



C-489-819  
Sunset Review  
**Public Document**  
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January 22, 2020

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

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

**SUBJECT:** Issues and Decision Memorandum for the Final Results of  
the Expedited First Sunset Review of the Countervailing  
Duty Order on Steel Concrete Reinforcing Bar from the  
Republic of Turkey

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## I. SUMMARY

We analyzed the substantive responses provided by the domestic interested parties<sup>1</sup> and the Government of the Republic of Turkey (GOT) in the first sunset review of the countervailing duty (CVD) order on steel concrete reinforcing bar (rebar) from Turkey.<sup>2</sup> We did not receive a substantive response from any Turkish producer or exporter of subject merchandise.<sup>3</sup> Accordingly, we conducted an expedited (120-day) sunset review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(C)(2). We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. The following is a complete list of the issues that we address in this expedited review:

1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
2. Net Countervailable Subsidy Rates Likely to Prevail
3. Nature of the Subsidy

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<sup>1</sup> The domestic interested parties are the Rebar Trade Action Coalition (RTAC) and its individual members: Nucor Corporation; Gerdau Ameristeel US Inc.; Commercial Metals Company; and Steel Dynamics, Inc. *See* Domestic Interested Parties’ Letter, “Steel Concrete Reinforcing Bar from the Republic of Turkey: Substantive Response to Notice of Initiation,” dated October 30, 2019 (Domestic Interested Parties’ Substantive Response).

<sup>2</sup> *Id.*; *see also* GOT’s Letter, “Substantive Response of the Government of the Republic of Turkey in the First Sunset Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar,” dated October 30, 2019 (GOT’s Substantive Response).

<sup>3</sup> *See* 19 CFR 351.218(e)(1)(A).

## II. BACKGROUND

On November 6, 2014, the Department of Commerce (Commerce) published the CVD order on rebar from Turkey in the *Federal Register*.<sup>4</sup> On October 1, 2019, Commerce initiated the first sunset review of the *Order*, pursuant to section 751(c) of the Act.<sup>5</sup> On October 16, 2019, we received a notice of intent to participate in the sunset review from the domestic interested parties.<sup>6</sup> The domestic interested parties claimed interested party status under section 771(9)(F) of the Act as an association, a majority of whose members is composed of interested parties within the meaning of section 771(9)(C) – a manufacturer of the domestic like product.<sup>7</sup>

On October 30, 2019, we received adequate substantive responses to the *Initiation Notice* from the domestic interested parties and the GOT within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>8</sup> We did not receive a substantive response from any Turkish producer or exporter of subject merchandise.<sup>9</sup>

On November 22, 2019, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.<sup>10</sup> Accordingly, in accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), we conducted an expedited (120-day) sunset review of the *Order*.

## III. SCOPE OF THE ORDER

The merchandise covered by the *Order* is steel concrete reinforcing bar imported in either straight length or coil form (rebar) regardless of metallurgy, length, diameter, or grade. The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) primarily under item numbers 7213.10.0000, 7214.20.0000, and 7228.30.8010,

The subject merchandise may also enter under other HTSUS numbers including 7215.90.1000, 7215.90.5000, 7221.00.0015, 7221.00.0030, 7221.00.0045, 7222.11.0001, 7222.11.0057, 7222.11.0059, 7222.30.0001, 7227.20.0080, 7227.90.6085, 7228.20.1000, and 7228.60.6000. Specifically excluded are plain rounds (*i.e.*, non-deformed or smooth rebar). Also excluded from the scope is deformed steel wire meeting ASTM A1064/A1064M with no bar markings (*e.g.*, mill mark, size, or grade) and without being subject to an elongation test. HTSUS numbers are

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<sup>4</sup> See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Countervailing Duty Order*, 79 FR 65926, 65927 (November 6, 2014) (*Order*).

<sup>5</sup> See *Initiation of Five-Year (Sunset) Reviews*, 84 FR 52067 (October 1, 2019) (*Initiation Notice*).

<sup>6</sup> See RTAC's Letter, "Steel Concrete Reinforcing Bars from the Republic of Turkey: Notice of Intent to Participate in Sunset Review," dated October 16, 2019.

<sup>7</sup> *Id.* at 2.

<sup>8</sup> See Domestic Interested Parties' Substantive Response; and GOT's Substantive Response.

<sup>9</sup> See 19 CFR 351.218(e)(1)(A) (Commerce "normally will conclude that respondent interested parties have provided adequate response to a notice of initiation where it receives complete substantive responses... from respondent interested parties accounting on average for more than 50 percent, on a volume basis (or value basis, if appropriate), of the total exports of subject merchandise to the United States over the five calendar years preceding the year of publication of the notice of initiation.")

<sup>10</sup> See Commerce's Letter, "Sunset Review Initiated on October 1, 2019," dated November 22, 2019.

provided for convenience and customs purposes; however, the written description of the scope remains dispositive.

#### IV. HISTORY OF THE ORDER

On September 15, 2014, Commerce published the final determination in the CVD investigation of rebar from Turkey.<sup>11</sup> Commerce determined that countervailable subsidies within the meaning of section 701 of the Act were being provided by the GOT to Turkish manufacturers, producers, and exporters of rebar. Commerce found the following net subsidy rates:

Manufacturers/Producers/Exporters	Net Countervailable Subsidy (percent)
Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas)	Excluded
Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas)	1.25
All Others	1.25 <sup>12</sup>

The following four programs were found to confer countervailable subsidies:

1. Provision of Natural Gas for Less Than Adequate Remuneration (LTAR);
2. Provision of Lignite for LTAR;
3. Rediscount Program;
4. Deductions from Taxable Income for Export Revenue.<sup>13</sup>

Following notification of an affirmative injury determination by the ITC,<sup>14</sup> Commerce published the *Order* on November 6, 2014.<sup>15</sup> Since the issuance of the *Order*, we have completed three administrative reviews.<sup>16</sup> The administrative review of the *Order* for the period January 1, 2017 through December 31, 2017, is ongoing.<sup>17</sup>

<sup>11</sup> See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 54963 (July 18, 2014) (*Investigation Final Determination*) and accompanying Issues and Decisions Memorandum (IDM).

<sup>12</sup> See *Order*, 79 FR at 65926.

<sup>13</sup> See *Investigation Final Determination* IDM at 8-19. An additional 15 programs were found to be countervailable, but either were not used or did not confer a benefit during the period of investigation. *Id.* at 20-21.

<sup>14</sup> See *Steel Concrete Reinforcing Bar from Mexico and Turkey; Determinations*, 79 FR 65246 (November 3, 2014).

<sup>15</sup> See *Order*, 79 FR at 65926.

<sup>16</sup> See *Steel Concrete Reinforcing Bar From the Republic of Turkey: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2014*, 82 FR 26907 (June 12, 2017) and accompanying IDM (*2014 Administrative Review*); *Steel Concrete Reinforcing Bar From the Republic of Turkey: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2015*, 83 FR 16051 (April 13, 2018) and accompanying IDM (*2015 Administrative Review*); and *Steel Concrete Reinforcing Bar From the Republic of Turkey: Final Results and Partial Rescission of Countervailing Duty Administrative Review; 2016*, 84 FR 36051 (July 26, 2019) and accompanying IDM (*2016 Administrative Review*).

<sup>17</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 9297 (March 14, 2019); see also *Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review and Intent to Rescind the Review in Part; 2017*, 85 FR 3030 (January 17, 2020), and accompanying IDM.

## V. LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, Commerce conducted this sunset review to determine whether revocation of the *Order* would be likely to lead to continuation or recurrence of a countervailable subsidy. Section 752(b) of the Act provides that, in making this determination, Commerce shall consider: (1) the net countervailable subsidy determined in the investigation and any subsequent reviews, and (2) whether any changes in the programs which gave rise to the net countervailable subsidy have occurred that are likely to affect the net countervailable subsidy.

Pursuant to section 752(b)(3) of the Act, Commerce shall provide to the ITC the net countervailable subsidy rate likely to prevail if the *Order* were revoked. In addition, consistent with section 752(a)(6) of the Act, Commerce shall provide to the ITC information concerning the nature of the subsidy and whether it is a subsidy described in Article 3 or Article 6.1 of the 1994 World Trade Organization Agreement on Subsidies and Countervailing Measures (ASCM).

## VI. DISCUSSION OF THE ISSUES

Below we address the comments submitted by the domestic interested parties and the GOT.

### 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy

#### Domestic Interested Parties' Comments

The domestic interested parties argue that subsidization of rebar from Turkey is likely to continue or recur if the *Order* were revoked because the subsidies countervailed in the original CVD investigation remain in existence, there have been additional subsidies deemed countervailable in subsequent reviews, and no programs have been terminated.<sup>18</sup> The domestic interested parties also argue that Commerce found a number of programs that were not used during the periods reviewed in the investigation or the subsequent reviews, and the existence of these programs mean subsidization is likely to continue or recur.<sup>19</sup>

According to the domestic interested parties, Turkish producers of rebar have continued to use countervailable subsidies at levels above *de minimis* since the issuance of the *Order*.<sup>20</sup> Indeed, the domestic interested parties indicate that the subsidy rates applicable to subject producers have risen since the original CVD investigation, in addition to Commerce finding new countervailable programs during the subsequent administrative reviews.<sup>21</sup>

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<sup>18</sup> See Domestic Interested Parties' Substantive Response at 8.

<sup>19</sup> *Id.* at 9.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 9-10.

## GOT's Comments

Rather than commenting on the likelihood of continuance or recurrence of the subsidies if the *Order* were revoked, the GOT claims that it does not provide any subsidies in the production of steel products or subject merchandise as they are prohibited under Article 7 of the Turkey-European Coal and Steel Community Free Trade Agreement.<sup>22</sup> Indeed, according to the GOT, there were no programs called “Provision of Natural Gas for LTAR” or “Provision of Lignite for LTAR.”<sup>23</sup>

Additionally, the GOT argues that most of the programs Commerce found to be countervailable in one segment were found either to confer negligible benefits, to not confer benefits, or to not be used in subsequent reviews.<sup>24</sup> According to the GOT, Commerce should take this lack of continuous use of programs into consideration in evaluating the likelihood of continuation or recurrence of countervailable subsidies.<sup>25</sup>

## Commerce's Position

In determining the likelihood of continuation or recurrence of a countervailable subsidy, section 752(b)(1) of the Act directs Commerce to consider the net countervailable subsidy determined in the investigation and subsequent reviews and whether there has been any change in a program found to be countervailable that is likely to affect that net countervailable subsidy. According to the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), Commerce will consider the net countervailable subsidies in effect after the issuance of an order and whether the relevant subsidy programs have been continued, modified, or eliminated.<sup>26</sup> The SAA further states that “[c]ontinuation of a program will be highly probative of the likelihood of continuation or recurrence of countervailable subsidies.”<sup>27</sup> The presence of programs that have not been used, but have not been terminated without residual benefits or replaced, is also probative of the likelihood of continuation or recurrence of a countervailable subsidy.<sup>28</sup> Where a subsidy program is found to exist, Commerce normally will determine that revocation of the relevant CVD order is likely to lead to continuation or recurrence of a countervailable subsidy, regardless of the level of subsidization.<sup>29</sup>

As Commerce stated in prior sunset determinations, two conditions must be met in order for a subsidy program not to be included in determining the likelihood of continued or recurring subsidization: (1) the program must be terminated; and (2) any benefit stream must be fully

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<sup>22</sup> See GOT's Substantive Response at 3.

<sup>23</sup> *Id.* at 4.

<sup>24</sup> *Id.* at 5.

<sup>25</sup> *Id.* at 6.

<sup>26</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) at 888.

<sup>27</sup> *Id.*

<sup>28</sup> See, e.g., *Certain Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil: Final Results of Full Sunset Review of Countervailing Duty Order*, 75 FR 75455 (December 3, 2010) (*Hot-Rolled Steel from Brazil*), and accompanying IDM at Comment 1.

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

allocated.<sup>30</sup> To determine whether a program has been terminated, “Commerce will consider the legal method by which the government eliminated the program and whether the government is likely to reinstate the program.”<sup>31</sup> Commerce normally expects a program to be terminated by means of the same legal mechanism used to institute it.<sup>32</sup> Where a subsidy is not bestowed pursuant to a statute, regulation or decree, Commerce may find no likelihood of continued or recurring subsidization if the subsidy in question was a one-time, company-specific occurrence that was not part of a broader, government program.<sup>33</sup>

Based on the facts on the record of this proceeding, and because no party has submitted evidence to demonstrate that the countervailable programs have expired or been terminated without any residual benefits, Commerce determines that the subsidy programs found countervailable during the original CVD investigation continue to exist. Because the continuation of programs is highly probative of the likelihood of the continuation or recurrence of countervailable subsidies, we determine that the revocation of the *Order* would likely lead to continuation or recurrence of countervailable subsidies for rebar from Turkey.

## 2. Net Countervailable Subsidy Rates Likely to Prevail

### Domestic Interested Parties’ Comments

The domestic interested parties claim that Commerce should choose the higher of the countervailable net subsidy rate from the original CVD investigation or the highest rate determined for an individual producer/exporter in a subsequent review.<sup>34</sup> According to the domestic interested parties, although the rate from the original CVD investigation is generally chosen, because Commerce found additional countervailable subsidy programs and higher rates for existing programs during subsequent reviews, the agency should find the following rates are likely to prevail: 2.76 percent for Icdas; 1.82 percent for Colakoglu; 1.25 percent for Kaptan; and 2.26 percent for all others.<sup>35</sup>

### GOT’s Comments

The GOT did not provide a rate that would be likely to prevail if the *Order* is revoked. Instead, the GOT stated that every rate Commerce calculated in the original CVD investigation has either

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<sup>30</sup> See, e.g., *Preliminary Results of Full Sunset Review: Certain Corrosion-Resistant Carbon Steel Flat Products from France*, 71 FR 30875 (May 31, 2006) and accompanying Preliminary Decision Memorandum at 5-7, unchanged in *Corrosion-Resistant Carbon Steel Flat Products from France: Final Results of Full Sunset Review*, 71 FR 58584 (October 4, 2006); see also *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order*, 75 FR 70411 (November 14, 2011) (*Salmon from Norway*) and accompanying IDM at Comment 1.

<sup>31</sup> See SAA at 888; see also *Salmon from Norway* IDM at Comment 1; and *Hot-Rolled Steel from Brazil* IDM at Comment 1.

<sup>32</sup> See, e.g., *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from India*, 66 FR 49635 (September 28, 2001) and accompanying IDM at Comment 7.

<sup>33</sup> See, e.g., *Stainless Steel Plate in Coils from Belgium: Final Results of Full Sunset Review and Revocation of the Countervailing Duty Order*, 76 FR 25666 (May 5, 2011) and accompanying IDM at Comment 1.

<sup>34</sup> See Domestic Interested Parties’ Substantive Response at 11.

<sup>35</sup> *Id.* at 10-11.

declined to *de minimis* or has increased solely based on Commerce's use of adverse facts available for a respondent company.<sup>36</sup> Further, the GOT argues that Commerce's reliance on adverse facts available to find higher countervailing duty rates has been appealed to the Court of International Trade.<sup>37</sup>

### Commerce's Position

Commerce normally will provide the ITC with the net countervailable subsidy rates that were determined in the investigation as the rates likely to prevail if the order is revoked, because these are the only calculated rates that reflect the behavior of exporters and foreign governments without the discipline of the order in place.<sup>38</sup> Section 752(b)(1)(B) of the Act provides, however, that Commerce will consider whether any change in the program which gave rise to the net countervailable subsidy determination in the investigation or subsequent reviews has occurred that is likely to affect the net countervailable subsidy rate. Therefore, a rate calculated from the investigation may not be the most appropriate if, for example, the rate was derived (in whole or in part) from subsidy programs subsequently found to be terminated, there has been a program-wide change, or the rate ignores a program found to be countervailable in a subsequent administrative review.<sup>39</sup>

Consistent with the SAA, we started with the rates for the programs found to be countervailable in the original CVD investigation to determine the company-specific net countervailable subsidy rates likely to prevail. To these rates, we added the rates from the subsidy programs subsequently found to be countervailable during the 2014 and 2016 administrative reviews.<sup>40</sup> These programs include the following:

1. Assistance to Offset Costs Related to AD/CVD Investigations;
2. Investment Incentive Certificates; and
3. Purchase of Electricity Generated from Renewable Resources for More Than Adequate Remuneration (MTAR).

Additionally, Commerce has not found any programs to have been terminated in the subsequent administrative reviews. Thus, the rates likely to prevail in this determination are:

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<sup>36</sup> See GOT's Substantive Response at 7.

<sup>37</sup> *Id.*

<sup>38</sup> See SAA at 890; see also Uruguay Round Implementation bill, H.R. Rep. No. 103-826 (1994) at 64.

<sup>39</sup> See, e.g., *Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Final Results of Expedited Second Sunset Review*, 75 FR 62101 (October 7, 2010) and accompanying IDM at Comment 2.

<sup>40</sup> See *2014 Administrative Review* IDM at 4-6; see also *2016 Administrative Review* IDM at 7-8. During the 2014 administrative review, Commerce found 15 programs to be countervailable but either were not used or did not confer a benefit during the period of review (POR). See *2014 Administrative Review* IDM at 6-8. During the 2015 Administrative Review, Commerce found 13 programs to be countervailable but either were not used or did not confer a benefit during the POR. See *2015 Administrative Review* IDM at 6-7. During the 2016 administrative review, Commerce found 19 programs to be countervailable but either were not used or did not confer a benefit during the POR. See *2016 Administrative Review* IDM at 9-10.

<b>Manufacturer/Producer/Exporter</b>	<b>Net Countervailable Subsidy Rate (Percent)</b>
Icdas	4.02 <sup>41</sup>
Kaptan Demir Celik Endustrisi ve Ticaret A.S. and Kaptan Metal Dis Ticaret ve Nakliyat A.S. (collectively Kaptan) <sup>42</sup>	1.25 <sup>43</sup>
Colakoglu Dis Ticaret A.S. and Colakoglu Metalurji A.S. (collectively Colakoglu) <sup>44</sup>	1.25 <sup>45</sup>
Produced and Exported by Habas <sup>46</sup>	Excluded from the <i>Order</i>
All Others	1.25

On this basis, Commerce determines that the net countervailable subsidy rates that are likely to prevail are above *de minimis*. Consistent with section 752(b) of the Act, Commerce will provide the ITC the net countervailable subsidy rates that are likely to prevail if the *Order* is revoked. The adjusted countervailable subsidy rates, which Commerce determines are likely to prevail upon revocation of the *Order*, are provided in the “Final Results of Review” section of this memorandum.

### 3. Nature of the Subsidy

Consistent with section 752(a)(6) of the Act, Commerce is providing the following information to the ITC concerning the nature of the subsidies and whether these subsidies are prohibited subsidies as described in Article 3, or subsidies described in Article 6.1 of the ASCM. We note that Article 6.1 of the ASCM expired effective January 1, 2000.

Neither the domestic interested parties nor the GOT addressed this issue in their substantive response.

#### Article 3

In this sunset review, there are three programs that fall within the meaning of Article 3.1 of the ASCM, which states that the following subsidies shall be prohibited: (a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, and

<sup>41</sup> 1.25 from investigation (*Order*) + 0.01 for AD/CVD assistance (*2014 Administrative Review* IDM at 4-6) + 0.95 for MTAR (*2016 Administrative Review* IDM at 8) + 1.81 for Investment Incentive Certificates (*2016 Administrative Review* IDM at 8).

<sup>42</sup> These companies were found to be cross-owned in a prior segment of this proceeding. See *2014 Administrative Review*.

<sup>43</sup> 1.25 from investigation (*Order*). Kaptan was found not to have used the AD/CVD assistance program (*2014 Administrative Review* at 4-6), the MTAR program, or the Investment Incentive Certificates program (*2016 Administrative Review* at 8).

<sup>44</sup> These companies were found to be cross-owned in a prior segment of this proceeding. See *2015 Administrative Review*.

<sup>45</sup> 1.25 from investigation (*Order*). Colakoglu was given a 0 percent rate in *2014 Administrative Review* (82 FR at 26908) and was found not to have used either the MTAR or the Investment Incentive Certificates programs (*2016 Administrative Review* at 8).

<sup>46</sup> Merchandise either produced or exported by Habas (but not both) is subject to the all others rate.

(b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

1. *Assistance to Offset Costs Related to AD/CVD Investigations*<sup>47</sup>

The GOT created the Turkish Exporters' Assembly (TEA) in 2009 to work in conjunction with the Ministry of Economy to approve, audit, and oversee industry-specific exporter associations, such as the Turkish Steel Exporter's Association (TSEA), of which the mandatory respondents are members. During the period of review for the 2014 administrative review, the GOT passed a law under which the TEA directed exporters' associations to provide financial assistance to members for legal fees incurred by members as part of foreign trade remedy proceedings. By reimbursing members for AD/CVD legal costs, exporters' associations such as the TSEA are providing a financial contribution specifically to exporters in the form of a grant at the direction of the TEA and, overarchingly, by the GOT.

2. *Deductions from Taxable Income for Export Revenue*<sup>48</sup>

Under this program, taxpayers may claim a deduction of a lump sum amount from their gross income resulting from exporting, construction, maintenance, assembly and transportation activities abroad. This deduction may not exceed 0.5 percent of the proceeds earned in foreign exchange from such activities and is presumed to cover undocumented expenditures, including expenses not supported by invoices such as lodging, food, and gas expenses incurred on overseas travel.

3. *Rediscount Program*<sup>49</sup>

The Rediscount Program, previously known as the Short-Term Pre-Shipment Rediscount Program, is a GOT financing program administered by the Export Credit Bank of Turkey (Turk Eximbank) and provides financial support to Turkish exporters, manufacturer-exporters, and manufacturers supplying exporters. The Turk Eximbank provides pre-shipment financing through intermediary commercial banks in foreign currency or Turkish Lira (TL), and requires collateral from the borrower in the form of promissory notes/bonds payable to the Turk Eximbank. Financing provided under the program is contingent upon an export commitment and has a minimum loan amount of USD 200,000. A borrower pays the interest when the loan is received; principal can be paid during the credit period or at maturity in either the foreign currency in which the loan was obtained or in the TL equivalent.

Article 6.1

The following subsidy programs do not fall within the meaning of Article 3.1 of the ASCM, but may be subsidies described in Article 6.1 of the ASCM if the amount of the subsidy exceeds five percent, as measured in accordance with Annex IV of the ASCM. These subsidies may also fall within the meaning of Article 6.1 if they constitute debt forgiveness, a grant to cover debt

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<sup>47</sup> See 2014 Administrative Review IDM at 4-6.

<sup>48</sup> See Investigation Final Determination IDM at 18-19.

<sup>49</sup> *Id.* at 17-18.

repayment, or are subsidies to cover operating losses sustained by an industry or enterprise. However, there is insufficient information on the record to make such a determination. We are, in any case, providing the ITC with the following program descriptions:

1. *Investment Incentive Certificates*<sup>50</sup>

This program, also known as the Investment Encouragement Program, is run by the Turkish Ministry of Economy and provides companies with investment incentive certificates to receive customs duty exemptions on imported machinery and equipment, as well as value-added tax (VAT) exemptions for both imported and domestic purchases of machinery and equipment. The program is designed to channel savings into value-added investments, and to increase production and employment rates, international competitiveness, and foreign direct investments.

2. *Provision of Lignite for LTAR*<sup>51</sup>

This program allows Turkish steel producers that operate thermal power plants with coal to receive subsidies in the form of reduced lignite, or “brown coal,” prices purchased from Turkish Coal Enterprises, a government-owned enterprise.

3. *Provision of Natural Gas for LTAR*<sup>52</sup>

This program allows Turkish rebar producers to receive natural gas for LTAR from Boru Hatlari Ile Petrol Tasima A.S., a state-economic enterprise affiliated with the Turkish Ministry of Energy and Natural Resources.

4. *Purchase of Electricity Generated from Renewable Resources for MTAR – Renewable Energy Sources Support Mechanism (YEKDEM)*<sup>53</sup>

Under this program, power producers generating electricity from renewable energy sources can voluntarily participate in an alternative mechanism known as YEKDEM, which guarantees that participating electricity producers using renewable energy sources will obtain a certain minimum price for electricity sold through Enerji Piyasalari Isletme A.S. (EPIAS), the electricity marketplace operator. The guaranteed minimum price is calculated by the GOT based on the type of renewable energy source and whether the producer purchased domestically produced equipment for its power plant. If the YEKDEM producer’s electricity sells for below the guaranteed minimum price, then all non-YEKDEM EPIAS suppliers are billed for a portion of the difference between the minimum price and the actual EPIAS price, and the YEKDEM suppliers receive commensurate support payments out of the proceeds.

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<sup>50</sup> See *Steel Concrete Reinforcing Bar From the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review and Intent to Rescind the Review in Part; 2016*, 83 FR 63472 (December 10, 2018) and accompanying Preliminary Determination Memorandum (PDM) (*2016 Administrative Review Preliminary Determination*) at 16-19. Prior to the 2016 administrative review, Commerce had treated the program as a tax program and had countervailed the amount of import duties and VAT that were exempted based on each purchase.

<sup>51</sup> See *Investigation Final Determination IDM* at 13-17.

<sup>52</sup> *Id.* at 8-13.

<sup>53</sup> See *2016 Administrative Review Preliminary Determination PDM* at 15-16.

**VII. FINAL RESULTS OF SUNSET REVIEW**

We determine that revocation of the *Order* would be likely to lead to continuation or recurrence of countervailing subsidies at the following rates:

<b>Manufacturer/Producer/Exporter</b>	<b>Net Countervailable Subsidy Rate (Percent)</b>
Icdas	4.02
Kaptan	1.25
Colakoglu	1.25
All Others	1.25

**VIII. RECOMMENDATION**

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of this sunset review in the *Federal Register* and notify the ITC of our determination.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

1/22/2020

X



\_\_\_\_\_  
Signed by: JEFFREY KESSLER

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Jeffrey I. Kessler  
Assistant Secretary  
for Enforcement and Compliance