The Toscelik Companies reported that Toscelik Profil had Eximbank export credit insurance during the POR. However, they reported that Toscelik Profil did not file any claims against this insurance during the POR and did not receive any compensation from claims during the POR.¹⁵⁶ Further, the GOT reported that none of the Toscelik Companies' shipments to the United States were covered under this insurance program.¹⁵⁷ Based on the record information, we preliminarily determine that the Toscelik Companies did not benefit from this program during the POR. The Borusan Companies reported that they did not use this program during the POR.

D. PROGRAMS PRELIMINARLY DETERMINED TO NOT BE USED

We examined and preliminarily determine that the Borusan Companies did not apply for or receive benefits under these programs during the POR:

- Post-Shipment Export Loans
- Pre-Export Credit Programs
- Pre-Shipment Export Credits
- Export Credit Bank of Turkey Buyer Credits
- Foreign Trade Companies Short Term Export Credits
- Exemption from Property Tax
- Exemption from Stamp Duties and Fees in Free Zones
- Investment Incentive Program
- Comprehensive Investment Incentives Program
- Law 5084: Withholding of Income Tax on Wages and Salaries
- Law 5084: Incentives for Employers' Share in Insurance Premiums
- Law 5084: Allocation of Free Land and Purchase of Land for LTAR
- Law 5084: Energy Support
- Subsidized Turkish Lira Credit Facilities
- Subsidized Credit for Proportion of Fixed Expenditures
- Subsidized Credit in Foreign Currency
- Regional Subsidies

¹⁵⁶ See Toscelik Companies Initial QR at Exhibit 27; see also GOT Initial QR at 67.

¹⁵⁷ See the GOT Initial QR at 67.

- VAT Support System (Incentive Premium on Domestically Obtained Goods)
- Investment Encouragement Program (IEP): Reductions in Corporate Taxes
- IEP: Customs Duty Exemptions
- IEP: Interest Support
- IEP: Social Security Premium Support
- IEP: Land Allocation
- National Restructuring Program
- Provision of Land for LTAR
- Regional Incentive Scheme (RIS): Reduced Corporate Tax Rates
- RIS: Social Security Premium Contribution for Employees
- RIS: Allocation of State Land
- RIS: Interest Support
- OIZ: Waste Water Charges
- OIZ: Exemptions from Customs Duties, VAT, and Payments for Public Housing Fund, for Investments for which an Income Certificate is Received
- OIZ: Credits for Research and Development Investments, Environmental Investments, Certain Technology Investments, Certain “Regional Development” Investments, and Investments Moved from Developed regions to “Regions of Special Purpose”
- OIZ: Exemption from Building and Construction Charges
- OIZ: Exemption for Property Tax
- OIZ: Exemption from Amalgamation and Allotment Transaction Charges
- Corporate Income Tax Exemption under the Free Zones Law
- Stamp Duties and Fees Exemptions under the Free Zones Law
- Support for Energy Payments
- Customs Duty Exemptions Under the Free Zones Law
- Value Added Tax Exemptions Under the Free Zones Law
- Provision of Building and Land Use Rights for Less than Adequate Remuneration under the Free Zones Law

We examined and preliminarily determine that the Toscelik Companies did not apply for or receive benefits under these programs during the POR:

- Post-Shipment Export Loans
- Pre-Export Credit Programs
- Pre-Shipment Export Credits
- Export Credit Bank of Turkey Buyer Credits
- Foreign Trade Companies Short Term Export Credits
- Exemption from Property Tax
- Deduction from Taxable Income for Export Revenue
- Exemption from Stamp Duties and Fees in Free Zones
- Investment Incentive Program
- Comprehensive Investment Incentives Program
- Law 5084: Withholding of Income Tax on Wages and Salaries
- Law 5084: Incentives for Employers’ Share in Insurance Premiums

- Law 5084: Energy Support
- Law 5084: Allocation of Free Land and Purchase of Land for LTAR
- Subsidized Turkish Lira Credit Facilities
- Subsidized Credit for Proportion of Fixed Expenditures
- Subsidized Credit in Foreign Currency
- Regional Subsidies
- VAT Support System (Incentive Premium on Domestically Obtained Goods)
- Investment Encouragement Program (IEP): Reductions in Corporate Taxes
- IEP: Customs Duty Exemptions
- IEP: Interest Support
- IEP: Social Security Premium Support
- IEP: Land Allocation
- National Restructuring Program
- Provision of Land for LTAR
- Regional Incentive Scheme (RIS): Reduced Corporate Tax Rates
- RIS: Social Security Premium Contribution for Employees
- RIS: Allocation of State Land
- RIS: Interest Support
- OIZ: Waste Water Charges
- OIZ: Exemptions from Customs Duties, VAT, and Payments for Public Housing Fund, for Investments for which an Income Certificate is Received
- OIZ: Credits for Research and Development Investments, Environmental Investments, Certain Technology Investments, Certain “Regional Development” Investments, and Investments Moved from Developed regions to “Regions of Special Purpose”
- OIZ: Exemption from Building and Construction Charges
- OIZ: Exemption from Amalgamation and Allotment Transaction Charges
- Corporate Income Tax Exemption under the Free Zones Law
- Stamp Duties and Fees Exemptions under the Free Zones Law
- Support for Energy Payments
- Customs Duty Exemptions Under the Free Zones Law
- Value Added Tax Exemptions Under the Free Zones Law
- Provision of Building and Land Use Rights for Less than Adequate Remuneration under the Free Zones Law

IX. CONCLUSION

We recommend that you approve the preliminary findings described above.

☒

☐

Agree

Disagree

5/8/2019

X 

Signed by: CHRISTIAN MARSH