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Investigation
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August 7, 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: Decision Memorandum for the Preliminary Affirmative
Determination in the Countervailing Duty Investigation of
Common Alloy Aluminum Sheet from the Republic of Turkey

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of common alloy aluminum sheet (aluminum sheet) from the Republic of Turkey (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 March 9, 2020, we received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of aluminum sheet from, *inter alia*, Turkey, filed in proper form on behalf of the petitioners.¹ Supplements to the Petition and our consultations with the Government of Turkey (GOT) are described in the Initiation Checklist.²

On March 26, 2020, we released U.S. Customs and Border Protection (CBP) entry data under administrative protective order (APO), and invited interested parties to submit comments on this

¹ The petitioners consist of the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its Individual Members, Aleris Rolled Products, Inc., Arconic, Inc., Constellium Rolled Products Ravenswood, LLC, JW Aluminum Company, Novelis Corporation, and Texarkana Aluminum Inc. (collectively, the petitioners). See Petitioners' Letter, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, South Africa, Spain, Taiwan, and Turkey – Petition for the Imposition of Antidumping and Countervailing Duties," dated March 9, 2020 (the Petition).

² See Memorandum, "Countervailing Duty Initiation Checklist: Common Alloy Aluminum Sheet from the Republic of Turkey," dated March 30, 2020 (Initiation Checklist).



data for respondent selection in the event that Commerce initiated an investigation.³ On March 30, 2020, we initiated a CVD investigation on aluminum sheet from Turkey.⁴ On April 2, 2020, we received timely comments on the CBP entry data from Assan Aluminyum Sanayi ve Ticaret A.S. (Assan);⁵ the petitioners timely submitted comments on the CBP entry data on April 8, 2020.⁶ On April 10, 2020, Teknik Aluminyum Sanayi A.S. (Teknik) timely filed comments on the CBP entry data.⁷ No other party filed comments on the CBP entry data.

We stated in the *Initiation Notice* that, if appropriate, we intended to base our selection of the mandatory respondents on CBP entry data for the Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation.⁸ 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 each company, 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 producers/exporters accounting for the largest volume of the subject merchandise that can reasonably be examined.

On April 20, 2020, pursuant to section 777A(e)(2)(A)(ii) of the Act, and faced with a large number of respondents, we selected, in alphabetical order, Assan and Teknik as the mandatory respondents in this investigation.⁹ On April 22, 2020, we issued the Initial CVD Questionnaire to the GOT with instructions to forward this questionnaire to Assan and to Teknik.¹⁰ Between May 14 and July 22, 2020, the GOT, Assan, and Teknik each timely responded to the Initial CVD Questionnaire and to our supplemental questionnaires.

On July 7, 2020, the petitioners timely filed a new subsidy allegation.¹¹ On July 9, 2020, we initiated an investigation on the Provision of Land for Less Than Adequate Remuneration (pursuant to the GOT's Law No. 5084) based on Petitioners' New Subsidy Allegation.¹² On this same day, we issued questionnaires to the GOT, Assan, and to Teknik with respect to Petitioners' New Subsidy Allegation. On July 14, 2020, the petitioners filed an allegation that critical

³ See Memorandum, "Countervailing Duty Petition on Common Alloy Aluminum Sheet from the Republic of Turkey: Release of U.S. Customs and Border Protection Data," dated March 26, 2020 (CBP Entry Data).

⁴ See *Common Alloy Aluminum Sheet from Bahrain, Brazil, India, and the Republic of Turkey: Initiation of Countervailing Duty Investigations*, 85 FR 19449 (April 7, 2020) (*Initiation Notice*).

⁵ See Assan's Letter, "Common Alloy Aluminum Sheet from Turkey: Comments on CBP Data for Respondent Selection in Antidumping and Countervailing Duty Investigations," dated April 2, 2020.

⁶ See Petitioners' Letter, "Common Alloy Aluminum Sheet from the Republic of Turkey – Petitioners' Comments on Respondent Selection," dated April 8, 2020.

⁷ See Teknik's Letter, "Common Alloy Aluminum Sheet from Turkey: Comments on CBP Data and Respondent Selection," dated April 10, 2020.

⁸ See *Initiation Notice* 85 FR at 19452 ("Respondent Selection").

⁹ See Memorandum, "Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the Republic of Turkey: Selection of Respondents for Individual Examination," dated April 20, 2020.

¹⁰ See Commerce's Letter, "Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the Republic of Turkey: Countervailing Duty Questionnaire," dated April 22, 2020 (Initial CVD Questionnaire).

¹¹ See Petitioners' Letter, "Common Alloy Aluminum Sheet from the Republic of Turkey – Petitioners' New Subsidy Allegation," dated July 7, 2020 (Petitioners' New Subsidy Allegation).

¹² See Memorandum, "Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the Republic of Turkey: Analysis of New Subsidy Allegation," dated July 9, 2020 (Initiation of New Subsidy Allegation Memorandum).

circumstances exist with respect to imports of aluminum sheet from Turkey.¹³ On July 17, 2020, the petitioners requested that we align the final CVD determination in this investigation with the final determination in the companion AD investigation of aluminum sheet from Turkey.¹⁴ On July 23, 2020, the petitioners submitted comments for us to consider for this preliminary determination.¹⁵ On July 24, 2020, Assan filed comments on the Petitioners' Allegation of Critical Circumstances.¹⁶ On July 27, 2020, the petitioners timely submitted new factual information to rebut, clarify, or correct information Assan submitted regarding its affiliate's purchase of land from the GOT.¹⁷ On July 30, 2020, Assan timely submitted comments to rebut Petitioners' Pre-Preliminary Comments.¹⁸ Finally, on August 3, 2020, Assan timely filed comments to rebut, clarify, or correct the Petitioners' Land Benchmark Submission.¹⁹

B. Postponement of the Preliminary Determination

On May 6, 2020, the petitioners requested that we postpone the preliminary determination in this investigation.²⁰ Commerce granted the petitioners' request and, on May 19, 2020, published the notification of postponement of this preliminary determination, until August 7, 2020, in the *Federal Register*, in accordance with section 703(c)(1) and (2) of the Act and 19 CFR 351.205(f)(1).²¹

C. Period of Investigation

The POI is January 1, 2019 through December 31, 2019.

¹³ See Petitioners' Letter, "Countervailing Duty Investigations of Common Alloy Aluminum Sheet from India and the Republic of Turkey – Petitioners' Allegation of Critical Circumstances," dated July 14, 2020 (Petitioners' Allegation of Critical Circumstances).

¹⁴ See Petitioners' Letter, "Countervailing Duty Investigations of Common Alloy Aluminum Sheet from Bahrain, Brazil, India, and the Republic of Turkey – Petitioners' Request to Align Final Countervailing Duty Determinations with the Companion Antidumping Duty Final Determinations," dated July 17, 2020.

¹⁵ See Petitioners' Letter, "Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the Republic of Turkey – Petitioners' Pre-Preliminary Comments," dated July 23, 2020 (Petitioners' Pre-Preliminary Comments).

¹⁶ See Assan's Letter, "Common Alloy Aluminum Sheet from Turkey: Rebuttal to Petitioners' Allegation of Critical Circumstances," dated July 24, 2020 (Assan's Critical Circumstances Rebuttal Comments).

¹⁷ See Petitioners' Letter, "Common Alloy Aluminum Sheet from the Republic of Turkey – Petitioners' Submission of New Factual Information to Rebut, Clarify or Correct Respondents' Supplemental Questionnaire Responses," dated July 27, 2020 (Petitioners' Land Benchmark Submission); see also Assan's Letter Assan's Letter, "Common Alloy Aluminum Sheet from Turkey: 1st Supplemental Questionnaire Response," dated July 20, 2020 (Assan's July 20, 2020 QR).

¹⁸ See Assan's Letter, "Common Alloy Aluminum Sheet from Turkey: Rebuttal to Petitioner's Pre-Preliminary Determination Comments," dated July 30, 2020.

¹⁹ See Assan's Letter, "Common Alloy Aluminum Sheet from Turkey: Rebuttal to Petitioner's Submission of New Factual Information to Rebut, Clarify, or Correct Respondents' Supplemental Questionnaire Responses," dated August 3, 2020.

²⁰ See Petitioners' Letter, "Countervailing Duty Investigations Concerning Common Alloy Aluminum Sheet from Bahrain, Brazil, India, and the Republic of Turkey – Petitioners' Request to Postpone Preliminary Determinations," dated May 6, 2020.

²¹ See *Common Alloy Aluminum Sheet from Bahrain, Brazil, India, and the Republic of Turkey: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 85 FR 29930 (May 19, 2020).

D. Injury Test

Because Turkey is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, the United States International Trade Commission (USITC) is required to determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a U.S. industry. On April 29, 2020, the USITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of aluminum sheet from Turkey that are alleged to be sold at less than fair value, and are alleged to be subsidized by the GOT.²²

E. Alignment

In accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), and based on the petitioners’ request,²³ we are aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of aluminum sheet from Turkey. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be due no later than December 21, 2020, unless postponed.

III. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce’s regulations,²⁴ as stated in the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, the scope of the investigation).²⁵ We received several comments concerning the scope of the AD and CVD investigations of aluminum sheet, based on the scope language published in the *Initiation Notice*. We are currently evaluating the scope comments filed by the interested parties, and 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 currently October 6, 2020.²⁶ We will incorporate the scope decisions in the AD investigations into the scope of the final CVD determination for this investigation after considering any relevant comments submitted in scope case and rebuttal briefs.²⁷

²² See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey*, 85 FR 23842 (April 29, 2020); see also Investigation Nos. 701-TA-639-642 and 731-TA-1475-1492 (Preliminary), USITC Publication 5049 (April 2020).

²³ See Petitioners’ Request for Alignment.

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

²⁵ See *Initiation Notice* at 19450 (“Scope Comments”).

²⁶ See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 45576, 45577 (July 29, 2020).

²⁷ The deadline for interested parties to submit scope case and rebuttal briefs will be established in the preliminary scope decision memorandum.

IV. SCOPE OF THE INVESTIGATION

The product covered by this investigation is aluminum sheet from Turkey. For a full description of the scope of the investigation, *see* the accompanying preliminary determination *Federal Register* notice at Appendix I.”

V. PRELIMINARY AFFIRMATIVE DETERMINATION OF CRITICAL CIRCUMSTANCES, IN PART

As stated above, the petitioners 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 aluminum sheet from Turkey.²⁸ Assan filed rebuttal comments regarding this allegation on July 24, 2020.²⁹ In its comments, Assan argues that Commerce should find that the “massive” import requirement has not been met with respect to Assan.

In accordance with 19 CFR 351.206(c)(2)(i), because the petitioners submitted a critical circumstances allegation 20 days before the scheduled date of this preliminary determination, Commerce must issue a preliminary critical circumstances determination by no later than the date of the preliminary determination. Based on information provided by the petitioners,³⁰ shipment data placed on the instant record by the mandatory respondents (*i.e.*, Assan and Teknik),³¹ and shipment data from the Global Trade Atlas (GTA), we preliminarily determine that critical circumstances exist with respect to imports of aluminum sheet 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 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 Assan and Teknik each received countervailable benefits under certain programs that are contingent upon export performance. Therefore, we preliminarily determine that there is a reasonable basis to believe to suspect that there are programs in this CVD 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.³²

²⁸ See Petitioners’ Allegation of Critical Circumstance.

²⁹ See Assan’s Critical Circumstances Rebuttal Comments.

³⁰ See Petitioners’ Allegation of Critical Circumstances at Attachment 1.

³¹ See Assan’s Letter, “Common Alloy Aluminum Sheet from Turkey: Quantity & Value Shipment Data,” dated July 22, 2020; *see also* Teknik’s Letter, “Common Alloy Aluminum Sheet from Turkey: Teknik Alüminyum Sanayi A.S.’s Response to the Department’s Request for Monthly Quantity and Value Shipment Data,” dated July 22, 2020.

³² See, *e.g.*, *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 (August 17, 2001), unchanged in *Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty*

In determining whether there are “massive imports” over a “relatively short period,” pursuant to section 703(e)(1)(B) of the Act 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.”³³

Therefore, to determine whether there has been a massive surge of imports with respect to the mandatory respondents, we used a comparison period starting with the month the petition was filed (*i.e.*, March 2020) and ending with the most recent month for which we have shipping data on the record (*i.e.*, June 2020) regarding the mandatory respondents. 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.*, November 2019 through February 2020). Based on the analysis described above with respect to the shipment data submitted by Assan and by Teknik, we preliminarily determine that Assan and Teknik each had massive imports over a relatively short period.³⁴ However, because the preliminary net subsidy rate calculated for Teknik is *de minimis*,³⁵ we preliminarily determine that critical circumstances do not exist for Teknik.³⁶

Consistent with our practice,³⁷ for “all other” exporters and producers of aluminum sheet from Turkey, we compared Global Trade Atlas (GTA) data for the base and comparison periods for which GTA data is currently available (*i.e.*, December 2019 through February 2020, and March 2020 through May 2020, respectively) excluding shipments for these time periods as reported by Assan and by Teknik. Based on this analysis, we preliminarily determine that all other exporters

Order: Certain Softwood Lumber Products from Canada, 67 FR 36070 (May 22, 2002); *see also Certain Quartz Surface Products from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 54841 (October 11, 2019) (*Quartz Products from Turkey Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM) at 5-7, unchanged in *Certain Quartz Surface Products from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, In Part*, 85 FR 25400 (May 1, 2020) (*Quartz Products from Turkey Final Determination*), and accompanying Issues and Decision Memorandum (IDM) at 2-3.

³³ See 19 CFR 351.206(h)(2).

³⁴ See Memorandum, “Preliminary Critical Circumstances Shipment Data Analysis,” dated concurrently with this memorandum (Critical Circumstances Memorandum).

³⁵ See Memorandum, “Common Alloy Aluminum Sheet from the Republic of Turkey: Analysis and Calculations for the Preliminary Countervailing Duty Determination – Teknik Alüminyum Sanayi A.Ş.,” dated concurrently with this memorandum (Teknik’s Preliminary Calculations Memorandum).

³⁶ See *Certain Quartz Surface Products from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, In Part, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 54838 (October 11, 2019), and accompanying PDM at 7 (not finding critical circumstances for a respondent where its countervailing duty rate was *de minimis*); *see also Certain Quartz Surface Products from India: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, In Part*, 85 FR 25398 (May 1, 2020), and accompanying IDM at 3-4 (determining that critical circumstances did not exist in a final determination).

³⁷ See, e.g., *Quartz Products from Turkey Preliminary Determination* PDM at 6, unchanged in *Quartz Products from Turkey Final Determination* IDM at 2-3; *see also 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 IDM at 4.

and producers of aluminum sheet from Turkey did not have massive imports over a relatively short period.³⁸ As a result, we preliminarily determine that critical circumstances do not exist for all other exporters and producers of aluminum sheet from Turkey.

As stated above, we find that critical circumstances do not exist for Teknik. With respect to the other mandatory respondent, Assan, because we are issuing an affirmative preliminary determination that includes countervailable subsidies that are inconsistent with the SCM Agreement, and because the shipping data submitted by Assan indicates that “massive shipments” occurred with respect to Assan, we preliminarily determine that critical circumstances exist for this company.

We intend to issue a final determination concerning critical circumstances when we issue our final CVD determination. All interested parties will have an opportunity to address this preliminary determination in their case and rebuttal briefs submitted prior to the completion of the final CVD determination.

VI. 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.³⁹ In our Initial CVD Questionnaire to the GOT, we notified the respondents in this investigation that the AUL period is 14 years, on the basis of U.S. Internal Revenue Service (IRS) Publication No. 946 (2018), “Appendix B – Table of Class Lives and Recovery Periods.”⁴⁰ No parties submitted comments challenging the proposed AUL period, and we, therefore, preliminarily determine that a 14-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 subsidy is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than over the AUL period. If the amount of the subsidy is greater than 0.5 percent 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 benefit that is 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

³⁸ See Critical Circumstances Memorandum.

³⁹ See 19 CFR 351.524(b).

⁴⁰ See IRS Publication 946 (February 15, 2019) at Appendix B. The 14-year period corresponds to asset class, “Manufacture of Primary Nonferrous Metals;” *see also* Petition at Volume XXIII, Exhibit CVD-3.

respondents with cross-owned affiliates. Subsidies to the following types of cross-owned affiliates are covered in these additional attribution rules: (ii) producers of subject merchandise; (iii) holding companies or parent companies; (iv) producers of an input that is primarily dedicated to the production of the downstream products; or (v) an affiliate producing non-subject merchandise that otherwise transfers a subsidy to the respondent. Further, 19 CFR 351.525(c) provides that benefits from subsidies provided to a trading company that 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 *CVD Preamble*, 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 ways 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 results in cross-ownership.⁴¹

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) has upheld Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.⁴²

Assan

Assan (a subsidiary of Kibar Holding) a producer of subject merchandise, reported that during the POI, it sold subject merchandise to its affiliated trading company Kibar Dis Ticaret A.S. (Kibar Dis), which handled the documentation for its sales to international markets, including the United States.⁴³ Our review of Assan's information regarding the shareholders of its affiliated companies leads us to conclude that Assan, Kibar Holding, and Kibar Dis satisfy Commerce's

⁴¹ See *Countervailing Duties*, 63 FR 65348, 65401 (November 25, 1998) (*CVD Preamble*).

⁴² See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

⁴³ See Assan's Letter, "Common Alloy Aluminum Sheet from Turkey: Section III Affiliation Questionnaire Response," dated May 14, 2020 at 2-4.

cross-ownership criteria as described at 19 CFR 351.525(b)(6)(vi).⁴⁴ Because the information leading us to preliminarily determine that Assan, Kibar Dis, and Kibar Holding are cross-owned is business proprietary in nature, our cross-ownership analysis is set forth in a separate memorandum.⁴⁵

For Assan, we are attributing any subsidy received by Assan to its own sales, in accordance with 19 CFR 351.525(b)(6)(i). With respect to Kibar Dis (Assan's affiliated exporter of subject merchandise), we are cumulating benefits from subsidies provided to Kibar Dis with benefits provided to Assan, in accordance with 19 CFR 351.525(c). Finally, regarding Kibar Holding (Assan's parent company), we are attributing any subsidy received by Kibar Holding to the consolidated sales of Kibar Holding and its affiliates, excluding intercompany sales, as directed by 19 CFR 351.525(b)(6)(iii).

Teknik

Teknik reported that it is a privately-owned company that was established in 1979 to produce aluminum sheet.⁴⁶ According to Teknik, during the POI it produced its own subject merchandise, which was exported by either itself or by its affiliate TAC Metal Ticaret A.S. (TAC Metal). Our review of Teknik's information regarding the shareholders of its affiliated companies leads us to conclude that Teknik and TAC Metal satisfy Commerce's cross-ownership criteria as described at 19 CFR 351.525(b)(6)(vi). Similar to our cross-ownership analysis regarding Assan, the information leading us to preliminarily determine that Teknik and TAC Metal are cross-owned is business proprietary in nature, and, therefore, our cross-ownership analysis is set forth in a separate memorandum.⁴⁷

For Teknik, we are attributing any subsidy it received to its own sales, in accordance with 19 CFR 351.525(b)(6)(i). With respect to the cross-owned export trading company TAC Metal, we are cumulating benefits from subsidies provided to TAC Metal with any benefits provided to Teknik, as directed by 19 CFR 351.525(c).

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 in the respondents' preliminary calculation memoranda, where a program is found to be countervailable as a domestic subsidy, we used total product sales as the denominator. Similarly, where the program has been found to

⁴⁴ *Id.* at and Exhibit 2.

⁴⁵ See Memorandum, "Cross Ownership of the Assan Reporting Companies," dated concurrently with this PDM.

⁴⁶ See Teknik's Letter, "Common Alloy Aluminum Sheet from Turkey: Section III Identifying Affiliates Questionnaire Response," dated May 14, 2020 at 4.

⁴⁷ See Memorandum, "Cross Ownership of the Teknik Reporting Companies," dated concurrently with this PDM.

be countervailable as an export subsidy, we used total export sales as the denominator. All sales used in the net subsidy rate calculations are net of inter-company sales.⁴⁸

VII. BENCHMARKS AND INTEREST RATES

We are examining export loans and non-recurring, allocable subsidies that the respondents received during the AUL.⁴⁹ In the section below, we discuss the derivation of the benchmarks and discount rates for the POI and the previous years.

A. Short-Term Benchmarks

To determine whether government-provided loans under investigation conferred a benefit, Commerce uses, where possible, company-specific interest rates for comparable commercial loans.⁵⁰ When loans are denominated in a foreign currency, 19 CFR 351.505(a)(2)(i) directs us to use a benchmark denominated in the same foreign currency as the loan. Assan submitted weighted-average interest rates, along with the underlying data, that it paid on comparable short-term commercial loans.⁵¹ Consistent with 19 CFR 351.505(a)(2)(ii), we are preliminarily using the interest rates that Assan submitted on its comparable short-term loans as benchmarks.⁵²

B. Long-Term Benchmarks

As discussed above, to determine whether the government provided loans under investigation conferred a benefit, Commerce uses, where possible, company-specific interest rates for comparable commercial loans.⁵³ Assan submitted long-term interest rates that it paid on comparable long-term commercial loans.⁵⁴ Consistent with 19 CFR 351.505(a)(2)(ii), we are preliminarily using the interest rates that Assan submitted on its comparable long-term loans as benchmarks.⁵⁵ Where such benchmark rates are unavailable, consistent with 19 CFR 351.505(a)(3)(ii), we are preliminarily using lending data from the International Monetary Fund's International Financial Statistics (IMF Statistics) as our national average benchmark.⁵⁶

C. Discount Rates

For Assan, consistent with 19 CFR 351.524(d)(3)(i)(A), in instances requiring the use of a long-term discount rate, we have used the long-term interest rate calculated according to the

⁴⁸ See Memorandum, "Common Alloy Aluminum Sheet from the Republic of Turkey: Analysis and Calculations for the Preliminary Countervailing Duty Determination – Assan Aluminyum Sanayi ve Ticaret A.S.," dated concurrently with this memorandum (Assan's Preliminary Calculations Memorandum). *see also* Teknik's Preliminary Calculations Memorandum (collectively, Preliminary Calculations Memoranda).

⁴⁹ See 19 CFR 351.524(b)(1).

⁵⁰ See 19 CFR 351.505(a)(2)(ii).

⁵¹ See Assan's Letter, "Common Alloy Aluminum Sheet from Turkey: Section III Questionnaire Response," dated June 18, 2020, at 68 and Exhibits 28-30.

⁵² Teknik did not report any government-provided short-term loans.

⁵³ See 19 CFR 351.505(a)(2)(ii).

⁵⁴ See Assan's June 18, 2020 QR at 74 and Exhibit 34.

⁵⁵ Teknik did not report any government-provided long-term loans.

⁵⁶ See, e.g., *Circular Welded Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2011*, 78 FR 64916 (October 30, 2013), and accompanying IDM at 3-4.

methodology described above for the year in which government approved non-recurring subsidies were received.⁵⁷

D. Land Benchmark

The adequacy of remuneration for government-provided goods or services is determined pursuant to 19 CFR 351.511(a)(2). Under 19 CFR 351.511(a)(2), Commerce measures the remuneration received by a government for goods or services against comparable benchmark prices to determine whether the government provided goods or services for less than adequate remuneration (LTAR). These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As provided in our regulations, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation (*i.e.*, tier one). This is because such prices generally would be expected to most closely reflect the prevailing market conditions of the purchaser under investigation.

In this investigation, no actual transactions for sales of land in Turkey are available on the record. The petitioners and Assan submitted benchmark information for calculating whether land Assan's affiliate Kibar Dis purchased from the GOT in 2007 under the GOT's Law No. 4916 was provided for LTAR.⁵⁸ The petitioners submitted two reports prepared by Colliers International Group, Inc.: "Turkey Real Estate Review: First Half 2017," and "Turkey Real Estate Review: Second Half 2017."⁵⁹ These land valuation reports were generated by an independent third party and provide values for industrial land sales for four locations within Turkey (exclusive of prices for locations identified as metropolitan Istanbul): Gebze, Dilovasi, Cerkezkoy, and Corlu. Because these land prices were reported for 2017, the petitioners deflated the prices to reflect 2007 prices (*i.e.*, the year Kibar Dis purchased the land from the GOT) by using the IMF's Consumer Price Index for Turkey.⁶⁰ Assan provided 2020 land prices in Sakarya province which, according to Assan is the location of the land at issue, that it obtained from www.sahibinden.com. Assan states that this is a frequently used property website in Turkey.⁶¹ Assan used the IMF's Consumer Price Index for Turkey to adjust these 2020 land prices to arrive at 2007 land prices. For this preliminary determination, we are relying on a simple average of the land benchmarks submitted by the petitioners and by Assan pursuant to 19 CFR 351.511(a)(2)(ii).⁶² Interested parties can comment on the land benchmarks used in this preliminary determination in their case briefs.

⁵⁷ Teknik did not report any government approved non-recurring subsidies.

⁵⁸ See Petitioners' Land Benchmark Submission; *see also* Assan's July 20, 2020 QR at Exhibit S1-Q19.3 (Assan's Land Benchmark Submission).

⁵⁹ See Petitioners' Land Benchmark Submission at Attachments 1 and 2, respectively.

⁶⁰ See Petitioner's Land Benchmark Submission at Attachment 4.

⁶¹ See Assan's July 20, 2020 QR at 16-17; *see also* Assan's Land Benchmark Submission.

⁶² 19 CFR 351.511(a)(2)(ii) directs that where there is more than one commercially available world market price, the Secretary will average such prices to the extent practicable, making due allowances for factors affecting comparability.

VIII. USE OF FACTS OTHERWISE AVAILABLE AND APPLICATION OF ADVERSE INFERENCES

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, select from among the “facts otherwise available” (FA) if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that Commerce may use an adverse inference in selecting from among the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the investigation, a previous administrative review, or other information placed on the record. When selecting an adverse facts available (AFA) rate from among the possible sources of information, Commerce’s practice is to ensure that the rate is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide {Commerce} with complete and accurate information in a timely manner.”⁶³ Commerce’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁶⁴ At the same time, section 776(b)(1)(B) of the Act states that Commerce is not required to determine, or make any adjustments to, a countervailable subsidy rate based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.

In *Nippon Steel*, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) held that, while the statute does not provide an express definition of the “failure to act to the best of its ability” standard, the ordinary meaning of “best” is “one’s maximum effort.”⁶⁵ Thus, according to the Federal Circuit, the statutory mandate that a respondent act to the “best of its ability” requires the respondent to do the maximum it is able to do. The Federal Circuit indicated that inadequate responses to an agency’s inquiries would suffice to find that a respondent did not act to the best of its ability. While the Federal Circuit noted that the “best of its ability” standard does not require perfection, it does not condone inattentiveness, carelessness, or inadequate record keeping.⁶⁶ The “best of its ability” standard recognizes that mistakes sometimes occur; however, it requires a respondent to, among other things, “have familiarity with all of the records it maintains,” and “conduct prompt, careful, and comprehensive investigations of all relevant

⁶³ See, e.g., *Drill Pipe from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011); see also *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

⁶⁴ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. I (1994) (SAA) at 870.

⁶⁵ See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon Steel*).

⁶⁶ *Id.* at 1382.

records that refer or relate to the imports in question to the full extent of its ability to do so.⁶⁷ Moreover, further, affirmative evidence of bad faith on the part of a respondent is not required before Commerce may make an adverse inference.⁶⁸

Section 776(c) of the Act provides that, when Commerce relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”⁶⁹ It is Commerce’s practice to consider information to be corroborated if it has probative value.⁷⁰ In analyzing whether information had probative value, it is Commerce’s practice to examine the reliability and relevance of the information to be used.⁷¹ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.⁷²

In a CVD investigation, Commerce requires information from both the foreign producers and exporters of the merchandise under investigation and the government of the country where those producers and exporters are located. When the government fails to provide requested and necessary information concerning alleged subsidy programs, Commerce may, in selecting from among the facts otherwise available with an adverse inference, find that a financial contribution exists under the alleged program and that the program is specific. However, where possible, Commerce will rely on the responsive producer’s or exporter’s records to determine the existence and amount of the benefit conferred, to the extent that those records are useable and verifiable.

Finally, under section 776(d) of the Act, Commerce may use any countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or, if there is no same or similar program, use a CVD rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates. Additionally, when selecting an AFA rate, Commerce is not required for purposes of 776(c) of the Act, or any other purpose, to estimate what the countervailable subsidy rate would have been if the interested party had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁷³

For purposes of this preliminary determination, we are applying AFA in the circumstances outlined below.

⁶⁷ *Id.*

⁶⁸ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000); *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27340 (May 19, 1997); see also *Nippon Steel*, 337 F.3d at 1382-83.

⁶⁹ See, e.g., SAA at 870.

⁷⁰ *Id.*

⁷¹ *Id.* at 869.

⁷² *Id.* at 869-870.

⁷³ See section 776(d)(3) of the Act.

Application of AFA: Provision of Certain Other Reported Subsidies as Specific

The Government of Turkey

In their responses to the Initial CVD Questionnaire, Assan and Teknik each reported receiving assistance with respect to our question, “Did the GOT or any state or local government (or entities owned directly, in whole or in part, by the GOT or a state or local government) provide, directly or indirectly, any *other* form of assistance to your company during the period January 1, 2006, through December 31, 2019?”⁷⁴ We also requested that the GOT provide information on any form of assistance that it (or a state or local government) provided to producers or exporters of aluminum sheet, and to coordinate with the respondents to determine if they are reporting the usage of any “other” subsidy programs.⁷⁵ While the GOT provided information on some of Assan’s and Teknik’s other reported subsidies in its questionnaire response, it failed to provide any information on the grants Assan reported receiving for its import transactions and freight expenses, and for POI assistance for export sales as reported by Teknik.⁷⁶ In a supplemental questionnaire to the GOT, we again requested that it provide information on additional government assistance as reported by Assan and by Teknik.⁷⁷ Again, the GOT provided requested information on some of the other government assistance as reported by Assan and by Teknik, but it failed to provide any information on the government assistance Assan reported receiving for its import transactions and freight expenses, and for POI assistance for exports as reported by Teknik.⁷⁸

Based on the above, we preliminarily determine that the use of facts available pursuant to sections 776(a)(1) and 776(a)(2)(A) of the Act is warranted in determining the countervailability of this apparent government assistance as reported by Assan and by Teknik. The GOT withheld information that was requested of it by not providing information regarding our requests for the information as noted above.⁷⁹ Furthermore, because the GOT failed to respond to the best of its ability regarding our questions on these other subsidies as reported by Assan and by Teknik – *i.e.*, to do the maximum it was able to do⁸⁰ – we determine that an adverse inference is warranted with respect to these subsidies pursuant to section 776(b) of the Act. As a result, we are finding that, as AFA, the information regarding the subsidies reported by Assan and Teknik (*e.g.*, the names of the reported assistance programs, dates the reported assistance was provided, and the

⁷⁴ See Assan’s June 18, 2010 QR at 117-136 (emphasis added); *see also* Teknik’s Letter, “Common Alloy Aluminum Sheet from Turkey: Teknik Aluminum Sanayi A.S. – Section III of CVD Questionnaire Response,” dated June 15, 2020 (Teknik’s June 15, 2020 QR) at CVD-41-CVD-42.

⁷⁵ See Initial CVD Questionnaire at Section II, page 20.

⁷⁶ GOT’S Letter, “Response of the Government of Turkey to Initial Questionnaire in Countervailing Duty Investigation on Common Alloy Aluminum Sheet from the Republic of Turkey,” dated June 15, 2020 (GOT’s June 15, 2020 QR) at 224-263.

⁷⁷ See Commerce’s Letter, “Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the Republic of Turkey; Supplemental Questionnaire,” dated July 2, 2020 at Questions 16-19.

⁷⁸ See GOT’s Letter, “Response of the Government of Turkey to Supplemental Questionnaire in Countervailing Duty Investigation on Common Alloy Aluminum Sheet from the Republic of Turkey,” dated July 20, 2020 (GOT’s July 20, 2020 SQR); *see also* Assan’s June 18, 2020 QR at 131 and Exhibit 54; Teknik’s June 15, 2020 QR at CVD-42; and Teknik’s Letter, “Common Alloy Aluminum Sheet from Turkey: Teknik Alüminyum A.S. – Supplemental CVD Questionnaire Response,” dated July 20, 2020 (Teknik July 20, 2020 QR) at 20.

⁷⁹ See section 776(a)(2)(A) of the Act; *see also* Initial CVD Questionnaire at Section II, page 20.

⁸⁰ See *Nippon Steel*, 337 F.3d at 1382.

reported amounts of the assistance that was received by Assan and Teknik) indicates a financial contribution and a subsidy that is specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively.

With respect to the assistance for exports as reported by Teknik, we preliminarily determine that, as AFA, this program is an export subsidy and, accordingly, is specific in accordance with section 771(5A)(B) of the Act because this assistance is contingent upon export performance.

Finally, to preliminarily determine whether benefits were provided from other reported subsidies, within the meaning of section 771(5)(E) of the Act, we are relying on the usage information as reported by Assan and by Teknik.⁸¹

IX. ANALYSIS OF PROGRAMS

A. Programs Preliminarily Determined to be Countervailable

1. Tax Program: Exemption from Property Tax

According to the GOT, this program provides an exemption on property tax for buildings in organized industrial zones (OIZs), free zones, industrial zones, technology development zones, and industrial sites.⁸² Article 4(m) of Property Tax Law No. 1319 establishes that buildings in such areas are exempted from property tax permanently as of July 2017.⁸³ Assan and Teknik each received an exemption from property tax during the POI under this program.⁸⁴ Commerce has found this program to be countervailable in *Quartz Products from Turkey Final Determination*.⁸⁵

We preliminarily find that this program constitutes a financial contribution in the form of revenue foregone within the meaning of section 771(5)(D)(ii) of the Act, and that Assan and Teknik each benefitted from an exemption from property tax under section 771(5)(E) of the Act in the amount of the property taxes that they did not pay. We preliminarily find that this program is specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in OIZs, free zones, industrial zones, technology development zones, and industrial sites.⁸⁶

To calculate the benefit from the tax relief that Assan and Teknik received under this program, we calculated the total amount of the property tax Assan and Teknik each would have paid during the POI in the absence of this program.⁸⁷ We divided the amount of the benefit by the

⁸¹ Assan's June 18, 2020 QR at 131 and Exhibit 54; *see also* Preliminary Calculations Memoranda.

⁸² *See* GOT'S Letter, "Response of the Government of Turkey to Initial Questionnaire in Countervailing Duty Investigation on Common Alloy Aluminum Sheet from the Republic of Turkey," dated June 15, 2020 (GOT's June 15, 2020 QR) at 23-24 and Exhibit 6.

⁸³ *Id.*

⁸⁴ *See* Assan's June 18, 2010 QR at 25-26; *see also* Teknik's June 15, 2020 QR at CVD-15.

⁸⁵ *See Quartz Products from Turkey Final Determination* IDM at 5.

⁸⁶ *See* GOT's June 15, 2020 QR at Exhibit 6.

⁸⁷ *See* Preliminary Calculations Memoranda.

respondents' total sales during the POI. On this basis, we preliminarily determine countervailable *ad valorem* subsidy rates of 0.01 percent for Assan, and 0.05 percent for Teknik.

2. Investment Incentive Scheme Program: 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 (Decree No. 2012/3305), in force since June 2012.⁸⁸ Investment Incentive Certificates (IICs) are issued to companies that apply and meet the criteria pursuant to Decree No. 2012/3305. According to the GOT, the purpose of the IEP is to reduce regional development disparities by encouraging regional, large scale, and strategic investments.⁸⁹

The programs available to IIC holders under the RIIS include, *inter alia*, customs duty exemptions, value-added tax (VAT) exemptions, interest support, social security premium support (employer's share and employee's share), and tax reductions.⁹⁰ To be eligible for an IIC, under the RIIS, companies must meet the regional and sectoral criteria outlined in Article 5 of Decree No. 2012/3305. Under the RIIS, 81 provinces in Turkey were grouped according to their socio-economic development levels and divided into six regions.⁹¹ The types and the amounts of available incentives vary by region.⁹² 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.⁹³ Assan reported that it was eligible for and received IICs under this program during the AUL.⁹⁴

According to the GOT, Assan was eligible to receive customs duty exemptions, VAT exemptions, tax reductions, and social security premium support (employer's share) with its IICs.⁹⁵

a. VAT and Customs Duty Exemptions

Article 4 of Decree No. 2012/3305 provides that under this program, investment machinery and equipment that is imported and/or locally provided within the scope of the IIC are exempted from customs duties and VAT.⁹⁶ Articles 9 and 10 of this decree detail the requirements of these

⁸⁸ See GOT's June 15, 2020 QR at 41-42 and Exhibit 8.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.* at 69.

⁹² *Id.* at 67-68.

⁹³ *Id.* at Exhibit 8.

⁹⁴ See Assan's June 18, 2020 QR at 41-42.

⁹⁵ See GOT's June 15, 2020 QR at 56.

⁹⁶ See GOT's June 15, 2020 QR at Exhibit 8.

exemptions.⁹⁷ We have previously found that customs duty exemptions under the IEP provide a countervailable subsidy.⁹⁸

Commerce has also recently determined that VAT exemptions provided by the GOT did not provide a benefit.⁹⁹ Commerce determined that the GOT maintains a “normal” VAT system such that a producer will fully recover the input VAT paid to its suppliers. Under a normal VAT system, a producer pays input VAT on its purchases from suppliers and collects output VAT on its sales to customers. The producer merely conveys the tax forward and the consumer bears the ultimate tax burden.¹⁰⁰ Because a producer, thus, ultimately incurs no VAT absent the exemptions, we determined these exemptions provide no benefit.¹⁰¹ In that same recent determination, Commerce also noted that it would gather additional facts regarding the operations of the GOT’s VAT system.¹⁰² Commerce has thus begun gathering such additional information in this investigation, and intends to issue its findings on the operations of the GOT’s VAT system in a post-preliminary determination. For this preliminary determination, Commerce continues to follow its recent precedent, countervailing the customs duty exemptions, but not the VAT exemptions.

We preliminarily determine that the customs duty exemptions provided by 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 the customs duty saved. 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.¹⁰³

Commerce previously determined in *Welded Line Pipe from Turkey 2015 AR*, that under the IEP, exempted import duties 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.”¹⁰⁴ Thus, pending a successful close-out of the investment incentive certificate, the company continues to be liable for the exempted duties.¹⁰⁵ 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, because the unpaid customs duties under this program are a liability contingent upon subsequent events, we regard the unpaid amounts as an interest-free contingent-liability loan. Accordingly, we find that the amount of the interest the respondent would have paid

⁹⁷ *Id.*

⁹⁸ 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 AR*), and accompanying IDM at 7-11.

⁹⁹ See *Quartz Products from Turkey Final Determination* IDM at Comment 2.

¹⁰⁰ *Id.* at 11-12.

¹⁰¹ *Id.*

¹⁰² *Id.* at 12-13.

¹⁰³ See GOT’s June 15, 2020 QR at Exhibit 8.

¹⁰⁴ See *Welded Line Pipe from Turkey 2015 AR* IDM at 7-11; see also *Quartz Products from Turkey Preliminary Determination*, and accompanying PDM at 14-16, unchanged in *Quartz Products from Turkey Final Determination* IDM at Comment 2. Commerce notes that the operation of this program’s VAT exemptions is identical to its customs duty exemptions as described herein.

¹⁰⁵ See *Welded Line Pipe from Turkey 2015 AR* IDM at 7-11; see also *Quartz Products from Turkey Preliminary Determination* PDM at 14-16, unchanged in *Quartz Products from Turkey Final Determination* IDM at Comment 2.

during the POI, had it borrowed the full amount of the duty at the time of importation (or at the time of purchase for domestic goods), to constitute the first benefit under the customs duty aspect of the program.

Furthermore, we find that a second benefit arises based on the amount of customs duties foregone by the GOT on the imports and/or domestic purchases covered by an IIC 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 exemptions under a given IIC 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 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 completion visa from the GOT.

Assan reported that it received customs duty exemptions on imported equipment during the AUL (including the POI) under the RIIS.¹⁰⁶ It reported purchases pursuant to an IIC not yet completed and also pursuant to an IIC that was completed during the POI. Therefore, the import duty exemptions received by Assan constitute deferrals on the payment of the import duties 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.¹⁰⁷

Record evidence demonstrates that the time period between exempted purchases under this 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.¹⁰⁸ 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 (applicable to the year of purchase or importation of the capital goods) as discussed in the "Benchmarks and Interest Rates" section, above. We calculated a daily interest rate based on the long-term benchmark interest rate for the year in which the capital good was imported (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 under Assan's IICs. 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 waived for the duration for each certificate pursuant to completion. After performing the "0.5 percent test," as directed by 19 CFR 351.524, we allocated this amount to the POI in accordance with 19 CFR 351.524(d).

¹⁰⁶ See Assan's June 18, 2020 QR at 41-47.

¹⁰⁷ See, *e.g.*, *Welded Line Pipe from Turkey 2015 AR IDM* at Comment 1; see also *Quartz Products from Turkey Preliminary Determination PDM* at 14-16, unchanged in *Quartz Products from Turkey Final Determination IDM* at Comment 2.

¹⁰⁸ See Assan's June 18, 2020 QR at Exhibit 20.

To calculate the countervailable subsidy rate attributable to Assan, we divided the total POI benefit to Assan, determined as discussed above, by its total sales during the POI. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 0.17 percent for Assan.¹⁰⁹

b. Tax Reductions

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 Decree No. 2012/3305. The IIC holder is eligible to receive this benefit until the total amount of the tax reduction equals the contribution rate cap as specified in Article 15 of Decree No. 2012/3305.¹¹⁰ Assan reported that it received a total tax reduction amount for its 2018 tax return that was filed during 2019 (*i.e.*, the POI) as a result of this program.¹¹¹ Commerce has found this tax reduction program to be countervailable in a prior CVD case regarding Turkey.¹¹²

We preliminarily find that these tax reductions 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 the taxes saved. 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 also find that this program is specific under section 771(5A)(D)(i) and (iv) of the Act, because, as discussed above, the program is limited to firms making a specified minimum investment in certain geographic regions.¹¹³

To calculate the benefit from this program, we calculated the amount of tax that Assan 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 Assan did pay on the tax return filed during the POI. The difference between the two is the benefit to Assan under this program during the POI. To calculate a subsidy rate, we divided Assan's POI benefit by its total POI sales. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 0.52 percent for Assan.¹¹⁴

3. Export Financing

a. Export Financing: Rediscount Loan Program

The Rediscount Loan Program (formerly known as the Short-Term Pre-Shipment Rediscount Program) was established in October 1999 and is designed to increase the competitive power of manufacturers and exporters producing goods for export.¹¹⁵ This program was established within the framework of the Central Bank of the Republic of Turkey's (Central Bank of Turkey's) "Circular on Export and Foreign Exchange Earning Services Rediscount Credits," and is administered by the Export Credit Bank of Turkey (ExIm Bank of Turkey) as well as by

¹⁰⁹ See Assan's Preliminary Calculations Memorandum.

¹¹⁰ See GOT's June 15, 2020 QR at 60 and Exhibit 8.

¹¹¹ See Assan's June 18, 2020 QR at 50 and Exhibits 5 and 23.

¹¹² See *Quartz Products from Turkey Final Determination* IDM at 5.

¹¹³ See GOT's June 15, 2020 QR at Exhibit 8.

¹¹⁴ See Assan's Preliminary Calculations Memorandum.

¹¹⁵ See GOT's June 15, 2020 QR at 84.

commercial banks that apply to be administering banks with the Central Bank of Turkey.”¹¹⁶ Loans issued under this program are short-term in nature and are applied for on an on-going basis.¹¹⁷ A loan application is required for each loan obtained.¹¹⁸ Commerce has found this program to be countervailable in a prior CVD case regarding Turkey.¹¹⁹ Assan reported that it had loans outstanding under this program during the POI.¹²⁰

We preliminarily find that loans from this program constitute a financial contribution in the form of a direct transfer of funds from the government under section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1) equal to the difference between the amount paid by the company for the loans during the POI and the amount the company would have paid on comparable commercial loans. This program is also specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance.

In calculating the benefit from these loans, pursuant to section 771(5)(E) of the Act and 19 CFR 351.505(a)(1), we applied a discounted benchmark interest rate (as described in the “Benchmarks and Interest Rates” section, above) because the interest is due upfront when the loan is received.¹²¹ To calculate the countervailable subsidy rate, we divided Assan’s benefit amount by its total export sales value for the POI. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 0.43 percent for Assan.¹²²

b. Export-Oriented Working Capital Credit (also known as Export-Oriented Business Investment Loans)

According to the GOT, the Export-Oriented Working Capital Credit Program aims to finance raw materials, intermediate goods, machinery and other financial needs of companies.¹²³ Purchases of raw materials and intermediate goods are financed based on the completed procurement within the framework of the purchase invoices. Administered by the ExIm Bank of Turkey, the Export-Oriented Working Capital Credits Implementation Principles state that private companies based in Turkey, operating as “manufacture-exporters” or export-oriented manufacturers engaged in exporting goods, shall be eligible for loans under this program against a commitment for final export of goods of Turkish origin.¹²⁴ The GOT reported that “the company is obliged to fulfill its export commitment within the credited period and hence, the

¹¹⁶ *Id.* at 84-85.

¹¹⁷ *See* Assan’s June 18, 2020 QR at 64.

¹¹⁸ *Id.* at 65.

¹¹⁹ *See Large Diameter Welded Pipe from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 30697 (June 29, 2018) (*Large Diameter Pipe from Turkey Preliminary Determination*), and accompanying PDM at 15, unchanged in *Large Diameter Welded Pipe from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 84 FR 6367 (February 27, 2019) (*Large Diameter Pipe from Turkey Final Determination*), and accompanying IDM at 4.

¹²⁰ *See* Assan’s June 18, 2020 QR at 64.

¹²¹ *See* GOT’s June 15, 2020 QR at 89.

¹²² *See* Assan’s Preliminary Calculations Memorandum.

¹²³ *See* GOT’s June 15, 2020 QR at 97.

¹²⁴ *Id.* at Exhibit 16.

program is contingent upon export commitment.”¹²⁵ The qualification of applicants as exporters is verified through their Taxpayer Identification Numbers, and the qualification of applicants as manufacturers is verified through Capacity Reports.¹²⁶ Assan reported that it had loans outstanding under this program during the POI.¹²⁷

We preliminarily find that loans from this program constitute a financial contribution in the form of a direct transfer of funds from the government under section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1) equal to the difference between the amount paid by the company for the loans during the POI and the amount the company would have paid on comparable commercial loans. This program is also specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance.

In calculating the benefit from these loans, pursuant to section 771(5)(E) of the Act and 19 CFR 351.505(a)(1), we applied benchmark interest rate as described in the “Benchmarks and Interest Rates” section, above. To calculate the countervailable subsidy rate, we divided Assan’s benefit amount by its total export sales value for the POI. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 0.04 percent for Assan.¹²⁸

4. Research and Development (R&D) Incentives Under Turkey’s R&D Law

The GOT reported that 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).¹²⁹ Under the Law on Supporting Research, Development and Design Activities (Law No. 5746), support is provided to technology centers, R&D centers, and R&D projects, *inter alia*.¹³⁰ Support elements provided under Law No. 5746 include, but are not limited to, corporate income tax deductions for R&D and design related expenses; income tax exemptions for the salaries of R&D personnel; and insurance premium support.¹³¹ Commerce has found government-provided assistance provided under Law No. 5746 to be countervailable in a prior CVD case regarding Turkey.¹³²

Assan reported that it qualified as an R&D center through completing an application process and an on-the-spot verification conducted by representatives assigned by the GOT’s Ministry of Science, Industry and Technology (MoIT).¹³³ According to Assan, each year it prepares and submits an “R&D Centre Annual Activity Report” to the MoIT for yearly approval.¹³⁴

¹²⁵ *Id.* at 103.

¹²⁶ *Id.*

¹²⁷ *See* Assan’s June 18, 2020 QR at 71.

¹²⁸ *See* Assan’s Preliminary Calculations Memorandum.

¹²⁹ *See* GOT’s June 15, 2020 QR at 202.

¹³⁰ *Id.*

¹³¹ *Id.* at Exhibit 35.

¹³² *See Quartz Products from Turkey Preliminary Determination* PDM at 17-19, unchanged in *Quartz Products from Turkey Final Determination*.

¹³³ *See* Assan’s June 18, 2020 QR at 111-113.

¹³⁴ *Id.* at 102.

- a. Corporate Income Tax Deductions for R&D Expenses
- b. Income Tax Exemptions for Salaries of R&D Personnel

Assan reported that under Law No. 5746, on its 2018 corporate income tax return that was filed during the POI, it claimed: (1) corporate income tax deductions for R&D expenses; and (2) income tax exemptions for salaries of R&D personnel.¹³⁵ According to Assan, it is eligible to receive benefits under these programs by conducting R&D activities in an R&D center.¹³⁶ We preliminarily find that these income tax deductions for R&D expenses and income tax exemptions for salaries of R&D personnel constitute financial contributions in the form of revenue foregone under section 771(5)(D)(ii) of the Act. The income tax deductions and exemptions provide a benefit in the amount of the tax savings to the company pursuant to section 771(5)(E) of the Act. We also preliminarily find that these programs are specific according to section 771(5A)(D)(i) of the Act because the enterprises that are eligible for these programs is limited to enterprises that maintain technology center businesses, R&D centers, and design centers as specified in Article 1(2) of Law No. 5746).¹³⁷

To calculate the benefit from these programs, we calculated the amount of tax that Assan would have paid on its tax return filed during the POI in the absence of these programs and compared those amounts with the amount of taxes Assan did pay on the tax return filed during the POI. The difference between these amounts is the benefit to Assan under the programs during the POI. To calculate a subsidy rate, we divided Assan's POI benefit by its total POI sales. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate for Assan of 0.02 percent for the Corporate Income Tax Deductions for R&D Expenses Program, and 0.01 percent for the Income Tax Exemptions for Salaries of R&D Personnel Program.¹³⁸

5. Exemption on Exchange Tax for Foreign Exchange Transactions

According to the GOT, Turkey's banking and insurance transaction tax (BITT) rates are determined by the Annexed Decision of the Cabinet Decree No. 98/11591, dated August 28, 1998 (Decree No. 98/11591).¹³⁹ Before May 15, 2019, the BITT rate for all foreign exchange sales was zero percent. To restrict speculative and high frequency foreign exchange transactions, Presidential Decree No. 1106, dated May 15, 2019, (Decree No. 1106) increased the BITT rate to 0.1 percent on foreign exchange transactions except for transactions regarding: (1) foreign exchange sales between banks and authorized institutions or among each other; (2) foreign currency sales that are made to the Ministry of Treasury and Finance; and (3) the payment of foreign currency loans, by the lender banks or banks that act as an intermediary in the use of the foreign currency loans.¹⁴⁰ As such, these three types of foreign exchange transactions were exempted from the banking and insurance transaction tax. Presidential Decree No. 1149, dated June 17, 2019 (Decree 1149), amended Decree No. 1106 and amended the BITT exemption to include foreign exchange sales to enterprises that have an industrial registry certificate, and

¹³⁵ See 103-111.

¹³⁶ *Id.*

¹³⁷ See GOT's June 15, 2020 QR at Exhibit 35.

¹³⁸ See Assan's Preliminary Calculations Memorandum.

¹³⁹ See GOT's July 20, 2020 QR at 31.

¹⁴⁰ *Id.* at 31-32 and Exhibit 15.

foreign exchange sales to exporters who are members of exporters' unions.¹⁴¹ Finally, Law No. 7194, dated December 7, 2019, increased the BITT rate on foreign exchange transactions to 0.2 percent.¹⁴² While this program was not alleged by the petitioners, Assan reported that it and its affiliated exporter Kibar Dis were exempted from paying exchange tax at a rate of 0.1 percent from June 17, 2019, through December 5, 2019, and at a rate of 0.2 percent after December 5, 2019.¹⁴³

We preliminarily find that the exemption from tax on foreign exchange transactions constitutes a financial contribution in the form of revenue forgone within the meaning of section 771(5)(D)(ii) of the Act. This exemption provides a benefit to the recipient in the amount of the tax savings to the company pursuant to section 771(5)(E) of the Act. We also find that this program is specific under section 771(5A)(D)(i) and (iv) of the Act, because, as discussed above, the program is limited to firms that conduct certain types of foreign exchange transactions that were exempted by law in Decree Nos. 1106 and 1149.¹⁴⁴

To calculate the benefit, we separately summed the amount of the POI tax exemptions as reported by Assan and by Kibar Dis. We then attributed these benefits to Assan and to Kibar Dis as discussed above in the section, "Attribution of Subsidies," and divided each company's benefit by the appropriate sales value as discussed in the "Denominators" section, above to derive individual subsidy rates for Assan and for Kibar Dis. We then summed Assan's and Kibar Dis's individual subsidy rates to calculate the total program subsidy rate. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate for Assan of 0.08 percent for this program.¹⁴⁵

6. Turquality Program

Regulated by Communiqué No. 2006/4 of the Money-Credit and Coordination Council, dated May 11, 2006 (Communiqué No. 2006/4), the "Overseas Branding of Turkish Products, Promotion of Turkish Product Image and Supporting Turquality" (Turquality) program was designed to enhance the branding efforts of companies and to create a positive public opinion for Turkish products.¹⁴⁶ Expenses that may be financed (or reimbursed) by the GOT under this program include, but are not limited to, international trademark registration, certification and quality marks, salaries of fashion/industrial designers and product development engineers, and promotional activities, *inter alia*. While the GOT states that the aim of this program is to support firms during the brand building process in Turkey and abroad, it also states that applicants for grants under this program are evaluated "according to their potential to create an international and positive brand image as a whole."¹⁴⁷ Assan stated that it received funds from this program during the POI.¹⁴⁸ According to Assan, manufacturers that are members of the Exporters'

¹⁴¹ *Id.*

¹⁴² *Id.* at 32 and Exhibit 15.

¹⁴³ See Assan's June 18, 2020 QR at 126.

¹⁴⁴ See GOT's July 20, 2020 QR at Exhibit 15.

¹⁴⁵ See Assan's Preliminary Calculations Memorandum.

¹⁴⁶ See GOT's June 18, 2020 QR at 248.

¹⁴⁷ *Id.* at 254.

¹⁴⁸ See Assan's June 18, 2020 QR at 94.

Association Union can apply to receive benefits under this program.¹⁴⁹ As part of the application process, Assan stated that the Exporters' Association Union reviewed its documents, and the Ministry of Trade transferred the approved funds to Assan.¹⁵⁰

We preliminarily find that grants from this program provide a financial contribution pursuant to section 771(5)(D)(i) of the Act and provide a benefit to the recipient in the amount of the grant provided, pursuant to 19 CFR 351.504(a). As the GOT stated that applicants for funds under this program are evaluated according to their potential to create a positive international brand image, and because Assan reported that its application was reviewed by the "Exporters' Association Union," we also preliminarily determine that the program is contingent upon export performance and is specific pursuant to section 771(5A)(B) of the Act.

Assan stated that it files a separate application each time it applies for assistance from this program.¹⁵¹ Therefore, we find that grants from this program are recurring in nature as described in 19 CFR 351.524(c)(1). To calculate the benefit for Assan we summed the amount of the grants that Assan received from this program during the POI. To calculate the countervailable subsidy rate, we divided Assan's benefit amount by its total export sales value for the POI. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 0.07 percent for Assan.¹⁵²

7. Provision of Land Provided Under Law No. 4916

While not alleged by the petitioners, Assan reported that in 2007, its parent holding company Kibar Holding purchased a parcel of land from the GOT and transferred this land to Assan during the AUL.¹⁵³ According to the GOT, Kibar Holding purchased this land pursuant to Article 3 of Law No. 4916 regarding Making Amendments in Several Laws and Decree on Institution and Duties of Ministry of Finance (Law No. 4916).¹⁵⁴ The GOT reported that this program was terminated in February 2009 by Article 32 of Law No. 5838. Article 3 of Law No. 4916 states that "immovables" (*i.e.*, real property) that belong to the Treasury can be sold to private companies and public institutions for purposes of developing industry, livestock, technology, small industrial sites, technology development zones, and housing, *inter alia*.¹⁵⁵ Qualifying companies had to commit to make an industrial investment of at least USD 25 million and employ at least one hundred people. Assan reported that to the best of its knowledge, its affiliate Kibar Holding qualified to buy this land from the GOT by making an investment with a minimum of USD 10 million and creating employment for at least 50 people.¹⁵⁶

We preliminarily find that the land sold to Kibar Holding under Law No. 4916 constitutes a financial contribution in the form of the provision of a good (other than infrastructure) within the meaning of section 771(5)(D)(iii) of the Act, and that the provision of this land is *de jure* specific

¹⁴⁹ *Id.* at 90.

¹⁵⁰ *Id.* at 91.

¹⁵¹ *Id.* at 93.

¹⁵² See Assan's Preliminary Calculations Memorandum.

¹⁵³ See Assan's June 18, 2020 QR at 131.

¹⁵⁴ See GOT's July 20, 2020 QR at 54.

¹⁵⁵ *Id.* at Exhibit 17.

¹⁵⁶ See Assan's July 20, 2020 QR at 12-13.

under section 771(5A)(D)(i) of the Act because it is limited to companies that satisfy the criteria as stated in Article 3 (*i.e.*, satisfying certain investment and employment thresholds). To determine whether Kibar Holding's acquisition of land from the GOT provides a benefit, we first multiplied the area of land Kibar Holding purchased from the GOT under this program by the average of the unit benchmark land prices submitted by the petitioners and by Assan as discussed in the "Benchmarks and Interest Rates" section, above.¹⁵⁷ Applying the "0.5 percent test," as described above in the "Allocation Period" section, we then divided the benefit amount received in 2007 by Kibar Holding by Kibar Holding's consolidated 2007 total sales and found that the resulting amount exceeded 0.5 percent. Therefore, we allocated a portion of the benefit to the POR using Commerce's standard grant formula.¹⁵⁸ In doing so, we preliminarily find that a POI benefit exists pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511(a)(1). To calculate the subsidy rate, we divided the amount of the benefit allocated to the POI by Assan's total POI sales. On this basis, we preliminarily determine a countervailable *ad valorem* subsidy rate of 0.24 percent for Assan.¹⁵⁹

8. Other Subsidy Programs

Assan and Teknik each reported that they received benefits from various grants and income tax programs during the AUL.¹⁶⁰ As stated above in the section "Use of Facts Otherwise Available and Application of Adverse Inferences," we have preliminarily determined that the government grants that Assan reported for assistance with its import transactions and for its freight expenses, and the assistance Teknik received for certain of its exports, are countervailable based upon AFA. Specifically, and as explained above, we determine that these programs are a financial contribution and are specific within the meaning of sections 771(5)(D) and 771(5A) of the Act, respectively. Additionally, we determine that Assan and Teknik received a benefit in the amount of the grants that they reported, which is appropriate under 19 CFR 351.504(a).

Our review of these programs further leads us to conclude that they are recurring in nature as described in 19 CFR 351.524(c)(1) and, thus, the grants received prior to the POI are expensed in years prior to the POI.¹⁶¹ Assan and Teknik each also reported receiving government assistance during the POI that was expensed during the POI pursuant to the 0.5 percent test discussed above. Using the companies' reported usage information for this government assistance, we calculated *ad valorem* subsidy rates of 1.54 percent for the government assistance related to

¹⁵⁷ See Petitioners' Land Benchmark Submission; *see also* Assan's Land Benchmark Submission.

¹⁵⁸ See 19 CFR 351.524(d); *see also* Assan's Preliminary Calculations Memorandum. We used the standard 14-year AUL when conducting the allocation calculation. This approach is consistent with our approach in other land for LTAR programs involving the outright sale of land. *See, e.g., Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review*, 77 FR 46713 (August 6, 2012) (CWCSF from Turkey), and accompanying IDM at 14; *see also Certain Oil Country Tubular Goods from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 41964 (July 18, 2014) (OCTG from Turkey), and accompanying IDM at 18-20; and *Welded Line Pipe from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 80 FR 61371 (October 13, 2015) (Welded Line Pipe from Turkey Investigation), and accompanying IDM at 17-20.

¹⁵⁹ See Assan's Preliminary Calculations Memorandum.

¹⁶⁰ See Assan's June 18, 2010 QR at 117-136 and Exhibit 54; *see also* Teknik's June 15, 2020 QR at CVD-41-CVD-42.

¹⁶¹ See Assan's June 18, 2010 QR at Exhibit 54.

Assan's import transactions, 0.02 percent for the assistance related to Assan's freight expenses, and 0.02 percent for the government assistance Teknik received for certain of its exports.¹⁶²

B. Programs Preliminarily Determined to Not Confer a Measurable Benefit During the POI

1. Regional Investment Incentive Scheme – Social Security Premium Support (Employer's Share)
2. Specific Export Credit Program
3. Islamic Development Bank Loans Funded Through the ExIm Bank of Turkey
4. Foreign Fair Support Program
5. Contributions for Social Security Premiums for R&D & Support Personnel
6. Scientific and Technological Research Council of Turkey (TUBITAK) Grants
7. Stamp Tax Exemption Under Transfer of Operating Rights of Power Plant (Assan)
8. Banking and Insurance Transaction Tax Exemption Under Transfer of Operating Rights of Power Plant (Assan)
9. Intern Salary Support

C. Programs Preliminarily Found to be Not Used

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

1. Deductions from Taxable Income for Export Revenue

Assan reported that it received an income tax refund during the POI arising from an amended tax return filed prior to the POI.¹⁶³ Section 19 CFR 351.509(b)(1) of Commerce's regulations states that Commerce will consider an income tax benefit to have been received during the year the income tax return was filed and not during the year the refund was received. Because the tax return concerning this refund was filed prior to the POI, we find that this program was not used.

2. Inward Processing Certificates (Excluding Aspects Regarding "D-1" Certificates)
3. Free Zones Law No. 3218: Corporate Income Tax Exemption
4. Free Zones Law No. 3218: Exemption from Income Tax for Workers' Wages
5. Tax and Fee Incentives for Renewable Energy
6. Large Scale Investment Incentive Scheme
7. Strategic Investment Incentive Scheme
8. Project-Based Investment Incentive Program
9. Investment Credit for Export Program
10. Export Buyer's Credits
11. Provision of Natural Gas for LTAR
12. Renewable Energy Support Mechanism

¹⁶² See Preliminary Calculations Memoranda.

¹⁶³ See Assan's June 18, 2020 QR at 13; *see also* Assan's July 20, 2020 QR at 6-7.

13. Foreign Market Research and Market Entry Grants
14. Provision of Land for LTAR in OIZ Locations Pursuant to Law No. 5084

We initiated an investigation based on Petitioners' New Subsidy Allegation, which alleged that Pursuant to Law No. 5084, free allocations of land were available to companies located in provinces that either: (1) had a Gross Domestic Product per capita that was lower than, or equal to, USD 1,500 in 2001 (as determined by the GOT's State Institute of Statistics) or where the index value of social-economic development was negative in 2003 (as determined by Turkey's State Planning Organization); or (2) had priority regions for development.¹⁶⁴ In their allegation, the petitioners stated that according to Provisional Article I of Law No. 5048, non-allocated parcels in Turkey's OIZs were included in the land that could be granted free of charge by the administrative bodies in the OIZ. The petitioners argued that Assan and Teknik each maintain production facilities in OIZs and, therefore, would be eligible for the allocation of free land under Law No. 5084.¹⁶⁵ In responding to our questionnaires on this issue, the GOT, Assan, and Teknik provided information demonstrating that neither respondent received free land allocations in the provinces where free land allocations were available under Law No. 5084.¹⁶⁶ As such, we find that this program was not used.

Finally, Assan reported that it purchased land in the Dilovasi OIZ prior to and during the AUL in transactions not related to Law No. 5084.¹⁶⁷ With respect to the land that was purchased prior to the AUL, Commerce has a practice of fully allocating subsidies across the AUL for outright purchases of land.¹⁶⁸ Therefore, the land Assan purchased prior to the AUL cannot provide a benefit to the POI. Regarding Assan's reported land in the Dilovasi OIZ that was purchased during the AUL, our examination of the record leads us to conclude that this land was purchased from private parties and not from the GOT or any government agency.¹⁶⁹

D. Programs for Which We Require Additional Information

1. VAT Exemptions Regarding Investment Incentive Scheme
2. VAT Exemptions Regarding Regional Investment Incentive Scheme
3. VAT Exemptions Regarding Under Transfer of Operating Rights of Power Plant (Assan)
4. Special Consumption Tax

¹⁶⁴ See Petitioners' New Subsidy Allegation; *see also* Initiation of New Subsidy Allegation Memorandum.

¹⁶⁵ See Petitioners' New Subsidy Allegation.

¹⁶⁶ See GOT's Letter, "Response of the Government of Turkey to New Subsidy Allegation Questionnaire in Countervailing Duty Investigation on Common Alloy Aluminum Sheet from the Republic of Turkey," dated July 14, 2020; *see also* Assan's Letter, "Common Alloy Aluminum Sheet from Turkey: New Subsidy Allegation Questionnaire Response," dated July 17, 2020 (Assan's July 17, 2020 QR); and Teknik's Letter, "Common Alloy Aluminum Sheet from Turkey: Teknik Alüminyum Sanayi A.Ş. – New Subsidy Allegation Questionnaire Response," dated July 17, 2020.

¹⁶⁷ See Assan's July 17, 2020 QR at 2.

¹⁶⁸ See, e.g., *CWCSP from Turkey* IDM at 14; *see also* *OCTG from Turkey* IDM at 20; and *Welded Line Pipe from Turkey Investigation* IDM at 19.

¹⁶⁹ See Assan's July 17, 2020 QR at 2 and Exhibit NSA-1.

X. CONCLUSION

We recommend that you approve the preliminary findings described above.



Agree



Disagree

8/7/2020

X



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