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Investigation  
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October 7, 2019

**MEMORANDUM TO:** Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance

**FROM:** James Maeder  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Affirmative  
Determination in the Countervailing Duty Investigation of Certain  
Quartz Surface Products from the Republic of Turkey

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## **I. SUMMARY**

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain quartz surface products (quartz surface products) from Turkey, as provided in section 703(b)(1) of the Tariff Act of 1930, as amended (the Act).

## **II. BACKGROUND**

### **A. Initiation and Case History**

On May 8, 2019, we received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of quartz surface products from the Republic of Turkey (Turkey) and India, filed in proper form on behalf of Cambria Company LLC (the petitioner).<sup>1</sup> Pursuant to section 702(b)(4)(A)(ii) of the Act, we invited representatives of the Government of Turkey (GOT) for consultations with respect to the CVD Petition on quartz surface products from Turkey.<sup>2</sup> On May 24, 2019, we held consultations with the GOT.<sup>3</sup>

On May 22, 2019, we released the U.S. Customs and Border Protection (CBP) data for entries of

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<sup>1</sup> See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Quartz Surface Products from India and the Republic of Turkey," dated May 8, 2019 (Petition).

<sup>2</sup> See Commerce's Letter, "Countervailing Duty Petition on Certain Quartz Surface Products from Turkey: Invitation for Consultations to Discuss the Countervailing Duty Petition," dated May 9, 2019.

<sup>3</sup> See Memorandum, "Consultations with Government of Turkey Officials regarding the Countervailing Duty Petition on Certain Quartz Surface Products from the Republic of Turkey," dated May 24, 2019.



subject merchandise under the appropriate subheading of the Harmonized Tariff Schedule of the United States (HTSUS), as listed in the scope, and invited interested parties to submit comments on the CBP data as well as respondent selection.<sup>4</sup> We received no comments on the CBP data. On May 28, 2019, we initiated the CVD investigation on quartz surface products from Turkey.<sup>5</sup>

We stated in the *Initiation Notice* that, if appropriate, we intended to base the selection of mandatory respondents on CBP entry data for U.S. imports of quartz surface products from Turkey during the period of investigation (POI) under the HTSUS subheadings listed in the scope of the investigation.<sup>6</sup> Section 777A(e)(1) of the Act directs Commerce to calculate individual countervailable subsidy rates for each known producer/exporter of the subject merchandise. However, when faced with a large number of producers/exporters, and, if Commerce determines it is therefore not practicable to examine all companies, section 777A(e)(2)(A)(ii) of the Act and 19 CFR 351.204(c) give Commerce discretion to limit its examination to a reasonable number of the producers/exporters accounting for the largest volume of the subject merchandise that can reasonably be examined.

On June 21, 2019, pursuant to section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2), we selected Belenco Diş Ticaret A.Ş. (Belenco) as the mandatory respondent.<sup>7</sup> On June 21, 2019, we also issued the initial CVD questionnaire to the GOT with instructions to forward the questionnaire to Belenco.<sup>8</sup> On July 5, 2019, we received the respondent's company affiliation response,<sup>9</sup> and between August 9 and August 12, 2019, we received initial questionnaire responses from the GOT<sup>10</sup> and Belenco.<sup>11</sup>

On June 20, 2019, the petitioner requested that we postpone the preliminary determination in this investigation.<sup>12</sup> On June 28, 2019, the U.S. International Trade Commission (ITC) published in the *Federal Register* a notice of its affirmative determinations in the preliminary phase of the AD and CVD investigations concerning imports of quartz surface products from India and Turkey.<sup>13</sup>

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<sup>4</sup> See Memorandum, "Countervailing Duty Petition of Certain Quartz Surface Products from the Republic of Turkey: Release of Customs Data from U.S. Customs and Border Protection," dated May 22, 2019..

<sup>5</sup> See *Certain Quartz Surface Products from India and the Republic of Turkey: Initiation of Countervailing Duty Investigations*, 84 FR 25524 (June 3, 2019) (*Initiation Notice*) and accompanying Initiation Checklist.

<sup>6</sup> See *Initiation Notice*, 83 FR at 25527.

<sup>7</sup> See Memorandum, "Countervailing Duty Investigation of Certain Quartz Surface Products from the Republic of Turkey: Respondent Selection," dated June 21, 2019.

<sup>8</sup> See Letter, "Countervailing Duty Investigation of Certain Quartz Surface Products from the Republic of Turkey: Initial Questionnaire," dated June 21, 2019.

<sup>9</sup> See Belenco's Letter, "Quartz Surface Products from Turkey – Affiliation Response of Belenco dis Tikaret A.Ş.," dated July 5, 2019 (Belenco's Affiliation Response).

<sup>10</sup> See GOT's Letter, "Countervailing Duty Investigation of Certain Quartz Surface Products from the Republic of Turkey: Questionnaire Response of the Government of Turkey," dated August 9, 2019 (GOT's IQR).

<sup>11</sup> See Belenco's Letter, "Countervailing Duty Investigation of Certain Quartz Surface Products from the Republic of Turkey: Initial Questionnaire," dated August 12, 2019 (Belenco's IQR).

<sup>12</sup> See Petitioner's Letter, "Certain Quartz Surface Products from the Republic of Turkey: Request to Postpone Preliminary Determination," dated June 20, 2019 (Request for Postponement).

<sup>13</sup> See *Quartz Surface Products from India and Turkey*, 84 FR 31100 (June 28, 2019) (*ITC Preliminary Determination*); see also ITC publication 4919 (July 2019), Quartz Surface Products from India and Turkey, Invs. 701-TA-624-625 and 731-TA-1450-1451 (Preliminary) at page 1 (ITC Publication).

On July 1, 2019, the ITC notified Commerce of its affirmative preliminary determinations.<sup>14</sup>

Between September 3 and September 24, 2019, we issued supplemental questionnaires to Belenco<sup>15</sup> and the GOT,<sup>16</sup> and between September 5 and October 2, 2019, received timely responses from Belenco<sup>17</sup> and the GOT.<sup>18</sup>

On September 9, 2016, the petitioner submitted a benchmark factual information filing.<sup>19</sup> Belenco filed a rebuttal to the Petitioner's Benchmark Submission.<sup>20</sup>

On October 1, 2019, the petitioner requested that we align the final CVD determination in this investigation with the final determination in the companion AD investigation of quartz surface products from Turkey.<sup>21</sup>

## **B. Postponement of Preliminary Determination**

On July 3, 2019, we postponed the deadline for this preliminary determination until no later than 130 days after the initiation of the investigation, based on a request from the petitioner.<sup>22</sup> As such, we postponed the preliminary determination until October 7, 2019,<sup>23</sup> in accordance with sections 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).

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<sup>14</sup> See the ITC's Letter, dated July 1, 2019 (Notification of ITC Preliminary Determinations).

<sup>15</sup> See Commerce's Letters, "Countervailing Duty Investigation on Certain Quartz Surface Products from the Republic of Turkey: First Supplemental Questionnaire," dated September 3, 2019; "Countervailing Duty Investigation on Certain Quartz Surface Products from the Republic of Turkey: Second Supplemental Questionnaire," dated September 13, 2019; and "Countervailing Duty Investigation on Certain Quartz Surface Products from the Republic of Turkey: Third Supplemental Questionnaire," dated September 24, 2019.

<sup>16</sup> See Commerce's Letter, "Countervailing Duty Investigation on Certain Quartz Surface Products from the Republic of Turkey: First Supplemental Questionnaire," dated September 13, 2019.

<sup>17</sup> See Belenco's Letters, "Countervailing Duty Investigation of Certain Quartz Surface Products from the Republic of Turkey: Response to 1st Supplemental Questionnaire," dated September 5, 2019 (Belenco's SQR1); "Countervailing Duty Investigation of Certain Quartz Surface Products from the Republic of Turkey: Response to 2nd Supplemental Questionnaire," dated September 23, 2019 (Belenco's SQR2); "Countervailing Duty Investigation of Certain Quartz Surface Products from the Republic of Turkey: Response to 3rd Supplemental Questionnaire," dated September 27, 2019 (Belenco's SQR3); and "Countervailing Duty Investigation of Certain Quartz Surface Products from the Republic of Turkey: Response to Q.1a of 3rd Supplemental Questionnaire," dated October 2, 2019 (Belenco's SQR4).

<sup>18</sup> See GOT's Letter, "Countervailing Duty Investigation of Certain Quartz Surface Products from the Republic of Turkey: First Supplemental Questionnaire Response of the Government of Turkey," dated September 23, 2019 (GOT's SQR).

<sup>19</sup> See Petitioner's Letter, "Certain Quartz Surface Products from Turkey: Benchmark Factual Information," dated September 9, 2019.

<sup>20</sup> See Belenco's Letter, "Countervailing Duty Investigation of Certain Quartz Surface Products from the Republic of Turkey: Rebuttal to Petitioner's Factual Information Submission," dated September 19, 2019.

<sup>21</sup> See Petitioner's Letter, "Certain Quartz Surface Products from Turkey: Request to Align Determinations," dated October 1, 2019 (Request for Alignment).

<sup>22</sup> See *Certain Quartz Surface Products from India and the Republic of Turkey: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 84 FR 31839 (July 3, 2019) (*Preliminary Determination Postponement*); see also Request for Postponement.

<sup>23</sup> See *Preliminary Determination Postponement*.

### C. Period of Investigation

The POI is January 1, 2018, through December 31, 2018.

### III. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,<sup>24</sup> we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage.<sup>25</sup> We received several comments concerning the scope of the AD and CVD investigations of quartz surface products from India and Turkey. We are currently evaluating the scope comments filed by the interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determinations of the companion AD investigations, the deadline for which is December 4, 2019.<sup>26</sup> We will incorporate the scope decisions from the AD investigations into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in case and rebuttal briefs.

### IV. SCOPE OF THE INVESTIGATION

The merchandise covered by the investigation is certain quartz surface products. Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.*, quartz, quartz powder, cristobalite, glass powder) as well as a resin binder (*e.g.*, an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the investigation. However, the scope of the investigation only includes products where the silica content is greater than any other single material, by actual weight. Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of these investigation includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of this investigation includes, but is not limited to, other surfaces such as countertops, backsplashes, vanity tops, bar tops, work tops, tabletops, flooring, wall facing, shower surrounds, fire place surrounds, mantels, and tiles. Certain quartz surface products are covered by the investigation whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish.

In addition, quartz surface products are covered by the investigation whether or not they are imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If quartz surface products are imported attached to, or in conjunction with, such non-subject merchandise, only the quartz surface product is covered by the scope.

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<sup>24</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

<sup>25</sup> See *Initiation Notice*, 84 FR at 25524-25525.

<sup>26</sup> See *Certain Quartz Surface Products from India and the Republic of Turkey: Postponement of the Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 84 FR 52062 (October 1, 2019) (*AD Postponement Notice*).

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the quartz surface products.

The scope of the investigation does not cover quarried stone surface products, such as granite, marble, soapstone, or quartzite. Specifically excluded from the scope of the investigation are crushed glass surface products. Crushed glass surface products must meet each of the following criteria to qualify for this exclusion: (1) the crushed glass content is greater than any other single material, by actual weight; (2) there are pieces of crushed glass visible across the surface of the product; (3) at least some of the individual pieces of crushed glass that are visible across the surface are larger than 1 centimeter wide as measured at their widest cross-section (“Glass Pieces”); and (4) the distance between any single Glass Piece and the closest separate Glass Piece does not exceed three inches.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 6815.99.4070, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080, and 7016.90.1050. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

## **V. PRELIMINARY AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES**

The petitioner submitted information alleging that, pursuant to section 703(e)(1) of the Act, and 19 CFR 351.206, critical circumstances exist with respect to imports of quartz surface products from Turkey.<sup>27</sup> In accordance with 19 CFR 351.206(c)(2)(i), because the petitioner submitted a critical circumstances allegation 20 days before the scheduled date of this preliminary determination, Commerce must issue a preliminary critical circumstances determination no later than the date of the preliminary determination. Based on information provided by the petitioner,<sup>28</sup> and data placed on the record of this investigation by mandatory respondent Belenco,<sup>29</sup> Commerce preliminarily determines that critical circumstances exist with respect to imports of quartz surface products from Turkey.

Section 703(e)(1) of the Act provides that Commerce will determine that critical circumstances exist in CVD investigations if there is a reasonable basis to believe or suspect: (A) that “the alleged countervailable subsidy” is inconsistent with the Agreement on Subsidies and Countervailing Measures (SCM Agreement) of the World Trade Organization; and (B) that there

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<sup>27</sup> See Petitioner’s Letter, “Certain Quartz Surface Products from Turkey: Allegation of the Existence of Critical Circumstances,” dated September 17, 2019.

<sup>28</sup> *Id.*

<sup>29</sup> See Belenco’s Letter, “Quartz Surface Products from Turkey: Monthly U.S. Shipment Data for September 2018 to August 2019,” dated September 26, 2019.

have been massive imports of the subject merchandise over a relatively short period.

As discussed in the “Analysis of Programs” section below, we preliminarily determine that Belenco received countervailable benefits under certain programs that are contingent upon export performance. Therefore, we preliminarily determine that there is a reasonable basis to believe or suspect that there are programs in this investigation that are inconsistent with the SCM Agreement. Use of an export subsidy program is sufficient to meet the inconsistent-with-the-SCM-Agreement criterion under section 703(e)(1)(A) of the Act.<sup>30</sup>

In determining whether there are “massive imports” over a “relatively short period,” pursuant to section 703(e)(1)(B) and 19 CFR 351.206(i), Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the “base period”) to a comparable period of at least three months following the same date (*i.e.*, the “comparison period”). Commerce’s regulations provide that, generally, imports must increase by at least 15 percent during the “comparison period” to be considered “massive.”<sup>31</sup>

Therefore, to determine whether or not there has been a massive surge of imports with respect to the mandatory respondents, we have used a comparison period starting with the month the petition was filed (*i.e.*, May 2019) and ending with the most recent month for which we have shipping data on the record (*i.e.*, August 2019). We then selected a base period with the same number of months, ending in the month prior to the filing of the petition (*i.e.*, January 2019 through April 2019). Based on the analysis described above, Commerce preliminarily determines that Belenco had massive imports over a relatively short period.<sup>32</sup>

Consistent with our practice,<sup>33</sup> for “all other” exporters and producers of quartz surface products from Turkey, Commerce compared Global Trade Atlas (GTA) data for the base and comparison periods for which GTA data are currently available (*i.e.*, February 2019 through April 2019 and May 2019 through July 2019, respectively), excluding shipments reported by Belenco. Based on this analysis, we preliminarily determine that all other exporters and producers of quartz surface products had massive imports over a relatively short period.<sup>34</sup>

Thus, because we are issuing an affirmative preliminary determination that includes countervailable subsidies that are inconsistent with the SCM and because GTA data indicate that “massive shipments” occurred with respect to Belenco’s and to all-other companies’ imports of

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<sup>30</sup> See *Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Softwood Lumber Products from Canada*, 66 FR 43186, 43189-90 (August 17, 2001) unchanged in *Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order: Certain Softwood Lumber Products from Canada*, 67 FR 36070 (May 22, 2002)..

<sup>31</sup> See 19 CFR 351.206(h)(2).

<sup>32</sup> See Memorandum, “Preliminary Critical Circumstances Shipment Data Analysis,” dated concurrently with this memorandum (Critical Circumstances Memorandum).

<sup>33</sup> See, *e.g.*, *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Affirmative Countervailing Duty Determination Final Affirmative Critical Circumstances Determination*, 79 FR 54963 (September 15, 2014) and accompanying Issues and Decision Memorandum (IDM) at 4.

<sup>34</sup> See Critical Circumstances Memorandum.

quartz surface products from Turkey, we preliminarily determine that critical circumstances exist for these companies. Commerce will issue its final determination concerning critical circumstances when it issues its final CVD determination. All interested parties will have the opportunity to address this preliminary determination in case briefs submitted prior to the completion of the final CVD determination.

## **VI. INJURY TEST**

Because Turkey is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a U.S. industry. On June 24, 2019, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of quartz surface products from Turkey that are alleged to be sold at less than fair value and subsidized by the GOT.<sup>35</sup>

## **VII. ALIGNMENT**

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), and based on the petitioner’s request,<sup>36</sup> we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of quartz surface products from Turkey. Consequently, the final CVD determination will be signed on the same date as the final AD determination, which is currently scheduled to be due no later than February 18, 2020,<sup>37</sup> unless postponed.

## **VIII. SUBSIDIES VALUATION**

### **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.<sup>38</sup> In Commerce’s initial questionnaire to the GOT, we notified the respondents to this investigation that the AUL period is 15 years, on the basis of U.S. Internal Revenue Service Publication 946 (2018), “Appendix B – Table of Class Lives and Recovery Periods.”<sup>39</sup> No parties submitted comments challenging the proposed AUL period, and we therefore preliminarily determine that a 15-year period is appropriate to allocate benefits from non-recurring subsidies.

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

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<sup>35</sup> See *ITC Preliminary Determination*, 84 FR at 31100; see also ITC Publication.

<sup>36</sup> See Request for Alignment.

<sup>37</sup> See *AD Postponement Notice*.

<sup>38</sup> See 19 CFR 351.524(b).

<sup>39</sup> See IRS Publication 946 (dated February 15, 2019) at Appendix B. The 15-year period corresponds to asset class “32.3 – Manufacture of Other Stone and Clay Products;” see also Petition Volume V at Exhibit V-2 and page 2.

of the relevant sales value, then the benefits are allocated to the year of receipt rather than over the AUL. If the amount of the subsidies is greater than 0.5 of the relevant sales value, we used the standard grant allocation methodology described under 19 CFR 351.524(d)(1) to determine the amount of the exemption attributable to the POI.

## **B. Attribution of Subsidies**

In accordance with 19 CFR 351.525(b)(6)(i), Commerce normally attributes a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) provides additional rules for the attribution of subsidies received by respondents with cross-owned affiliates. 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. Further, 19 CFR 351.525(c) provides that benefits from subsidies provided to a trading company which exports subject merchandise shall be cumulated with benefits from subsidies provided to the firm producing the subject merchandise that is sold through the trading company, regardless of affiliation.

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 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 *CVD 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.<sup>40</sup>

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 (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>41</sup>

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<sup>40</sup> See *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

<sup>41</sup> See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).



Belenco responded to Commerce's questionnaire on behalf of itself and its Turkish parent company, Peker Yüzey Tasarıları Sanayi ve Tic. A.Ş. (Peker Yüzey).<sup>42</sup> Belenco is a wholly-owned subsidiary of Peker Yüzey. Because Belenco is directly owned by Peker Yüzey, they meet the definition of cross-ownership at 19 CFR 351.525(b)(6)(vi).<sup>43</sup> Further, in accordance with 19 CFR 351.525(b)(6)(iii), we attributed any benefits that Belenco and Peker Yüzey received in the POI to the consolidated total sales of Belenco and Peker Yüzey.

### **C. Denominators**

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce considers the basis for the respondents' receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondents' export or total sales, or portions thereof. As discussed in the "Programs Preliminarily Determined to be Countervailable" section and in Belenco's preliminary calculations memorandum, where a program is found to be countervailable as a domestic subsidy, we used the recipient's total product 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).

All sales used in the net subsidy rate calculations are net of inter-company sales. For a further discussion of the denominators used, see the Preliminary Analysis Memorandum.<sup>44</sup>

## **IX. BENCHMARKS AND INTEREST RATES**

Section 771(5)(E)(ii) of the Act provides that the benefit for a loan 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 during the period, Commerce "may use a national average interest rate for comparable commercial loans," pursuant to 19 CFR 351.505(a)(3)(ii).

Additionally, 19 CFR 351.505(a)(2)(ii) states that Commerce will not consider a loan provided by a government-owned special-purpose bank for purposes of calculating benchmark rates. In the absence of reported long-term loan interest rates by the respondents we use the above-discussed interest rates as discount rates for purposes of allocating non-recurring benefits over time pursuant to 19 CFR 351.524(d)(3)(i)(B).

The respondents did not have lira-denominated comparable commercial long-term loans in the

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<sup>42</sup> See Belenco's Affiliation Response at 5-6; *see also* Belenco's SQR1 at 1-4.

<sup>43</sup> See Belenco's Affiliation Response at 5-6; *see also* Belenco's SQR1 at 1-4.

<sup>44</sup> See Memorandum, "Certain Quartz Surface Products from the Republic of Turkey: Analysis and Calculations for the Preliminary Countervailing Duty Determination," dated concurrently with this memorandum (Preliminary Analysis Memorandum).

AUL;<sup>45</sup> therefore, we used national average long-term interest rates, pursuant to 19 CFR 351.505(a)(3)(ii), from *International Financial Statistics (IMF Statistics)*, a publication of the International Monetary Fund.<sup>46</sup>

Peker Yüzey received exemptions from import duties and valued added taxes (VAT) under the Regional Investment Incentive Scheme, which we determined to be non-recurring benefits in accordance with 19 CFR 351.524(c).<sup>47</sup> Thus, unless an exception applies, Commerce identifies an appropriate long-term interest rate for purposes of allocating the non-recurring benefits over time pursuant to 19 CFR 351.524(d)(1) and (d)(3).

Section 351.524(d)(3) of Commerce's regulations directs us regarding the selection of a discount rate or long-term lending rate for the purposes of allocating non-recurring benefits over time. The regulations provide several options in order of preference. The first among these is the cost of long-term fixed-rate loans of the firm in question, excluding any loans which have been determined to be countervailable, for each year in which nonrecurring subsidies have been received. The second option directs us to use the average cost of long-term, fixed-rate loans in the country in question. Because the respondents did not report any long-term fixed-rate commercial loans, we used the yearly average long-term lending rate in Turkey from *IMF Statistics*.<sup>48</sup>

## **X. ANALYSIS OF PROGRAMS**

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

### **A. Program Preliminarily Determined to be Countervailable**

#### **1. Foreign Fair Support**

Under the Foreign Fair Support program, the Ministry of Trade reimburses companies for certain expenditures related to participation in trade fairs abroad.<sup>49</sup> The purpose of this program is to support Turkish companies' participation in international trade fairs abroad and to contribute to the increase of exports by supporting exhibition participation of the companies held abroad and the promotional activities of the exhibition organizers.<sup>50</sup> The Foreign Fair Support program is regulated by the Communiqué on Supporting Participation in Fairs Abroad no. 2009/5.<sup>51</sup> This communiqué was prepared on the basis of the Money Credit and Coordination Board's Decree number 2009/11 of 23/12/2009, which was issued based on the "Decree of State Aid for Export," which entered into force with the Council of Ministers' Decision no. 94/6401 of 27/12/1994.<sup>52</sup>

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<sup>45</sup> See Belenco's IQR at Exhibit CVD-22.

<sup>46</sup> See Preliminary Analysis Memorandum.

<sup>47</sup> See Belenco's SQR2 at Exhibit CVDS-7.

<sup>48</sup> See Preliminary Analysis Memorandum.

<sup>49</sup> See GOT's SQR at 36.

<sup>50</sup> See Belenco's SQR at Exhibit CVD-39.

<sup>51</sup> See GOT's SQR at Exhibit 4.

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

The Communiqué on Supporting Participation in Fairs Abroad no. 2009/5 was replaced in 2017 by the “Decree on Supporting Participation to Fairs in Abroad” numbered 2017/4.<sup>53</sup> Peker Yüzey benefitted from this program.<sup>54</sup>

According to the Communiqué on Supporting Participation in Fairs Abroad no. 2009/5 and 2017/4, the support under the program is provided to Turkish Corporations that are members of the exporters’ associations and entities that will participate in trade fairs abroad.<sup>55</sup> The program provides reimbursement of up to 50 percent of eligible transportation services, exhibition booth fee/rent, and travel tickets of company representatives.<sup>56</sup>

We preliminarily determine that this is a financial contribution in the form of direct transfer of funds under section 771(5)(D)(i) of the Act, because Peker Yüzey received reimbursement from the Ministry of Trade for expenses covered by this program. We preliminarily determine that Peker Yüzey benefitted from Foreign Fair Support under section 771(5)(E) of the Act in the amount of the reimbursement for expenses incurred related to its participation in international trade fairs.<sup>57</sup> We preliminarily determine that the program is export specific within the meaning of section 771(5A)(A) and (B) of the Act, because it is provided to Turkish Corporations that are members of the exporters’ associations and entities that will participate in trade fairs abroad.<sup>58</sup>

After first performing the “0.5 percent test” of 19 CFR 351.524, for each year in the AUL in which the respondent received a benefit, we allocated this amount to the POI, in accordance with 19 CFR 351.524(d). To calculate the net countervailable subsidy rate attributable to the respondent, we divided the total POI benefit to Peker Yüzey by the respondents’ consolidated total sales during the POI. On this basis, we preliminarily find that the respondent received a net countervailable subsidy rate of 0.01 percent *ad valorem* for this program.<sup>59</sup>

## 2. Regional Investment Incentive Scheme (RIIS)

The GOT reported that the RIIS is one of four separate incentive schemes (*i.e.*, RIIS, Large Scale Investment Incentive Scheme, Strategic Investment Incentive Scheme, and General Investment Incentive Scheme) that fall under the umbrella of the Investment Incentive Program (IEP), which is designed and implemented by the Ministry of Industry and Technology and is based on the provisions of the Council of Ministers’ Decree No. 2012/3305, in force since June 2012.<sup>60</sup> Investment Incentive Certificates (IIC) are issued to companies that apply and meet the criteria pursuant to Decree No. 2012/3305.<sup>61</sup> IIC holders are eligible to receive different benefits under the various incentive schemes. According to the GOT, the purpose of the IEP is to reduce

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<sup>53</sup> See GOT’s IQR at 37.

<sup>54</sup> See Belenco IQR at 59.

<sup>55</sup> See GOT’s SQR at Exhibit 4; *see also* Belenco’s SQR at Exhibit CVD-39.

<sup>56</sup> See GOT’s SQR at 36 and Exhibit 4 at Article 5.

<sup>57</sup> See GOT’s IQR at 125-128.

<sup>58</sup> We intend to issue a supplemental questionnaire requesting further information regarding this program to cure issues with the respondent’s and GOT’s responses to this program.

<sup>59</sup> See Preliminary Analysis Memorandum.

<sup>60</sup> See GOT’s IQR at 52 and Exhibit 7.

<sup>61</sup> See Belenco’s IQR at 25.

regional development disparities by encouraging regional, large scale, and strategic investments.<sup>62</sup>

The programs available to IIC holders under the RIIS include, *inter alia*, Customs Duty Exemption, VAT Exemption, Interest Support, Social Security Premium Support (Employer's Share), Social Security Premium Support (Employee's Share), and Tax Reduction.<sup>63</sup> In order to be eligible for an IIC under the RIIS companies must meet the regional and sectoral criteria outlined in Article 4 of Decree No. 2012/3305. Under the RIIS, the 81 provinces of Turkey were grouped according to their socio-economic development levels into six regions. The types and amounts of incentives available vary by region.<sup>64</sup> Peker Yüzey is located in Manisa province, which is located in Region 3.<sup>65</sup> Annexes 2-A and 2-B of Decree No. 2012/3305 outline the sectors eligible for incentives in each province and the minimum investment required, by region, for each eligible sector. In Region 3, the minimum investment required for a company in Peker Yüzey's sector was 2 million TRY.<sup>66</sup> Peker Yüzey was issued three IICs under the RIIS during the AUL period. Each certificate lists that Peker Yüzey is eligible to use, *inter alia*, Social Security Premium Support (Employer's Share), VAT and Customs Duty Exemptions, and Tax Reduction programs.<sup>67</sup>

a. Regional Investment Incentive Scheme – Social Security Support

Under the Social Security Premium Support element of this program, the Ministry of Industry and Technology will cover the employer's share of the social security premium paid for any additional employment created by a project with an IIC.<sup>68</sup> A company becomes eligible for this support after the GOT issues a competition visa for the project covered by the IIC.<sup>69</sup> Since Peker Yüzey is located in region three,<sup>70</sup> the duration of implementation for Social Security Premium Support is five years pursuant to Decree No. 2009/15199.<sup>71</sup> However, two of the three IICs are specified for a period of six years rather than five years, pursuant to Article 18 of Decree No. 2012/3305, because Peker Yüzey's investment was realized in an Organized Industrial Zone (OIZ).<sup>72</sup>

In order to obtain this support, Peker Yüzey reported that it submitted monthly e-declaration forms to the Social Security Institution and demonstrated the records for the social security premium vouchers.<sup>73</sup> Peker Yüzey reported benefits for social security premium support Act Number 25510 and social security premium support Act Number 16322 on monthly vouchers to

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<sup>62</sup> See GOT's IQR at 52.

<sup>63</sup> *Id.* at 53-54.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at Exhibit 7.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.* at 56 and Exhibit 8.

<sup>68</sup> *Id.* at 53.

<sup>69</sup> *Id.* at 53.

<sup>70</sup> See Belenco's IQR at 27. See also GOT's IQR at Exhibit 7 at Annex-1.

<sup>71</sup> See GOT's IQR at Exhibit 7. See also Belenco's SQR3 at 3.

<sup>72</sup> See Belenco's IQR at 43-44 and Exhibit CVD-17, Exhibit CVD-18, and Exhibit CVD-19; see also GOT's IQR at Exhibit 7 and Belenco's SQR3 at 2-3.

<sup>73</sup> See Belenco's IQR at 46.

the Social Security Institution.<sup>74</sup> The Social Security Premium Support Act Number 25510 is regulated by the “Social Insurance and General Healthcare Law” No. 5510 published in 2006.<sup>75</sup> Social Security Premium Support Act Number 16322 benefits are subject to regulations specified by “Act No: 16322 - 26322 Incentives Implemented According to Decree Regarding State Aid on Investments.”<sup>76</sup>

We preliminarily determine that this is a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act, because the amount corresponding to the employer’s share of the social security premium on legal minimum wage paid by the IIC holder is covered by the Ministry of Industry and Technology.<sup>77</sup> We find that Peker Yüzey benefitted in the amount corresponding to the employer’s share of the social security premium covered by the Ministry of Industry and Technology pursuant to section 771(5)(E) of the Act. We also find that this program is specific under sections 771(5A)(D)(i) and (iv) of the Act, because, as discussed above, the program is limited to firms making a minimum investment and to firms located in certain geographic regions.<sup>78</sup>

For purposes of calculating the countervailable subsidy rate, we took the sum of the benefits from the monthly vouchers submitted to the Social Security Institution during the POI and divided this sum by the respondents’ consolidated total sales reported during the POI. We preliminarily determine that the countervailable subsidy rate is 0.08 percent *ad valorem* for this program.<sup>79</sup>

#### b. Regional Investment Incentive Scheme – Tax Reduction

Under the Tax Reduction portion of the RIIS, a company’s corporate tax rate is reduced by the discount rate indicated in Article 15 of the Council of Ministers’ Decree No. 2012/3305. The IIC holder is eligible to receive this benefit until the total amount of tax reduction equals the contribution rate cap specified in Article 15 of the Council of Ministers’ Decree No. 2012/3305.<sup>80</sup> Peker Yüzey benefitted from the tax reduction associated with IIC number 98476 during the POI, which stipulates a corporate tax deduction rate of 80 percent and a contribution rate cap of 40 percent of the total investment specified by that IIC.<sup>81</sup>

We find that the benefits under this program constitute a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act in the amount of savings. The reduction provides a benefit in the amount of the tax savings to the company pursuant to

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<sup>74</sup> *Id.* at Exhibit CVD-38.

<sup>75</sup> *Id.* at 45 and Exhibit CVD-33.

<sup>76</sup> *Id.* at 42.

<sup>77</sup> See GOT’s IQR at 53 and Exhibit 7.

<sup>78</sup> See GOT’s IQR at Exhibit 7.

<sup>79</sup> See Preliminary Analysis Memorandum.

<sup>80</sup> See GOT’s IQR at Exhibit 7.

<sup>81</sup> See Belenco’s IQR at 34 and Exhibit CVD-17.

section 771(5)(E) of the Act. We also find that this program is specific under sections 771(5A)(D)(i) and (iv) of the Act, because, as discussed above, the program is limited to firms making a minimum investment and to firms located in certain geographic regions.<sup>82</sup>

To calculate the benefit, we calculated the amount of tax that Peker Yüzey would have paid on its tax return filed during the POI in the absence of this program and compared that amount with the amount of taxes that Peker Yüzey did pay on the tax return filed during the POI. The difference between the two equals the benefit to Peker Yüzey under this program during the POI. To calculate a subsidy rate, we divided the POI benefit by the respondents' consolidated POI sales. On this basis, we preliminarily determine that the respondent received a net countervailable subsidy rate of 2.27 percent *ad valorem* for this program.<sup>83</sup>

c. Regional Investment Incentive Scheme – VAT and Customs Duty Exemptions

Under this program, investment machinery and equipment imported and/or locally provided within the scope of an IIC are exempted from customs duties and VAT. Article 4 of the Council of Ministers' Decree No. 2012/3305 provides that IIC holders are exempt from customs duties and VAT on equipment covered by the IIC.<sup>84</sup> Articles 9 and 10 of Decree No. 2012/3305 detail the requirements of these exemptions.<sup>85</sup>

We find that the benefits under this program constitute a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act in the amount of customs duty and tax savings. The reduction provides a benefit in the amount of the customs duty and tax savings to the company pursuant to section 771(5)(E) of the Act. We also find that this program is specific under sections 771(5A)(D)(i) and (iv) of the Act, because, as discussed above, the program is limited to firms making a minimum investment and to firms located in certain geographic regions.<sup>86</sup>

Commerce previously determined in *Welded Line Pipe from Turkey 2015*, that under the IEP, exempted import duties and VAT remain payable to the GOT, with interest, if the exempted company fails its final onsite inspection by the GOT to close out the relevant investment incentive certificate and issue a "completion visa."<sup>87</sup> Thus, pending a successful close-out of the investment incentive certificate, the company continues to be liable for the exempted duties and VAT.<sup>88</sup> It is Commerce's practice to treat any balance on an unpaid liability, that may be waived in the future, as a contingent-liability interest-free loan pursuant to 19 CFR 351.505(d)(1). Accordingly, since the unpaid customs duties and VAT under the program are a liability contingent on subsequent events, we regard the unpaid amounts as an interest-free contingent-liability loan. Accordingly, we find that the amount of interest the respondent would have paid during the POI, had it borrowed the full amount of the duty and VAT exemption at the time of

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<sup>82</sup> See GOT's IQR at Exhibit 7.

<sup>83</sup> See Preliminary Analysis Memorandum.

<sup>84</sup> See GOT's IQR at Exhibit 7.

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

<sup>86</sup> *Id.*

<sup>87</sup> See *Welded Line Pipe from the Republic of Turkey: Final Results of Countervailing Duty Administrative Review; 2015*, 83 FR 34113 (July 19, 2018) (*Welded Line Pipe from Turkey 2015*), and accompanying IDM at 7-11.

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

importation (or purchase for domestic goods), to constitute the first benefit under the customs duty and VAT exemption program.

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

Peker Yüzey reported purchases under this program during the AUL period and during the POI, and accordingly was eligible to be exempted from customs duties and/or VAT on those purchases. The respondent reported purchases pursuant to an IIC not yet completed and pursuant to an IIC completed during the POI. Therefore, the import duty and VAT exemptions received by Peker Yüzey constitute deferrals on the payment of the import duties and VAT during the POI, *i.e.*, contingent liabilities within the meaning of 19 CFR 351.505(d) for all or part of the POI. Therefore, we are calculating a subsidy rate based on the interest otherwise payable on the amounts outstanding during the POI before completion.<sup>89</sup>

Record evidence demonstrates that the time period between exempted purchases under the program and the final waiver of liabilities, in the form of a “completion visa” issued by the GOT, may span a certain number of years.<sup>90</sup> As such, pursuant to 19 CFR 351.505(d)(1), the benchmark for measuring this benefit is a long-term interest rate, because the event upon which repayment of the duties is contingent (*i.e.*, the date of expiration of the time period to satisfy the contingency) occurs at a point in time that is more than one year after the date of purchase or importation of the capital goods. Accordingly, for the benchmark interest rate, we used the long-term interest rate as discussed in the “Benchmarks Interest Rates” section, above. We calculated a daily interest rate based on the long-term benchmark interest rate for the year in which the capital good was imported (or purchased if it was a domestic purchase). We then multiplied the daily rate by the number of days the loan was outstanding during the POI, and by the amount of unpaid customs duties and VAT under Peker Yüzey's investment incentive certificates. We summed these amounts to determine the total benefit from the interest free liability. For certificates completed during the AUL and the POI, we calculated an additional benefit in the amount of the total import duty and VAT waived for the duration of each certificate pursuant to completion. After first performing the “0.5 percent test” of 19 CFR 351.524, we allocated this amount to the POI in accordance with 19 CFR 351.524(d).

To calculate the net countervailable subsidy rate attributable to the respondent, we divided the total POI benefit to Peker Yüzey, determined as discussed above, by the consolidated total sales

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<sup>89</sup> See *Welded Line Pipe from Turkey 2015* IDM at Comment 1.

<sup>90</sup> See Belenco's SQR2 at Exhibit CVDS-7.

during the POI. On this basis, we preliminarily find that the respondent received a net countervailable subsidy rate of 1.40 percent *ad valorem* for this program.<sup>91</sup>

### 3. Regional Development Subsidies – Exemption of Property Tax

Turkey's Ministry of Finance provides a property tax exemption on buildings.<sup>92</sup> Peker Yüzey received an exemption from property tax for buildings in OIZs, Free Trade Zones (FTZs), Industry Regions, Technology Development Regions, and industry areas.<sup>93</sup> Article 4(m) of Property Tax Law No. 1319 establishes that buildings in OIZs, FTZs, Industry Regions, Technology Development Regions, and industry areas are exempted from the property tax permanently as of July 2017.<sup>94</sup> Commerce found a previous iteration of this program to be countervailable in *Welded Line Pipe from Turkey*.<sup>95</sup>

We preliminarily find that Peker Yüzey benefitted from property tax exemption under section 771(5)(E) in the amount of the property taxes that it did not pay. We preliminarily find that this program is specific under section 771(5A)(D)(iv) because it is limited to companies located in OIZs, FTZs, Industry Regions, Technology Development Regions, and industry areas.<sup>96</sup> We preliminarily find that this program constitutes a financial contribution in the form of revenue forgone within the meaning of 771(5)(D)(ii).

To calculate the benefit from the tax relief that Peker Yüzey received under the property tax exemption program, we calculated the total amount of property tax Peker Yüzey would have paid during the POI in the absence of this program.<sup>97</sup> We divided the amount of the benefit by the respondents' consolidated total sales during the POI. On this basis, we preliminarily find that the respondent received a net countervailable subsidy rate of 0.01 percent *ad valorem* for this program.<sup>98</sup>

### 4. Support for Foreign Market Research

Under the foreign market research program, transportation and accommodation expenses of employees of companies during market research trips abroad are supported partially by the Ministry of Trade.<sup>99</sup> Seventy percent of the transportation and accommodation expenses of employees of companies are supported up to a maximum amount of 5,000 U.S. dollars per every foreign market research trip.<sup>100</sup> A maximum of two company employees for up to ten foreign

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<sup>91</sup> See Preliminary Analysis Memorandum.

<sup>92</sup> See Belenco's IQR at 51.

<sup>93</sup> See Belenco's IQR at 51-52.

<sup>94</sup> See GOT's IQR at 74-75 and Exhibit 10.

<sup>95</sup> See *Welded Line Pipe From the Republic of Turkey: Final Affirmative Countervailing Duty Determination*; 80 FR 61371 (October 13, 2015) (*Welded Line Pipe from Turkey*) and accompanying IDM at 24.

<sup>96</sup> See Belenco's IQR at 51-52.

<sup>97</sup> See Belenco's SQR2 at 13.

<sup>98</sup> See Preliminary Analysis Memorandum.

<sup>99</sup> See GOT's IQR at 125 and Exhibit 14.

<sup>100</sup> See GOT's IQR at 125-126.



market research trips per company are supported each year.<sup>101</sup> The GOT reported that the purpose of the program is to support Turkish companies' market research trips abroad.<sup>102</sup> The foreign market research program is regulated by the Communiqué on Market Research and Market Access Support No. 2011/1 published in March 2011.<sup>103</sup> Belenco reported vouchers demonstrating the total amount Belenco and Peker Yüzey received under the Foreign Market Research Program.<sup>104</sup>

We preliminarily determine that this is a financial contribution in the form of direct transfer of funds for both Belenco and Peker Yüzey under section 771(5)(D)(i) of the Act because both Belenco and Peker Yüzey received a benefit under the program that is remitted to the respective company's account during the POI.<sup>105</sup> We preliminarily find that both Belenco and Peker Yüzey benefitted from support from foreign market research under section 771(5)(E) of the Act in the amount of the transportation and accommodation expenses for company employees during market research trips abroad that is supported partially by the Ministry of Trade.<sup>106</sup>

Consistent with *Olives from Spain* regarding a similar program,<sup>107</sup> we preliminarily determine that the program is export specific within the meaning of section 771(5A)(A) and (B) of the Act because the respondents were reimbursed for expenses incurred for foreign market research, activities by which companies seek to expand their export sales.<sup>108</sup>

After first performing the "0.5 percent test" of 19 CFR 351.524, for each year in the AUL in which the respondents received a benefit, we allocated this amount to the POI in accordance with 19 CFR 351.524(d). To calculate the net countervailable subsidy rate attributable to the respondents, we divided the total POI benefit to Peker Yüzey by the respondents' consolidated total sales during the POI. On this basis, we preliminarily find that the respondent received a net countervailable subsidy rate of 0.01 percent ad valorem for this program.<sup>109</sup>

## 5. Tax Incentives for Research and Development Activities

The GOT reported research and development (R&D) incentives are available to support R&D activities (e.g., support for development of technological knowledge and innovation in product and production processes).<sup>110</sup> These incentives are based on Law No. 5746, the Law on Supporting Research, Development and Design Activities, which has been in force since April 2008.<sup>111</sup> The support elements provided under Law No. 5746 are "R&D and Design

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<sup>101</sup> *Id.*

<sup>102</sup> See GOT's IQR at 125.

<sup>103</sup> See Belenco's IQR at 60; see also GOT's IQR at 126 and Exhibit 14.

<sup>104</sup> See Belenco's SQR2 at 15 and Exhibit CVDS-16.

<sup>105</sup> See GOT's IQR at 127-128; see also Belenco's IQR at 62.

<sup>106</sup> See GOT's IQR at 125-128.

<sup>107</sup> See *Ripe Olives from Spain: Final Affirmative Countervailing Duty Determination*; 83 FR 28186 (June 18, 2018) (*Olives from Spain*) and accompanying IDM at 14-15.

<sup>108</sup> We intend to issue a supplemental questionnaire requesting further information regarding this program to cure issues with the respondent's and GOT's responses to this program.

<sup>109</sup> See Preliminary Analysis Memorandum.

<sup>110</sup> See GOT's IQR at 16.

<sup>111</sup> See GOT's IQR at 16 and Exhibit 6.

Allowance”, “Income Tax Withholding Support”, “Insurance Premium Support”, and “Stamp Tax Exemption.” Peker Yüzey was eligible for the incentives under this program because it was approved as an R&D center on April 17, 2018.<sup>112</sup> A company must apply to be designated as an approved R&D center and be granted an R&D center certificate pursuant to Article 15 of notice number 26953 published July 2008 in the Official Journal.<sup>113</sup> Peker Yüzey received benefits under the R&D and Design Allowance and Insurance Premium Support elements of this program during the POI.<sup>114</sup>

The R&D and Design Allowance program concerns a deduction from taxable income. Peker Yüzey was first eligible to claim this benefit on its 2018 corporate tax return, which was filed in 2019 (*i.e.*, outside of the POI).<sup>115</sup> Peker Yüzey was not eligible for and did not claim this benefit on its 2017 corporate tax return filed during the POI.<sup>116</sup> Consistent with 19 CFR 351.509(b)(1), Commerce preliminarily finds that the R&D and Design Allowance element of this program was not used in the POI.

Under the Insurance Premium Support element of this program, half of the employer’s share of insurance premiums for certain R&D personnel is supported by the Ministry of Treasury and Finance.<sup>117</sup> Pursuant to Article 3(3) of Law No. 5746, incentives under the Insurance Premium Support element are available to technology centers, R&D centers, design centers, R&D projects, design projects, pre-competition cooperation projects and techno-initiative capital.<sup>118</sup> Peker Yüzey was eligible for this program during the POI because it was approved by the Ministry of Industry and Technology as an R&D center on April 17, 2018.<sup>119</sup> In order to receive support Peker Yüzey must submit an e-declaration to the Social Security Institution on a monthly basis.<sup>120</sup>

We preliminarily determine that this support constitutes a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act because of the tax reduction received for R&D center personnel. The reduction provides a benefit in the amount of the tax savings to the company pursuant to section 771(5)(E) of the Act. We preliminarily find that the program is specific according to section 771(5A)(D)(i) of the Act because the number of enterprises access to the program is limited.

To calculate the benefit, we summed the total of the monthly vouchers to the Social Security Institution that the respondents submitted during the POI.<sup>121</sup> We then calculated the net subsidy rate by dividing the POI benefit by the respondents’ consolidated sales during the POI. On this

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<sup>112</sup> See Belenco’s IQR at 15 and Exhibit CVD-14.

<sup>113</sup> See Belenco’s IQR at 15 and Exhibit CVD-13.

<sup>114</sup> See Belenco’s SQR2 at 7.

<sup>115</sup> See Belenco’s SQR2 at 5.

<sup>116</sup> See Belenco’s IQR at Exhibit CVD-6.2.

<sup>117</sup> See GOT’s IQR at 16.

<sup>118</sup> See GOT’s IQR at Exhibit 6.

<sup>119</sup> See Belenco’s SQR2 at 7.

<sup>120</sup> See Belenco’s IQR at 76.

<sup>121</sup> See Belenco’s IQR at Exhibit CVD-38.

basis, we preliminarily find that the respondent received a net countervailable subsidy rate of 0.03 percent *ad valorem* for this program.<sup>122</sup>

## **B. Programs Preliminarily Determined To Not Confer a Measurable Benefit During the POI**

Belenco and Peker Yüzey 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 POI; or (2) if allocable to the POI, are less than 0.005 percent *ad valorem* in the POI when attributed to the respondent's applicable sales as discussed above in the "Attribution of Subsidies" section above.<sup>123</sup> Consistent with Commerce's practice, we have not included these programs in our preliminary subsidy rate calculations.

1. Environment Support
2. Insurance Premium Support for Employer's Share Law No. 6545
3. Local Fair Support
4. Patent Support
5. Regional Investment Incentive Scheme – Interest Support
6. Social Security Premium Support Act No. 4857
7. Support for Collective Memberships to E-Business/Commerce Website Program
8. Trademark Registry Support

## **C. Programs Preliminarily Found to be Not Countervailable**

1. Insurance Premium Support for Employer's Share Law No. 6111

This program was not alleged by the petitioner, but Belenco and Peker Yüzey reported they received benefits under this program in its questionnaire response.<sup>124</sup> The GOT also provided a response with respect to this program.<sup>125</sup>

According to the GOT, this program was established in March 2011 by Unemployment Insurance Law 4447, which was appended by Law 6111.<sup>126</sup> The Social Security Institution administers this program.<sup>127</sup> The purpose of the program is to increase the employment of young people, women and vocational proficiency certificate holders by reducing the amount of insurance premium shares covered by employers.<sup>128</sup>

Based on the information on the record, we preliminarily find that this program is not specific within the meaning of sections 771(5A)(A)-(D) of the Act. We preliminarily find that the

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<sup>122</sup> See Preliminary Analysis Memorandum.

<sup>123</sup> *Id.*

<sup>124</sup> See Belenco's SQR2 at 15-16.

<sup>125</sup> See GOT's IQR at 87.

<sup>126</sup> See Belenco's SQR2 at 16.

<sup>127</sup> *Id.* at 17.

<sup>128</sup> *Id.* at 16-17.

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 *de facto* specific because it 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 premium support program within the meaning of section 771(5A)(D)(iii) of the Act.<sup>129</sup> 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 POI.

## 2. Insurance Premium Support for Employer's Share Law No. 7103

This program was not alleged by the petitioner, but Belenco and Peker Yüzey received benefits under this program in its questionnaire response.<sup>130</sup> The GOT also provided a response with respect to this program.<sup>131</sup>

According to the GOT, this program was established in March 2018 under Law No. 7103 as a provision added to Law 4447; under Turkish law, the program took effect on January 1, 2018.<sup>132</sup> The Social Security Institution of the GOT administers this program.<sup>133</sup> The purpose of this program is to support all companies that hire new employees who were previously unemployed by reducing the cost of the insurance premiums paid by employers.<sup>134</sup>

We preliminarily find, based on the record information, that the program is not specific within the meaning of sections 771(5A)(A)-(C) of the Act. We 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 *de facto* specific because it not is 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 premium support program within the meaning of section 771(5A)(D)(iii) of the Act.<sup>135</sup> 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 POI.

## 3. Social Security Premium Support Act No. 5510

Belenco self-reported that, according to “Social Security and General Health Insurance Law” No. 5510, employers may deduct five percent of their share of social security payments, provided that they file all of their Social Security documents and pay all of their Social Security premiums

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<sup>129</sup> See GOT's IQR at 96-99.

<sup>130</sup> See Belenco's IQR at 86-89.

<sup>131</sup> See GOT's IQR at 101-113.

<sup>132</sup> *Id.* at 102.

<sup>133</sup> *Id.*

<sup>134</sup> *Id.* at 101.

<sup>135</sup> *Id.* at 108-112.

on a timely basis and they have no debt or other outstanding obligations to the Social Security Administration.<sup>136</sup>

In *Pasta from Turkey 2014 AR* and *Pipe and Tube from Turkey 2011 AR*, Commerce found that this program is not countervailable because the eligibility criteria under the program do not give rise to a specific subsidy under section 771(5A) of the Act.<sup>137</sup> We preliminarily find, based on the record information, that the program is not specific within the meaning of sections 771(5A)(A)-(C) of the Act. We also preliminarily find that the program is 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 *de facto* specific because it 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 premium support program within the meaning of section 771(5A)(D)(iii) of the Act.<sup>138</sup> 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 POI.

#### **D. Programs Preliminarily Determined To Be Not Used**

We preliminarily determine that respondents did not apply for or receive benefits during the POI under the following programs:

- Credit Program for Participating to Overseas Trade Fairs
- Deductions from Taxable Income for Export Revenue
- Export Buyer's Credits<sup>139</sup>
- Export-Oriented Business Investment Loan
- Foreign Trade Companies Short-Term Export Credits Program
- General Investment Incentive Scheme
- Investment Credit for Export
- Post Shipment Rediscount Credit Program
- Pre-Export Credit Program
- R&D Grants

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<sup>136</sup> See Belenco's IQR at 78-79.

<sup>137</sup> See *Pasta from Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2014*, 81 FR 52825 (August 10, 2016), and accompanying Preliminary Decision Memorandum at 8, unchanged in *Pasta from Turkey: Final Results of Countervailing Duty Administrative Review; 2014*, 81 FR 90775 (December 15, 2016) (*Pasta from Turkey 2014 AR*); see also *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Notice of Court Decision Not in Harmony With Final Results of Countervailing Duty Administrative Review and Notice of Amended Final Results of Countervailing Duty Administrative Review; 2011*, 80 FR 43709 (July 23, 2015), amending *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 and Tube from Turkey 2011 AR*), and accompanying IDM at 19-20.

<sup>138</sup> See GOT's SQR at 10-14.

<sup>139</sup> Although we preliminarily determine that the respondents did not use this program, we intend to issue a supplemental questionnaire to the GOT requesting further information regarding this program, and will evaluate the countervailability of this program for our final determination, if it is found to provide measurable benefits.

- Rediscount Credit Program (Pre-Shipment Export Credit Program)
- Regional Development Subsidies - Exemption of Income Tax on Wages and Salaries
- Regional Development Subsidies - Provision of Land for LTAR
- Regional Investment Incentive Scheme - Income Tax Withholding
- Regional Investment Incentive Scheme - VAT Refund
- Specific Export Credit Program

## **XI. DISCLOSURE AND PUBLIC COMMENT**

Commerce intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.<sup>140</sup> Case briefs may be submitted to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) no later than seven days after the date on which the last verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.<sup>141</sup>

Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.<sup>142</sup> This summary should be limited to five pages total, including footnotes. Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.<sup>143</sup> Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. Prior to the date of the hearing, Commerce will contact all parties that submitted case or rebuttal briefs to determine if they wish to participate in the hearing. Commerce will then distribute a hearing schedule to the parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs.

Parties must file their case and rebuttal briefs, and any requests for a hearing, electronically using ACCESS.<sup>144</sup> Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,<sup>145</sup> on the due dates established above.

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<sup>140</sup> See 19 CFR 351.224(b).

<sup>141</sup> See 19 CFR 351.309(c)(1)(i) and (d)(1).

<sup>142</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>143</sup> See 19 CFR 351.310(c).

<sup>144</sup> See 19 CFR 351.303(b)(2)(i).

<sup>145</sup> See 19 CFR 351.303(b)(1).

## **XII. CONCLUSION**

We recommend that you approve the preliminary findings described above.



\_\_\_\_\_  
Agree



\_\_\_\_\_  
Disagree

10/7/2019

**X** 

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Signed by: JEFFREY KESSLER  
Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance