



C-489-825  
Administrative Review  
POR: 1/1/2017 – 12/31/2017  
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August 13, 2019

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

**FROM:** Irene Tzafolias  
Director, Office VIII  
Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Results:  
Administrative Review of the Countervailing Duty Order on  
Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes  
from the Republic of Turkey

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## I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on heavy walled rectangular welded carbon steel pipes and tubes (HWR 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 Ozdemir Boru Profil San. ve Tic. Ltd. Sti. (Ozdemir) received above *de minimis* countervailable subsidies during the POR.

## II. BACKGROUND

### Initiation and Case History

On September 13, 2016, Commerce published the order on HWR pipes and tubes from Turkey.<sup>1</sup> On September 11, 2018, Commerce published a notice of opportunity to request an administrative review of this *Order*.<sup>2</sup> On September 28, 2018, we received a request from Ozdemir to conduct an administrative review of the *Order* with respect to Ozdemir.<sup>3</sup> On October

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<sup>1</sup> See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 81 FR 62874 (September 13, 2016) (*Order*).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 83 FR 45888 (September 11, 2018).

<sup>3</sup> See Ozdemir's Letter, "*Heavy-Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Review Request for Ozdemir Boru Profil San. Ve Tic. Ltd. Sti.*," (September 28, 2018).



1, 2018, we received a request from Independence Tube Corporation and Southland Tube (collectively, the petitioners) to conduct an administrative review of five companies: Ozdemir, Agir Haddecilik A.S., Cinar Boru Profil San Ve Tic. Stl., MTS Lojistik ve Tasimacilik Hizmetleri TIC A.S. Istanbul, and Noksel Celik Boru Sanayi A.<sup>4</sup> On November 15, 2018, Commerce initiated an administrative review of the *Order* for the period January 1, 2017, through December 31, 2017.<sup>5</sup>

In the *Initiation Notice*, we stated that, in the event we limited the number of respondents selected for individual examination, we intended to select respondents based on Customs and Border Protection (CBP) data for U.S. imports during the POR.<sup>6</sup> On December 3, 2018, Commerce released CBP entry data to all interested parties under an administrative protective order, and requested comments on the data and respondent selection.<sup>7</sup> No party submitted comments or rebuttal comments regarding respondent selection, and no party requested to be considered as a voluntary respondent in this administrative review. On December 19, 2018, Commerce selected Ozdemir as the sole mandatory respondent.<sup>8</sup>

On December 20, 2018, Commerce issued the initial questionnaire to Ozdemir and the Government of Turkey (GOT), and we received initial questionnaire responses from the GOT and Ozdemir between January and March, 2019.<sup>9</sup> From April to July 2019, we issued supplemental questionnaires and received timely responses from Ozdemir and the GOT.<sup>10</sup>

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<sup>4</sup> See Petitioner's Letter, "*Heavy-Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey: Request for Administrative Review*," dated October 1, 2018.

<sup>5</sup> See *Initiation Notice*, 83 FR at 57412.

<sup>6</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 57411 (November 15, 2018) (*Initiation Notice*).

<sup>7</sup> See Memorandum, "U.S. Customs Data for Respondent Selection," dated December 3, 2018.

<sup>8</sup> See Memorandum, "2017 Administrative Review of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Respondent Selection," dated December 19, 2018.

<sup>9</sup> See GOT's Letter, "Response of the Government of Turkey in Administrative Review of Countervailing Duty on Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey," dated January 28, 2019 (GOT IQR); see also Ozdemir's Letter, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey (C-489-825): Response to Questionnaire," dated March 20, 2019 (Ozdemir IQR); and GOT's Letter, "*Revised Response in Administrative Review of Countervailing Duty on Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey*," dated March 14, 2019 (GOT RIQR).

<sup>10</sup> See GOT's Letter, "Response of the Government of Turkey to Supplemental Quesitonnaire in the 2017 Countervailing Duty Administrative Review on Imports of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey," dated May 3, 2019 (GOT May 3 SQR); see also GOT's Letter, "Response of the Government of Turkey to Supplemental Quesitonnaire in the 2017 Countervailing Duty Administrative Review on Imports of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey," dated June 17, 2019; GOT's Letter, "Response of the Government of Turkey to Supplemental Quesitonnaire in the 2017 Countervailing Duty Administrative Review on Imports of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey," dated July 4, 2019; GOT's Letter, "Response of the Government of Turkey to Second Supplemental Questionnaire in 2017 Administrative Review of Countervailing Duty on Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey," dated July 24, 2019 (GOT July 24 SQR); Ozdemir's Letter, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey (C-489-825): Response to Supplemental Questionnaire," dated June 17, 2019 (Ozdemir June 17 SQR); "Ozdemir's Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey (C-489-825): Response to Supplemental Questionnaire," dated July 5, 2019 (Ozdemir July 5 SQR); and Ozdemir's Letter, "Heavy Walled Rectangular Welded Carbon Steel Pipes and tubes from Turkey (C-489-825): Response to Third Supplemental Questionnaire," dated July 22, 2019.

On March 25, 2019, the petitioners withdrew their request for an administrative review of Agir Haddecilik A.S., Cinar Boru Profil San Ve Tic. Stl., MTS Lojistik ve Tasimacilik Hizmetleri TIC A.S. Istanbul, and Noksel Celik Boru Sanayi A.<sup>11</sup> On August 5, 2019, the petitioners submitted pre-preliminary results comments.<sup>12</sup>

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019. Thus, the deadline for the preliminary results of this administrative review was tolled to July 12, 2019.<sup>13</sup> On June 19, 2019, Commerce postponed the deadline for the preliminary results of this administrative review by 35 days, as permitted under section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2). Accordingly, the revised deadline for the preliminary results in this administrative review was postponed to August 16, 2019.<sup>14</sup>

### **III. SCOPE OF THE ORDER**

The products covered by this order are certain heavy walled rectangular welded steel pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. The merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A-500, grade B specifications, or comparable domestic or foreign specifications.

Included products are those in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements below exceed the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.0 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or

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<sup>11</sup> See Petitioners' Letter, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey: Partial Withdrawal of Request for Administrative Review," dated March 25, 2019.

<sup>12</sup> See Petitioner's Letter, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey: Pre-Preliminary Results Comments," dated August 5, 2019.

<sup>13</sup> See Memorandum, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019.

<sup>14</sup> See Memorandum, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2017," dated June 19, 2019.

- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

The subject merchandise is currently provided for in item 7306.61.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under HTSUS 7306.61.3000. While the HTSUS subheadings and ASTM specification are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

#### **IV. SUBSIDIES VALUATION INFORMATION**

##### **A. 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) for the year in which the assistance was approved. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are expensed to the year of receipt rather than allocated over the average useful life (AUL). In the instant review, we are relying on a 15-year AUL.

##### **B. Attribution of Subsidies**

Commerce’s regulations at 19 CFR 351.525(b)(6)(i) state that Commerce will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides that Commerce will attribute subsidies received by certain other companies to the combined sales of those companies when: (1) two or more corporations with cross-ownership produce the subject merchandise; (2) a firm that received a subsidy is a holding or parent company of the subject company; (3) there is cross-ownership between an input supplier and a downstream producer and production of the input is primarily dedicated to the production of the downstream product; or (4) a corporation producing non-subject merchandise received a subsidy and transferred the subsidy to a corporation with cross-ownership with the subject company.

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 regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The *Preamble* to Commerce’s regulations further clarifies that the cross-ownership standard is met 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.<sup>15</sup>

Thus, Commerce’s regulations make clear that the agency must look at the facts in each case to determine whether cross-ownership exists. The Court of International Trade (CIT) 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.<sup>16</sup>

Ozdemir reported that it has no parent companies or subsidiaries, and that it had no cross-owned affiliates during the POR or the AUL.<sup>17</sup> Accordingly, Ozdemir responded to the initial questionnaire only with regard to itself. Pursuant to 19 CFR 351.525(b)(6)(i), we attributed subsidies received by Ozdemir to the sales of Ozdemir.

### **C. Denominators**

When selecting an appropriate denominator for use in calculating the *ad valorem* subsidy rate, Commerce considers the basis for the respondent’s 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. Where the program has been found to be contingent upon export activities, we used the recipient’s total export sales as the denominator. For a further discussion of the denominators used, *see* Ozdemir’s Preliminary Calculation Memorandum.<sup>18</sup>

Because the POR covers the calendar year 2017, we are basing all sales denominators on the total sales and total export sales of calendar year 2017. Furthermore, as Ozdemir received revenue from tolling services during the POR, we included this revenue in the total sales denominator for this review.

## **V. BENCHMARKS AND INTEREST RATES**

Commerce is reviewing non-recurring, allocable subsidies received by Ozdemir.<sup>19</sup> The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

### **A. Discount Rates**

In accordance with 19 CFR 352.524(d)(3)(i), Commerce will select the following discount rates in order of preference: (1) the cost of long-term, fixed-rate loans of the firm in question; (2) the

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<sup>15</sup> *See Countervailing Duties, Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).

<sup>16</sup> *See Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>17</sup> *See* Ozdemir’s Letter, “Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey (C-489-825): Response to Affiliation Section of Questionnaire,” dated February 12, 2019, at 1-4.

<sup>18</sup> *See* Memorandum, “Ozdemir Calculations for the Preliminary Results,” dated concurrently with this memorandum (Ozdemir Preliminary Calculation Memorandum).

<sup>19</sup> *See* 19 CFR 351.524(b)(1).

average cost of long-term, fixed-rate loans in the country in question; or (3) a rate that Commerce considers to be most appropriate. As the first two options are unavailable, we used the discount rate data from the International Monetary Fund's (IMF's) *International Financial Statistics* as our national discount rate, consistent with 19 CFR 351.524(d)(3)(i)(C). The interest rate benchmarks and discount rates used in our preliminary calculations are provided in the Ozdemir Preliminary Calculation Memorandum.

## **B. Loan Benchmarks**

Section 771(5)(E)(ii) of the Act states that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,” indicating that a benchmark must be a market-based rate. In addition, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient “could actually obtain on the market” Commerce will normally rely on actual loans obtained by the firm. However, when there are no comparable commercial loans, Commerce “may use a national average interest rate for comparable commercial loans,” pursuant to 19 CFR 351.505(a)(3)(ii).

Ozdemir provided information about short-term loans from commercial banks for consideration as comparable commercial loans for purposes of identifying an interest rate benchmark for the Rediscount Program.<sup>20</sup> We preliminarily determine that these loans constitute comparable commercial loans and that it is appropriate to use these loans to calculate a weighted-average benchmark interest rate, pursuant to 19 CFR 351.505(a)(2)(iv).<sup>21</sup>

## **C. Land Benchmark**

For these preliminary results, we relied upon the land benchmark data used in *HWR Turkey 2014 Redetermination*.<sup>22</sup> Specifically, we used as our benchmark publicly available information concerning industrial land prices in Turkey for purposes of calculating a comparable commercial benchmark price for land available in Turkey. We find that these land prices serve as comparable commercial benchmarks under 19 CFR 351.511(a)(2)(i).

## **D. Input Benchmark**

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

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<sup>20</sup> See Ozdemir IQR at Exhibit 7.

<sup>21</sup> See Ozdemir Preliminary Calculation Memorandum.

<sup>22</sup> See *Ozdemir Boru San. Ve Tic. Ltd. Sti. v. United States*, 273 F. Supp. 3d 1225, 1250 (CIT 2017).

the hierarchy is an observed market price from actual transactions within the country under investigation.<sup>23</sup> 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 the government authority sold hot-rolled steel (HRS) to the respondent for less than adequate remuneration (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.<sup>24</sup>

Consistent with Commerce's final determinations in *CWP Turkey 2015 AR* and *WLP from Turkey*, 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.<sup>25</sup> The record information shows that for 2015, 2016, and 2017, the combined domestic HRS production of the government authority accounted for 40.27, 38.44, and 36.22 percent of supply, respectively, while imports of HRS accounted for 39.63, 38.67, and 34.15 percent in the same years, respectively.<sup>26,27</sup> 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 that purchased from the government authority) and imported HRS can serve as tier one benchmarks. Accordingly, pursuant to 19 CFR 351.511(a)(2)(i), we used the respondents' actual domestic and import prices for HRS to

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<sup>23</sup> See, e.g., *Notice of Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002), and accompanying Issues and Decision Memorandum (IDM) at "Market Based Benchmark."

<sup>24</sup> See *Preamble*, 63 FR at 65277.

<sup>25</sup> See *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) (*CWP Turkey 2015 AR*) and accompanying IDM at 15; *Welded Line Pipe from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 80 FR 61371 (October 13, 2015) (*WLP from Turkey*), and accompanying IDM at 15-16.

<sup>26</sup> See GOT IQR at 19.

<sup>27</sup> These numbers reflect production, export and consumption data collected from commercial Turkish HRS producers by the Turkish Steel Producers Association (TCUD), as submitted by the GOT. The petitioners raised questions about these data in their recent submission (*see* Petitioners' Letter, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey: Pre-Preliminary Results Comments," dated August 5, 2019). We note that we addressed similar comments recently in *Large Diameter Welded Pipe From the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 84 FR 6367 (February 27, 2019), and accompanying IDM at Comment 1, as well as in *Oil Country Tubular Goods From the Republic of Turkey: Final Results of Countervailing Duty Administrative Review; 2016*, 84 FR 11504 (March 27, 2019), and accompanying IDM at Comment 1, in both of which Commerce determined to continue to rely on the TCUD data. Due to the proximity of the submission of the petitioners' comments to the deadline of the preliminary results, Commerce was unable to fully evaluate these comments for the preliminary results, nonetheless. Nonetheless, following the release of this memorandum, we may seek additional supporting information from the GOT in regard to the data.

calculate the benefit from their respective purchases of HRS from the government authority, 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 import prices paid by Ozdemir, the benchmark includes the delivery charges, and value-added tax (VAT), but not import duties or stamp fees.

## **VI. ANALYSIS OF PROGRAMS**

Based upon our analysis of the record and the responses to our questionnaires, we preliminarily determine the following:

### **A. Programs Preliminarily Determined to Be Countervailable**

#### **1. Rediscount Program**

The Rediscount Program, previously known as the Short-Term Pre-Shipment Rediscount Program, was established in 1999 to increase the competitive power of and provide financial support to Turkish exporters, manufacturer-exporters, and manufacturers supplying exporters. The program was previously administered only by the Export Credit Bank of Turkey (Turk Eximbank).<sup>28</sup> Pursuant to an October 4, 2016, circular from the Central Bank of the Republic of Turkey (CBRT), the program can also be administered by commercial banks that apply to the CBRT.<sup>29</sup> This program is contingent upon an export commitment.<sup>30</sup>

This program provides discounts on loans that are issued on behalf of the Turk Eximbank or approved commercial banks, and the assistance covers export transactions based on letter of credit, cash against documents, or cash against goods. If firms apply through commercial banks, the creditworthiness of the firm is to be verified by the banks according guidelines set out in Article 6 of the October 2016 circular.<sup>31</sup> According to the implementation principles that were in effect during the POR, “{t}he Turk Eximbank has the authority to determine the term, interest rate, level of crediting, and the currency of the loan.” Upon approval, the CBRT disburses the rediscounted credit either to the firm or to the applicant’s commercial bank, and the recipient firm pays the interest upon receipt of the loan.

Commerce has previously found this program to be countervailable in the investigation segment.<sup>32</sup> During the underlying the investigation, this program was administered solely

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<sup>28</sup> See GOT RIQR at 1-2.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at Exhibit 1.

<sup>31</sup> *Id.*

<sup>32</sup> See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 80749 (December 28, 2010), and accompanying PDM at 13-14, unchanged in *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Affirmative Final Results of Countervailing Duty Administrative Review*, 83 FR 58757 (November 21, 2018) (*HWR Turkey AR 15-16 Final*).



through the Turk Eximbank. Though the CBRT is now the entity providing the assistance, either through the Turk Eximbank or through approved commercial banks, we determine the program remains countervailable as in prior case segments, because a government authority (*i.e.*, the CBRT) is still providing the assistance. Ozdemir reported that it used one rediscount loan from a commercial bank under this program during the POR.<sup>33</sup>

We preliminarily find that this loan confers a countervailable subsidy within the meaning of section 771(5) of the Act. This loan constitutes a financial contribution in the form of a direct transfer of funds from the GOT under 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1) equal to the difference between the amount of interest paid by the company for this loan during the POR and the amount the company would have paid on a comparable commercial loan. 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. Commerce's finding in this regard is consistent with its practice.<sup>34</sup> Under this program, the interest on the loan is paid when the loan is received. Therefore, we have calculated the benefit based on loans that were granted during the POR. In calculating the benefit, pursuant to section 771(6)(A) of the Act and 19 CFR 351.505(a)(1), we applied a discounted benchmark interest rate, calculated using the respondent's short-term weighted-average commercial interest rate, as discussed above at "Benchmark Interest Rates." For each loan, we compared the effective interest that Ozdemir paid to the effective interest that Ozdemir would have paid at the appropriate benchmark interest rate. In accordance with section 771(6)(A) of the Act, we subtracted from this benefit amount the fees Ozdemir paid to commercial banks for the required letters of guarantee.

In accordance with 19 CFR 351.525(b)(2), to calculate the countervailable subsidy rate, we divided Ozdemir's adjusted benefit amount by its total export sales value for the POR. On this basis, we preliminarily determine that the net countervailable subsidy rate for this program to be 0.01 percent *ad valorem*.

## **2. Deductions 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.<sup>35</sup> This deduction is to cover the expenditures without documentation incurred from exports, construction, maintenance, assembly, and transportation activities abroad. The deduction for export earnings may either be taken as a lump sum on a company's annual income

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<sup>33</sup> See Ozdemir IQR at Exhibit 6.

<sup>34</sup> See, e.g., *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 11-12; and *WLP from Turkey*, and accompanying IDM at 22-23.

<sup>35</sup> See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2016*, 83 FR 40228 (August 14, 2018) (*HWR Turkey AR 15-16 Prelim*), and accompanying PDM at 11-12, unchanged in *HWR Turkey AR 15-16 Final*.

tax return or be shown within the company's marketing, selling and distribution expense account of the income statement.<sup>36</sup> Under this program, marketing, selling, and distribution expenses are deductible expenditures for tax purposes. The Ministry of Finance is responsible for administering the program.<sup>37</sup> The GOT stated that no changes were introduced to this program during the POR, and the program was not replaced by a successor program.<sup>38</sup>

In the prior segments of this proceeding, Commerce found that Ozdemir received countervailable subsidies with respect to its tax returns filed during the periods examined.<sup>39</sup> Consistent with our determinations in these prior segments and prior CVD determinations involving Turkey, we preliminarily find that this tax deduction is a countervailable subsidy.<sup>40</sup> 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. During the POR, Ozdemir reported receiving the deduction for export earnings with respect to its 2017 tax return, filed in 2018.<sup>41</sup>

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. To calculate the countervailable subsidy rate for Ozdemir, we divided the company's total tax savings for the POR by its total export sales value for 2017. On this basis, we preliminarily determine the net countervailable subsidy for this program to be 0.06 percent *ad valorem*.<sup>42</sup>

### **3. Provision of Hot-Rolled Steel (HRS) for LTAR**

Commerce examined the provision of HRS to Ozdemir during the POR. Ozdemir reported purchasing HRS from Eregli Demir ve Celik Fabrikalari T.A.S. (Erdemir) and Iskenderun Iron & Steel Works Co. (Isdemir) during the POR.<sup>43</sup> In its initial questionnaire response, the GOT responded to the Input Producer Appendix for Erdemir and Isdemir.<sup>44</sup> In prior segments of this proceeding, Commerce found that this program provided countervailable subsidies to Ozdemir.<sup>45</sup>

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<sup>36</sup> See *HWR Turkey AR 15-16 Prelim PDM* at 11-12, unchanged in *HWR Turkey AR 15-16 Final*.

<sup>37</sup> See *HWR Turkey 2014 Final Determination*, 81 FR 47349, and accompanying IDM at 15-16.

<sup>38</sup> See GOT IQR at 3.

<sup>39</sup> *Id.*; and *HWR Turkey AR 15-16 Prelim PDM* at 11-12, unchanged in *HWR Turkey AR 15-16 Final*.

<sup>40</sup> See, e.g., *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review*, 77 FR 46713 (August 16, 2012), and accompanying IDM at "Deduction from Taxable Income for Export Revenue"; *OC TG from Turkey*, 79 FR at 41966, and accompanying IDM at "Deduction from Taxable Income for Export Revenue;" and *WLP from Turkey*, 80 FR at 61372, and accompanying IDM at "Deduction from Taxable Income for Export Revenue."

<sup>41</sup> See Ozdemir IQR at Exhibit 3.

<sup>42</sup> See Ozdemir Preliminary Calculation Memorandum.

<sup>43</sup> See Ozdemir IQR at Exhibit 8.

<sup>44</sup> *Id.*, at Exhibit 9.

<sup>45</sup> See *HWR Turkey 2014 Final Determination*, 81 FR at 47351, and accompanying IDM at 11-14; see also *HWR Turkey AR 15-16 Prelim PDM* at 8-10, unchanged in *HWR Turkey AR 15-16 Final*.

The information submitted by the GOT with regard to this program remains consistent with our previous findings.

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 a 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. (ATAER).<sup>46</sup> Moreover, because 3.08 percent of Erdemir's shares were owned by Erdemir itself in the form of treasury shares,<sup>47</sup> the other shareholders combined accounted for less than 48 percent, thus making OYAK the single largest, and controlling, shareholder of Erdemir. Also during the POR, Erdemir owned 95.07 percent of Isdemir.<sup>48</sup>

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."<sup>49</sup> 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."<sup>50</sup> The Representatives Assembly, in turn, elects 20 of the 40 members, and 10 substitute members of OYAK's General Assembly.<sup>51</sup> Of the General Assembly's other 20 members, 17 are, by statute, government officials (*i.e.*, Ministers of Finance and National Defense, Commanders of the Land, Naval, and Air Forces, General Commander of the Grandarmierie, President of the Court of Accounts, President of the Board of Audit of the Prime Ministry, Chairman of the Board of the Banks Association, Chairman of the Union Chambers and Commodity Exchanges, General Staff of the Ministry of National Defense, and three private sector individuals appointed by the Minister of National Defense). In accordance with the law, either the Minister of National Defense or the Minister of Finance presides over the General Assembly. Members of the General Assembly elect the eight-person Board of Directors. Also, because the law states that OYAK's property has 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.<sup>52</sup>

Record evidence indicates that the GOT's significant involvement in OYAK extends to Erdemir and Isdemir. For example, Erdemir's 2016 Annual Report states, "In 2016 . . . flat steel exports increased 29%," and that Erdemir "aims to meet the present and future needs of Turkish industry to the highest level by investing in the production of high value added products."<sup>53</sup> These policies are in line with the GOT's stated policy in its 2012-2014 Medium Term Programme to

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<sup>46</sup> See GOT IQR at 24, Exhibit 8 (Erdemir's Input Producer Appendix).

<sup>47</sup> *Id.*, at Exhibit 8-B (Functioning and Governing Principles of Erdemir and Isdemir)

<sup>48</sup> *Id.*, at Exhibit 8-C.

<sup>49</sup> *Id.*, at Exhibit 8-G.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> See GOT IQR, at Exhibit 8C-3.

improve Turkey's balance of payments.<sup>54</sup> Also, Erdemir's articles of association specifies that the Turkish Privatization Administration (TPA) holds the voting rights on Group A shares and holds veto power over any decisions related to the closedown, sale, merger, or liquidation of both Erdemir and Isdemir.<sup>55</sup> Erdemir's 2015 and 2016 annual reports indicate that OYAK and the TPA had representatives on Erdemir's Board of Directors.<sup>56</sup> Furthermore, according to the 2017 annual report of the OYAK Mining Metallurgy Group (OMMG), Erdemir and its subsidiaries began operating as a subsidiary of the OMMG in 2017, after OMMG was established. The 2017 annual report also indicates that members of OYAK and TPA serve as board members of OMMG.<sup>57</sup>

We preliminarily determine that the record evidence cited above indicates that the GOT exercises meaningful control over Erdemir and Isdemir such that Erdemir and Isdemir possess, exercise or are vested with government authority. This meaningful control is evident from both the role of OYAK as an institution through which the GOT exercises control over Erdemir and Isdemir, and the alignment of Erdemir's Annual Report with the Medium Term Programme. Therefore, consistent with the final CVD determination in *OCTG from Turkey*, we determine that Erdemir and Isdemir are public bodies, and hence "authorities," pursuant to section 771(5)(B) of the Act.<sup>58</sup> Consequently, we find that the HRS supplied by Erdemir and Isdemir to Ozdemir is a financial contribution in the form of a governmental provision of a good under section 771(5)(D)(iii) of the Act.

Regarding the specificity of the HRS for LTAR program, the GOT provided a list of the industries that purchased HRS in Turkey during the POR.<sup>59</sup> Specifically, the GOT identified the following industries as purchasers of HRS during the POR: steel pipe and profile, rerolling producers, chain of distribution, machinery manufacturing, automotive, heavy industry, consumer products, pressure purposes (pressure vessels, steam boilers), panel radiator, white appliances, and shipbuilding.<sup>60</sup> Consistent with Commerce's determination in *OCTG from Turkey* and *WLP from Turkey*, we preliminarily determine that the financial contribution provided by the GOT under this program is specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because the number of industries or enterprises using HRS is limited in number.<sup>61</sup>

To measure the benefit during the POR, we compared the monthly benchmark prices, as identified and described above in the "Benchmarks and Interest Rates" section, to Ozdemir's

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<sup>54</sup> 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) (*Turkey Pipe 2013 Final Results*), and accompanying IDM at 8-11.

<sup>55</sup> See GOT IQR at 8-A.

<sup>56</sup> *Id.* at Exhibits 8-C-1 and 8-C-3.

<sup>57</sup> *Id.* at Exhibit 8-C-6.

<sup>58</sup> See *OCTG from Turkey* IDM at Comment 1; see also *Borusan Mannesmann Boru Sanayi Ve Ticaret A.S. & Borusan Istikbal Ticaret v. United States*, 61 F. Supp. 3d 1306, 1324 (CIT 2015) (sustaining Commerce's finding that Erdemir and Isdemir are "authorities").

<sup>59</sup> See GOT IQR at 22.

<sup>60</sup> *Id.*

<sup>61</sup> See *OCTG from Turkey*, 79 FR at 41964, and accompanying IDM at 20-26; see also *WLP from Turkey* IDM at 11-14.

actual purchase prices for HRS from Erdemir and Isdemir during 2017 including taxes and delivery charges, as appropriate. In instances in which Ozdemir paid to Erdemir and Isdemir a lower unit price than the benchmark unit price, we multiplied the difference by the quantity of HRS purchased to calculate the benefit.<sup>62</sup> Under this methodology, we find that Ozdemir received a benefit to the extent that the prices it paid for HRS produced by Erdemir and Isdemir were for LTAR.<sup>63</sup>

To calculate the net subsidy rate attributable to Ozdemir, we divided the benefit by the company's total sales during the POR. On this basis, we find that the Ozdemir received a countervailable subsidy of 1.77 percent *ad valorem*.<sup>64</sup>

#### **4. Provision of Land for LTAR**

According to the GOT, support is provided in the form of allocation of land to firms operating in provinces as set forth in Article 2 of Law No. 5084 (February 6, 2004), including (previously) non-allocated parcels in organized industrial zones (OIZs) in provinces subject to clause (b) of Article 2.<sup>65</sup> The GOT further states that this program is used to promote investment and to increase employment in selected provinces where the development level is relatively low.<sup>66</sup> In *HWR Turkey 2014 Final Determination*, Commerce found that the program was administered by the Ministry of Science, Industry and Technology, Directorate General of Industrial Zones, a national government authority, and that it is implemented in each industrial zone by the respective OIZ.<sup>67</sup> The GOT reports that the program was terminated on February 6, 2010.<sup>68</sup>

In *HWR Turkey 2014 Final Determination*, Commerce found that Ozdemir received a countervailable subsidy under this program in 2008, when it purchased land from the Zonguldak OIZ. We found that the land sold to Ozdemir in 2008 constituted a financial contribution within the meaning of section 771(5)(D)(iii) of the Act, and that the provision of land under this program is specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in provinces designated as priority regions for development.<sup>69</sup> According to the GOT, Ozdemir has not received further benefits from this program during the POR.<sup>70</sup> In addition, Ozdemir states that the company did not purchase or lease land-use rights in the Zonguldak OIZ during the POR.<sup>71</sup> However, under our methodology for land, any benefit from past provisions of land under this program may continue to be allocable to the POR.

To determine whether Ozdemir's acquisition of land from the OIZ entity constitutes the provision of land for LTAR, we multiplied the area of land Ozdemir purchased from the GOT in 2008 by the unit benchmark land price discussed above in the "Benchmarks and Interest Rates"

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<sup>62</sup> See Ozdemir Preliminary Calculation Memorandum.

<sup>63</sup> See Sections 771(5)(D)(iii) and 771(5)(E)(iv) of the Act.

<sup>64</sup> See Ozdemir Preliminary Calculation Memorandum.

<sup>65</sup> See GOT May 3 SQR at 19 and Exhibit 18.

<sup>66</sup> *Id.*, at Exhibit 18.

<sup>67</sup> See *HWR Turkey 2014 Final Determination*, 81 FR at 47349, and accompanying IDM at 14.

<sup>68</sup> *Id.*, at 23.

<sup>69</sup> *Id.* at 14-15.

<sup>70</sup> See GOT IQR, at 27.

<sup>71</sup> See Ozdemir IQR, at 16-17.

section. Applying the “0.5 percent test,” described above in the “Allocation Period” section, we divided the benefit amount received in 2008 by Ozdemir’s total sales for 2008 and found that the resulting ratio exceeded 0.5 percent. Therefore, we allocated a portion of the benefit to the POR using Commerce’s standard grant allocation formula.<sup>72</sup>

However, we lack either: (1) company-specific information concerning interest rates charged to Ozdemir on long-term, Turkish lira-denominated debt which originated in 2008; or (2) information from the GOT concerning long-term interest rates in Turkey for 2008. Therefore, in accordance with 19 CFR 351.505(a)(3)(ii), we used the national average discount rate in Turkey for 2008 as the long-term discount rate utilized in the grant allocation formula. *See* the “Benchmarks and Interest Rates” section for a description of the source of this rate. To calculate the net subsidy rate, we divided the amount of the subsidy allocated to the POR by Ozdemir’s POR sales value. On this basis, we determine Ozdemir’s net subsidy rate under this program to be 0.08 percent *ad valorem*.<sup>73</sup>

## **5. Investment Encouragement Program (IEP): Customs Duty and VAT Exemptions**

In the underlying investigation, Ozdemir reported receiving exemptions under this program in 2009, 2010, and 2011.<sup>74</sup> Record evidence in this segment shows that an IEP certificate tied to some of those exemptions was subsequently closed in 2017.<sup>75</sup>

In CVD cases involving Turkey subsequent to *HWR Turkey 2014 Final Determination*, Commerce adjusted its treatment of this program in light of new information in the records of those investigations and reviews. Therefore, to determine what, if any, benefits Ozdemir received under this program during the POR, we assessed the record information for this program in this segment in accordance with the methodological approach taken in those cases, which differs from that taken in the *HWR Turkey 2014 Final Determination*.

Prior to the change in methodology on this program, Commerce countervailed the amounts of import duties and VAT that were exempted during the review or investigation period as subsidies tied to the company’s capital assets and, thus, allocable across the AUL. After performing the 0.5 percent allocation test on the period total of foregone taxes and duties, Commerce would either expense the benefit in the year of receipt or allocate the benefit over the AUL, in accordance with 19 CFR 351.524(c)(2)(iii) and (d)(1). However, as Commerce noted in *WLP Turkey 2015 AR Prelim*, based on additional evidence, the import duties and VAT exempted under the program remain payable to the GOT until the exempted company successfully passes a final onsite inspection by the GOT to close out the relevant IEP certificate and receives a “completion visa” from the GOT, which finally waives the company’s liability for the exempted import duties and VAT.<sup>76</sup> If the company fails the onsite inspection and, thus, receives no

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<sup>72</sup> *See* 19 CFR 351.524(d).

<sup>73</sup> *See* Ozdemir’s Preliminary Calculation Memorandum.

<sup>74</sup> *See HWR Turkey 2014 Final Determination*, 81 FR at 47349, and accompanying IDM at 17-18.

<sup>75</sup> *See* Ozdemir July 5 SQR at 4-5 and at Exhibit S2-5.

<sup>76</sup> *See Welded Line Pipe from the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2015*, 83 FR 1237 (January 10, 2018) (*WLP Turkey 2015 AR Prelim*), and accompanying IDM at 14.

“completion visa,” the company has to repay the exempted duties and VAT, with interest.

Pursuant to 19 CFR 351.505(d)(1), Commerce treats any balance on an unpaid liability that may be waived in the future as a contingent-liability interest-free loan. Accordingly, Commerce determines a recurring benefit equal to the amount of interest payments (and other loan costs) that the respondent would have paid during the POR had it borrowed the full amount of the duty exemption or reduction at the time of importation, which constitutes the first benefit under a contingent liability program.

Additionally, pursuant to 19 CFR 351.505(d)(2), once the company has finally satisfied the contingency attached to those exemptions, *i.e.*, the subsequent events or performance for which the government grants a final waiver of liability to the company, Commerce determines a second, non-recurring, benefit from the total revenue foregone under the program in the form of a grant received in the year the company receives the final waiver of liability. In this case, we find that Ozdemir received such a benefit in 2017 (*i.e.*, the POR) when its IEP certificate was successfully closed and the GOT granted the “completion visa” certifying that the investment requirements had been met.<sup>77</sup>

To determine the benefit amount that Ozdemir received with the completion visa in 2017, we summed all the import duty and VAT exempted on Ozdemir’s equipment imports under the relevant certificate into one total grant value. To calculate a rate for this program, we then applied the “0.5 percent test,” pursuant to 19 CFR 351.524(b)(2), using Ozdemir’s total f.o.b. sales value for 2017. We then summed the total exemptions that Ozdemir received under the completed IEP license and the interest that accrued on these exemptions during the POR to get the total benefit attributable to the POR. Finally, we divided the amount of the benefit allocated to the POR by Ozdemir’s POR sales value. On this basis, we determine Ozdemir’s net subsidy rate under this program to be 0.03 percent *ad valorem*.<sup>78</sup>

### **C. Programs Determined To Be Not Countervailable or to Not Confer a Measurable Benefit**

Ozdemir 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 either: 1) were fully expensed prior, and thus not allocable, to the POR; or 2) if allocable to the POR, were 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,<sup>79</sup> we have not included these programs in our preliminary subsidy rate calculations for Ozdemir.<sup>80</sup>

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<sup>77</sup> See Ozdemir July 5 SQR at 4-5 and at Exhibit S2-5.

<sup>78</sup> See Ozdemir Preliminary Calculation Memorandum.

<sup>79</sup> 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.

<sup>80</sup> See Ozdemir Preliminary Calculation Memorandum.

## **1. Intern Salary Support**

Ozdemir self-reported the Intern Salary Support program in a supplemental questionnaire response.<sup>81</sup> The GOT reported that Ozdemir received financial assistance during the POR under this program.<sup>82</sup> However, we find that any potential benefit from this program was less than 0.005 percent *ad valorem* in the POR when attributed to the respondent's applicable sales, and therefore does not confer a measurable benefit during the POR.<sup>83</sup>

## **2. Inward Processing Regime (IPR)**

The Ministry of Economy is the authority responsible for administering the Inward Processing Certificate program (IPC).<sup>84</sup> Under the IPC program, companies are exempt from paying customs duties and 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.<sup>85</sup>

In a supplemental questionnaire response, the GOT reported that there were no changes to this program and that Ozdemir did not hold any D-3 certificates during the POR.<sup>86</sup> Accordingly, there is no new information on the record of this review for Commerce to reconsider the countervailability of this program.

To participate in this program, a company must hold an IPC, which lists the amount of raw materials or intermediate unfinished goods to be imported and the amount of product to be exported.<sup>87</sup> 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.<sup>88</sup> 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).

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<sup>81</sup> See Ozdemir's June 17 SQR at 2-5.

<sup>82</sup> See GOT's July 4 SQR at 1-10.

<sup>83</sup> See Ozdemir Preliminary Calculation Memorandum.

<sup>84</sup> See *HWR Turkey AR 15-16 Prelim* IDM at 17-19, unchanged in *HWR Turkey AR 15-16 Final*.

<sup>85</sup> *Id.*

<sup>86</sup> See GOT July 24 SQR at pdf pages 7-8.

<sup>87</sup> See *HWR Turkey AR 15-16 Prelim* PDM at 17-19, unchanged in *HWR Turkey AR 15-16 Final*.

<sup>88</sup> *Id.*



While Commerce has found benefits received under the D-3 certificates to be countervailable,<sup>89</sup> D-1 certificates, pursuant to 19 CFR 351.519(a)(1)(ii), confer a benefit only 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.<sup>90</sup> Furthermore, 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.

In prior proceedings involving this program, Commerce found that, in accordance with 19 CFR 351.519(a)(4)(i), the GOT had a system in place to confirm which inputs, and in what amounts, are consumed in the production of the exported product, and that the system is reasonable for the purposes intended.<sup>91</sup> Commerce also found that the exemption granted on certain methods of payments used in purchasing imported raw materials under this program does not constitute a subsidy pursuant to 19 CFR 351.517(a), because the tax exempted upon export does not exceed the amount of tax levied on like products when sold for domestic consumption.<sup>92</sup> No new information is on the record of this review to warrant a reconsideration of Commerce's earlier findings.

During the POR, Ozdemir used D-1 certificates and received duty and VAT exemptions on certain imported and domestically-purchased inputs used in the production of exported HWR pipes and tubes.<sup>93</sup> In its initial questionnaire response, Ozdemir showed that its realized consumption of imported and domestically-purchased raw materials used in the production of exported goods was equal to 95 percent of materials purchased under the D-1 certificate.<sup>94</sup> We consider this to be a normal allowance for waste in accordance with 19 CFR 351.519(a)(1)(ii).

Consistent with Commerce's findings in *Turkey Pipe 2013 Final Results*,<sup>95</sup> and based on our review of the information supplied by Ozdemir and the GOT regarding this program, we preliminarily find no evidence on the record of this review indicating that the amounts of VAT and duty exemptions on inputs Ozdemir imported using the D-1 certificates were excessive or that the company used the imported inputs for any other products besides those exported. Therefore, consistent with case precedent, we preliminarily determine that the tax and duty exemptions, which Ozdemir received on imported inputs under D-1 certificates of the IPR program, did not confer countervailable benefits, as the exemptions were applied only to the

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<sup>89</sup> See, e.g., *Circular Welded Carbon Steel Pipes and Tubes From Turkey: Preliminary Results of Countervailing Duty Administrative Review; Calendar Year 2015*, 82 FR 16994 (April 7, 2017), and accompanying PDM at 15-16, unchanged in *CWP Turkey 2015 AR*.

<sup>90</sup> *Id.*, 14-15.

<sup>91</sup> *Id.*, at 13-16; see also *Turkey Pipe 2013 Final Results IDM* at 11-13; and *Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 71 FR 43111 (July 31, 2006), and accompanying IDM at 12-19.

<sup>92</sup> See *Turkey Pipe 2013 Final Results IDM* at 7-8.

<sup>93</sup> See Ozdemir IQR at 20 and at Exhibits 11 and 12.

<sup>94</sup> *Id.* at Exhibit 11.

<sup>95</sup> See *Turkey Pipe 2013 Final Results IDM* at 7-8.

imported inputs consumed in the production of the exported product, making normal allowance for waste.<sup>96</sup> We further preliminarily find that the VAT exemption did not confer countervailable benefits to Ozdemir, because the exemption does not exceed the amount levied with respect to the production and distribution of like products when sold for domestic consumption. Finally, Ozdemir reported using no D-3 certificates under this program during the POR.

#### **D. Programs Preliminarily Determined to Be Not Used by Ozdemir During the POR**

Commerce preliminarily finds that the following programs were not used by Ozdemir during the POR:<sup>97</sup>

1. Exemption from Property Tax<sup>98</sup>
2. Assistance to Offset AD/CVD Costs
3. Provision of Lignite for LTAR
4. Tax Incentives for Research & Development (R&D) Activities: Tax Benefits for R&D Activities
5. Tax Incentives for Research & Development (R&D) Activities: Product Development R&D Support-UFT
6. Pre-Export Credit Program
7. Export Insurance Provided by Turk Eximbank
8. Large Scale Investment Incentives: VAT and Customs Duty Exemptions
9. Large Scale Investment Incentives: Tax Reductions
10. Large Scale Investment Incentives: Income Tax Withholding
11. Large Scale Investment Incentives: Social Security and Interest SupportLarge Scale Investment Incentives: Land Allocation
12. Strategic Investment Incentives: VAT and Customs Duty Exemptions
13. Strategic Investment Incentives: Tax Reductions
14. Strategic Investment Incentives: Income Tax Withholding
15. Strategic Investment Incentives: Social Security and Interest Support
16. Strategic Investment Incentives: Land Allocation
17. Law 5084: Withholding of Income Tax on Wages and Salaries
18. Law 5084: Incentive for Employer's Share in Insurance Premiums
19. Law 6486: Social Security Premium Incentive
20. Assistance to Offset Costs Related to AD/CVD Investigations

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<sup>96</sup> *Id.*

<sup>97</sup> *See* Ozdemir IQR at 18-19.

<sup>98</sup> Although Ozdemir reported being eligible for this exemption during the POR, they did not realize these benefits until 2018 (*i.e.*, after the POR). *See* Ozdemir June 17 SQR at 14-15. Pursuant to 19 CFR 351.509 (b), we will consider these benefits as having been received on the date on which Ozdemir would otherwise have had to pay the taxes associated with this exemption (*i.e.*, 2018).

**VII. RECOMMENDATION**

We recommend that you approve the preliminary findings described above.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

8/13/2019

X



Signed by: CHRISTIAN MARSH

Christian Marsh  
Deputy Assistant Secretary  
for Enforcement and Compliance