



C-489-843
Investigation
POI: 1/1/2019 – 12/31/2019
Public Document
E&C/OII: Team

September 14, 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 Determination of the
Countervailing Duty Investigation of Prestressed Concrete Steel
Wire 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 prestressed concrete steel wire (PC strand) 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 April 16, 2020, Commerce received antidumping (AD) petitions concerning imports of PC strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates and a countervailing duty (CVD) petition concerning imports of PC strand from Turkey, filed on behalf of Insteel Wire Products, Sumiden Wire Products Corporation, and Wire Mesh Corp. (collectively, the petitioners).¹ On May 6, 2020, we initiated a CVD investigation of PC strand from Turkey.² In the *Initiation Notice*, Commerce notified parties of an opportunity to comment

¹ See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates – Petition for the Imposition of Antidumping and Countervailing Duties," dated April 16, 2020 (Petition).

² See *Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Initiation of Countervailing Duty Investigation*, 85 FR 28610 (May 13, 2020) (*Initiation Notice*).



on the scope of the investigation.³ We did not receive any comments on the scope of the investigation.

B. Respondent Selection

In the *Initiation Notice*, Commerce stated that we intended to base our selection of mandatory respondents on U.S. Customs and Border Protection entry data for the Harmonized Tariff Schedule of the United States subheadings listed in the scope of the investigation.⁴ We received comments from the petitioners on May 13, 2020.⁵ On June 4, 2020, we selected Guney Celik Hasir ve Demir (Guney Celik) and Has Celik ve Halat Sanayi Ticaret A.S. (Hascelik) as mandatory respondents.⁶ On June 9, 2020, Commerce issued the initial CVD questionnaire to the Government of Turkey (GOT), who is responsible for forwarding the questionnaire to the mandatory respondents.⁷

We then received comments from Hascelik on June 12, 2020, and the petitioners on June 15, 2020.⁸ As a result of those comments, Commerce no longer considered Hascelik to be a mandatory respondent in this investigation and suspended Hascelik's obligations to respond to Commerce's initial questionnaire.⁹ On June 25, 2020, we selected Celik Halat ve Tel San A.S. (Celik Halat) and Guney Celik as mandatory respondents¹⁰ and issued a revised initial CVD questionnaire to the GOT.¹¹

C. Questionnaires and Responses

On June 30, 2020, we received a timely response to the "affiliated companies" section of the questionnaire from Guney Celik.¹² In its response, Guney Celik reported that it had one cross-owned affiliate in the period of investigation (POI): Guney International Dış Ticaret A.S. (Guney International). On July 20, 2020, Commerce issued a supplemental affiliation

³ *Id.* at 28611.

⁴ *Id.* at 28612.

⁵ See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from the Republic of Turkey – Petitioners' Comments on Respondent Selection," dated May 13, 2020.

⁶ See Memorandum, "Countervailing Duty Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Respondent Selection," dated June 4, 2020.

⁷ See Commerce's Letter, "Investigation of Prestressed Concrete Steel Wire from the Republic of Turkey: Countervailing Duty Questionnaire," dated June 9, 2020.

⁸ See HasCelik's Letter, "Prestressed Concrete Steel Wire Strand from Turkey: Comments on Respondent Selection," dated June 12, 2020; and Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from Turkey – Petitioners' Comments on the Department's Respondent Selection Memorandum," dated June 15, 2020.

⁹ See Memorandum, "Antidumping Duty Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Suspension of Questionnaire Response," dated June 15, 2020.

¹⁰ See Memorandum, "Countervailing Duty Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Respondent Selection," dated June 25, 2020.

¹¹ See Commerce's Letter, "Investigation of Prestressed Concrete Steel Wire from the Republic of Turkey: Countervailing Duty Respondent Selection," June 26, 2020.

¹² See Guney Celik's June 30, 2020 Affiliation Response (Guney Celik June 30, 2020 AFFR).

questionnaire to Guney Celik,¹³ and we received a timely response on July 24, 2020.¹⁴ On July 24, 2020, we received a timely response to the “affiliated companies” section of the questionnaire from Celik Halat.¹⁵ In its response, Celik Halat reported that it had two cross-owned affiliates during the POI: Dogan Sirketler Grubu Holding A.S. (Dogan Holding), and Adilbey Holding A.S. (Adilbey Holding).

On July 27, 2020, we received a timely response to the remainder of the initial questionnaire from Guney Celik,¹⁶ as well as a timely response to the full initial questionnaire in regard to Guney Celik from the GOT.¹⁷ In July and August 2020, we issued supplemental questionnaires to Guney Celik and the GOT. In July and August 2020, the GOT provided timely responses to its supplemental questionnaires.¹⁸

In July 2020, we received an untimely response to the remainder of the initial questionnaire from Celik Halat. On August 19, 2020, Commerce rejected the untimely response.¹⁹ On August 20, 2020, Celik Halat requested that Commerce reconsider its decision to reject Celik Halat’s initial questionnaire response;²⁰ we rejected the request to reconsider the decision on September 4, 2020.²¹

In September 2020, we received an untimely response to a supplemental questionnaire from Guney Celik. On September 8, 2020, Commerce rejected the untimely response.²²

In September 2020, we received pre-preliminary comments from the petitioners.²³ Celik Halat filed rebuttal comments in the same month.²⁴

¹³ See Commerce’s Letter, “Countervailing Duty Investigation of Prestressed Concrete Steel Wire from the Republic of Turkey: First Supplemental Questionnaire,” dated July 20, 2020.

¹⁴ See Guney Celik’s July 24, 2020 Supplemental Affiliated Companies Response (Guney Celik July 24, 2020 SAFFR).

¹⁵ See Celik Halat’s July 24, 2020 Affiliation Response (Celik Halat July 24, 2020 AFFR).

¹⁶ See Guney Celik July 27, 2020 Initial Questionnaire Response (Guney Celik July 27, 2020 IQR).

¹⁷ See GOT July 27, 2020 Initial Questionnaire Response (GOT July 27, 2020 IQR).

¹⁸ See GOT’s July 28, 2020 Supplemental Questionnaire Response (GOT July 28, 2020 SQR); and GOT’s August 31, 2020 Supplemental Questionnaire Response (GOT August 31, 2020 SQR).

¹⁹ See Commerce’s Letter, “Countervailing Duty Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey,” dated August 19, 2020.

²⁰ See Celik Halat’s Letter, “Pre-Stressed Concrete Steel Wire Strand from Turkey: Request for Reconsideration of the Department’s Rejection of the CVD Response of Celik Halat,” dated August 20, 2020.

²¹ See Commerce’s Letter, “Countervailing Duty Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey” dated September 4, 2020.

²² See Commerce’s Letter, “Countervailing Duty Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey,” dated September 8, 2020.

²³ See Petitioners’ Letter, “Prestressed Concrete Steel Wire Strand from the Republic of Turkey – Petitioners’ Pre-Preliminary Comments,” dated September 2, 2020; and Petitioners’ Letter, “Prestressed Concrete Steel Wire Strand from the Republic of Turkey – Petitioners’ Pre-Preliminary Comments on Guney Celik,” dated September 4, 2020.

²⁴ See Celik Halat’s Letter, “Pre-Stressed Concrete Steel Wire Strand from Turkey: Response of Celik Halat to Petitioners’ Pre-Preliminary Comments and Demand for Imposition of Total AFA, and to the Department’s Denial of Reconsideration of the Rejection of its CVD Questionnaire Response,” dated September 9, 2020.

D. New Subsidy and Critical Circumstances Allegations

On August 5, 2020, the petitioners submitted new subsidy allegations (NSAs) with respect to Celik Halat and Guney Celik and their cross-owned affiliates.²⁵ Specifically, the petitioners alleged that Celik Halat and Guney Celik may have benefited from an exemption on exchange taxes for foreign exchange transactions. Additionally, the petitioners alleged that Celik Halat and Guney Celik may have benefited from government ownership of steel providers Eregli Demir ve Celik Fabrikaları T.A.S. and Iskenderun Demir ve Celik A.S., and, as a result, the companies may have purchased steel wire rod for less than adequate remuneration (LTAR). After considering the information on the record, in September 2020, Commerce initiated an investigation on both of the alleged new programs²⁶ and issued questionnaires to Celik Halat, Guney Celik, and the GOT related to those programs. For those programs not addressed in this preliminary determination, we have issued or intend to issue supplemental questionnaires to the relevant parties and further intend to consider that information for purposes of examining these programs in a post-preliminary determination.²⁷

On August 24, 2020, the petitioners filed an allegation that critical circumstances exist with respect to imports of PC strand from Turkey.²⁸ Commerce issued quantity and value questionnaires related to the critical circumstances allegation to both respondents²⁹ and received timely responses on September 4, 2020.³⁰

E. Post-Preliminary Determination

As noted above, we issued additional questionnaires related to the NSAs, and we may issue supplemental questionnaires regarding these programs. Further, we intend to issue supplemental questionnaires regarding the Export Buyer's Credit, Renewable Energy Support Mechanism, Guney Celik's Income Tax credit, Incentive Investment Schemes –Value-Added Tax (VAT) Exemption Program and the Natural Gas for LTAR allegation. Thus, we intend to issue a post-preliminary determination.

²⁵ See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from the Republic of Turkey – Petitioners' New Subsidy Allegations," dated August 5, 2020.

²⁶ See Memorandum, "Decision Memorandum on New Subsidy Allegations," dated September 1, 2020 (NSA Memorandum).

²⁷ See the Programs for Which We Require Additional Information section of this memorandum.

²⁸ See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from the Republic of Turkey – Petitioners' Allegation of Critical Circumstances," dated August 24, 2020 (Petitioners Critical Circumstances Allegation).

²⁹ See Commerce's Letters, "Investigation of Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Request for Additional Information," dated August 28, 2020.

³⁰ See Celik Halat's Letter, "Pre-Stressed Concrete Steel Wire Strand from Turkey: Initial Critical Circumstances Response of Celik Halat ve Tel Sanayi A.S.," dated September 4, 2020 (Celik Halat CC Q&V Response); and Guney Celik's Letter, "Prestressed Concrete Steel Wire Strand from Turkey; Request for Additional Information Response," dated September 4, 2020 (Guney Celik CC Q&V Response).

F. Potential Benchmark Data

In August 2020, pursuant to 119 CFR 351.511(a), we received timely-filed benchmark information to measure the adequacy of remuneration in this investigation from the petitioners.³¹

G. Postponement of the Preliminary Determination

On June 12, 2020, the petitioners requested that Commerce postpone the preliminary determination of this investigation.³² Commerce granted the petitioners' request, and, on July 1, 2020, we postponed the date of the preliminary determination until September 14, 2020, in accordance with section 703(c)(1)(A) of the Act.³³

H. Period of Investigation

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

III. SCOPE OF THE INVESTIGATION

The product covered by this investigation is PC strand. For a full description of the scope of this investigation, *see* this memorandum's accompanying *Federal Register* notice at Appendix I.

IV. 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 PC Strand from Turkey.³⁴ 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 no later than the date of the preliminary determination. Based on information provided by the petitioners,³⁵ shipment data placed on the instant record by the mandatory respondents (*i.e.*, Celik Halat and Guney Celik),³⁶ and shipment data from the Global Trade Atlas (GTA), we preliminarily determine that critical circumstances exist with respect to imports of PC strand from Turkey with respect to imports made by Celik Halat.

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

³¹ See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from the Republic of Turkey – Petitioners' Submission of Factual Information to Measure Adequacy of Remuneration," dated August 17, 2020 (Petitioners Benchmark Submission).

³² See Petitioners' Letter, "Prestressed Concrete Steel Wire Strand from the Republic of Turkey – Petitioners' Request to Postpone Preliminary Determination," dated June 12, 2020.

³³ See *Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Postponement of Preliminary Determination of Countervailing Duty Investigation*, 85 FR 39522 (July 1, 2020).

³⁴ See Petitioners' Critical Circumstance Allegation.

³⁵ *Id.* at Attachment 1.

³⁶ See Celik Halat CC Q&V Response; and Guney Celik CC Q&V Response.

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 Guney Celik and Celik Halat 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 or 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.³⁷

In determining whether there are “massive imports” over a “relatively short period,” pursuant to sections 703(e)(1)(B) and 733(e)(1)(B) of the Act, 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 filing of the petition (*i.e.*, the “comparison period”).³⁸ Commerce’s regulations provide that, generally, imports must increase by at least 15 percent during the “comparison period” to be considered “massive.”³⁹ Based on the analysis described above with respect to the shipment data submitted by Guney Celik and Celik Halat, we preliminarily determine that Celik Halat had massive imports over a relatively short period, while Guney Celik did not.⁴⁰

Consistent with our practice,⁴¹ for “all other” exporters and producers of PC strand from Turkey, we compared GTA data for the base and comparison periods for which GTA data is currently available (*i.e.*, February 2020 through April 2020, and May 2020 through July 2020, respectively), excluding shipments for these time periods as reported by Guney Celik and Celik

³⁷ 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 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.

³⁸ See, *e.g.*, *Polyester Textured Yarn from the People’s Republic of China: Preliminary Affirmative Determinations of Critical Circumstances in Antidumping and Countervailing Duty Investigations*, 84 FR 16840 (April 23, 2019), unchanged in *Polyester Textured Yarn From the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 84 FR 63845 (November 19, 2019).

³⁹ See 19 CFR 351.206(h)(2).

⁴⁰ See Memorandum, “Preliminary Critical Circumstances Shipment Data Analysis,” dated concurrently with this memorandum (Critical Circumstances Memorandum).

⁴¹ 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.

Halat. However, because the quantity of imports shown in the GTA data is smaller than that in the combined mandatory respondents' data, we find the normal method of subtracting the mandatory respondent's data (*i.e.*, that of Celik Halat and Guney Celik) from the GTA data to be an unreliable indicator of the experience of the all-others companies for purposes of the "massive" determination. Therefore, we are basing the "massive" finding for the non-individually investigated companies on the experience of Guney Celik.⁴²

Accordingly, we preliminarily find that critical circumstances do not exist for Guney Celik. With respect to the other mandatory respondent, Celik Halat, because we are issuing an affirmative preliminary determination that includes countervailable subsidies that are inconsistent with the SCM Agreement and the shipping data submitted by Celik Halat indicates that "massive shipments" occurred with respect to Celik Halat, 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.

V. INJURY TEST

Because Turkey is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a U.S. industry. On March 6, 2018, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of PC strand from Turkey.⁴³

VI. USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

A. Legal Standard

Sections 776(a)(1) and (2) of the Act provide that Commerce shall, subject to section 782(d) of the Act, apply "facts otherwise available" 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

⁴² See *Certain New Pneumatic Off-the-Road Tires from Sri Lanka: Preliminary Affirmative Countervailing Duty Determination, and Preliminary Determination of Critical Circumstances*, 81 FR 39900 (June 20, 2016), and accompanying PDM at "Critical Circumstances" (where we based our analysis for all other producers/exporters on the data of the sole mandatory respondent), unchanged in *Certain New Pneumatic Off-the-Road Tires from Sri Lanka: Final Affirmative Countervailing Duty Determination, and Final Determination of Critical Circumstances*, 82 FR 2949 (January 10, 2017).

⁴³ See *Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, Indonesia, Italy, Malaysia, Netherlands, Saudi Arabia, South Africa, Spain, Taiwan, Tunisia, Turkey, Ukraine, and United Arab Emirates*, 85 FR 34648 (June 5, 2020).

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) 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 {AFA} rule to induce respondents to provide Commerce with complete and accurate information in a timely manner."⁴⁴ 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."⁴⁵

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.⁴⁶ Secondary information is defined as "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."⁴⁷ It is Commerce's practice to consider information to be corroborated if it has probative value.⁴⁸ In analyzing whether information has probative value, it is Commerce's practice to examine the reliability and relevance of the information to be used.⁴⁹ However, the SAA emphasizes that Commerce need not prove that the selected facts available are the best alternative information.⁵⁰

Finally, under section 776(d) of the Act, when applying AFA, 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), 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.⁵¹

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

⁴⁴ 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).

⁴⁵ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act (SAA), H.R. Doc. 103-316, Vol. I at 870 (1994), reprinted at 1994 U.S.C.C.A.N. 4040, 4199.

⁴⁶ See 19 CFR 351.308(d).

⁴⁷ See SAA at 870.

⁴⁸ *Id.*

⁴⁹ *Id.* at 869.

⁵⁰ *Id.* at 869-870.

⁵¹ See section 776(d)(3) of the Act.

A. Application of Total AFA: Celik Halat

As discussed in the “Background” section above, Celik Halat and Guney Celik were selected as mandatory respondents in this investigation. As noted above, Celik Halat filed an untimely response to Commerce’s initial CVD questionnaire. Therefore, we preliminarily find that, by not timely responding to Commerce’s questionnaire, Celik Halat withheld information that had been requested and failed to provide information within the deadlines established. By not responding to the initial CVD questionnaire, Celik Halat significantly impeded this proceeding. Thus, in reaching a preliminary determination, pursuant to sections 776(a)(2)(A), (B) and (C) of the Act, we based the CVD rates for Celik Halat on facts available. Moreover, we preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act, because, by not timely responding to the initial CVD questionnaire, Celik Halat failed to cooperate to the best of its ability to comply with the requests for information in this investigation.

As AFA, Commerce preliminarily finds that Celik Halat and its cross-owned affiliates from which we would attribute subsidies received to Celik Halat under our attribution rules, pursuant to 19 CFR 351.525, received and benefited from certain subsidies.⁵² Therefore, we selected an AFA rate for each of these programs based on the methodology described in the “Selection of the AFA Rate” below, and we included these rates in our preliminary determination of the overall AFA rate applied to Celik Halat and its relevant cross-owned affiliates.

We have included all programs upon which Commerce initiated an investigation to determine the AFA rate with the exception of those programs we are deferring. For further discussion, *see* the “Programs for Which We Require Additional Information” section below.

B. Application of Partial AFA: Guney Celik

As noted above, Guney Celik, the other mandatory company respondent in this investigation, filed an untimely response to Commerce’s supplemental questionnaire. Therefore, we preliminarily find that, by not responding to Commerce’s supplemental questionnaire, Guney Celik withheld information that had been requested and failed to provide information within the deadlines established. By failing to respond to Commerce’s supplemental questionnaire, Guney Celik significantly impeded this proceeding. Thus, in reaching a preliminary determination, pursuant to sections 776(a)(2)(A), (B) and (C) of the Act, we based the CVD rates for the programs for which Guney Celik failed to provide requested information on AFA.

Therefore, for the Exemption from Property Tax program, for which Guney Celik failed to provide benefit information, Commerce selected an AFA rate based on the methodology described in the “Selection of the AFA Rate” below.

Moreover, we preliminarily determine that adverse inferences with respect to these programs where Guney Celik failed to provide sales information covering the AUL period are warranted, pursuant to section 776(b) of the Act, because by not responding to the supplemental questionnaire, Guney Celik failed to cooperate to the best of its ability to comply with the

⁵² For information regarding Celik Halat’s cross-owned affiliates, *see* the “Attribution of Subsidies” section below.

requests for information in this investigation. Therefore, for the programs where Guney Celik reported receiving a non-recurring grant outside the POI (*i.e.*, TUBITAK grants, Foreign Fair Support, and Foreign Market Research) and failed to provide sales information during the AUL, as AFA we determined that all subsidies received exceed 0.5 percent of the relevant sales value for the year in which it was received and therefor passed the “0.5 percent test,” as described in 19 CFR 351.524(b)(2).

Selection of the AFA Rate

It is Commerce’s practice in CVD proceedings to compute a total AFA rate for non-cooperating companies using the highest calculated program-specific rates determined for the cooperating respondents in the instant investigation, or, if not available, rates calculated in prior CVD cases involving the same country.⁵³ When selecting AFA rates, section 776(d) of the Act provides that 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 countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use, including the highest of such rates.⁵⁴ Accordingly, when selecting AFA rates, if we have cooperating respondents in the investigation, we first determine if there is an identical program in the instant investigation and use the highest calculated rate for the identical program. If there is no identical program that resulted in a subsidy rate above *de minimis* for a cooperating respondent in the investigation, we then determine if an identical program was countervailed in another CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the identical program.⁵⁵ If no such rate exists, we then determine if there is a similar/comparable program (based on the treatment of the benefit) countervailed in any CVD proceeding involving the same country and apply the highest calculated above-*de minimis* rate for the similar/comparable program. Finally, where no such rate is available, we apply the highest calculated above-*de minimis* rate from any non-company-specific program in a CVD case involving the same country that the company’s industry could conceivably use.⁵⁶

⁵³ See, *e.g.*, *Common Alloy Aluminum Sheet from the People’s Republic of China: Preliminary Affirmative Countervailing Duty (CVD) Determination, Alignment of Final CVD Determination with Final Antidumping Duty Determination, and Preliminary CVD Determination of Critical Circumstances*, 83 FR 17651 (April 23, 2018), and accompanying PDM at “X: Use of Facts Otherwise Available and Adverse Inferences: A. Application of Total AFA: Chalco Ruimin and Chalco-SWA,” unchanged in *Countervailing Duty Investigation of Common Alloy Aluminum Sheet from the People’s Republic of China: Final Affirmative Determination*, 83 FR 57427 (November 15, 2018), and accompanying IDM.

⁵⁴ See *Certain Frozen Warmwater Shrimp from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 78 FR 50391 (August 19, 2013) (*Shrimp from China*), and accompanying IDM at 12-14; see also *Essar Steel, Ltd. v. United States*, 753 F. 3d 1368, 1373-74 (Fed. Cir. 2014) (upholding use of a “hierarchical methodology for selecting an AFA rate.”).

⁵⁵ For purposes of selecting AFA program rates, we normally consider rates less than 0.5 percent to be *de minimis*. See, *e.g.*, *Pre-Stressed Concrete Steel Wire Strand from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010), and accompanying IDM at “E. Various Grant Programs: 1. Grant Under the Tertiary Technological Renovation Grants for Discounts Program” and “2. Grant Under the Elimination of Backward Production Capacity Award Fund.”

⁵⁶ See *Shrimp from China* IDM at 13-14.

Commerce's methodology is consistent with section 776(d)(1)(A) of the Act. Section 776(d)(1)(A) of the Act states that when applying an adverse inference in selecting from the facts otherwise available, Commerce may (i) use a countervailable subsidy rate applied for the same or similar program in a CVD proceeding involving the same country, or (ii) if there is no same or similar program, use a countervailable subsidy for a subsidy rate from a proceeding that Commerce considers reasonable to use. Thus, section 776(d)(1)(A) of the Act expressly allows for Commerce's existing practice of using an AFA hierarchy in selecting a rate "among the facts otherwise available" in CVD cases, should the facts warrant such a selection.

Section 776(d)(2) of the Act authorizes Commerce to rely on the highest prior rate under certain circumstances. In deriving an AFA rate under section 776(d)(1)(A) of the Act described above, the provision states that Commerce "may apply any of the countervailable subsidy rates or dumping margins specified under that paragraph, including the highest such rate or margin, based on the evaluation by the administering authority of the situation that resulted in the administering authority using an adverse inference in selecting among the facts otherwise available." No legislative history accompanied this provision. Accordingly, Commerce is left to interpret this "evaluation by the administering authority of the situation" language in light of existing agency practice and the structure and provisions of section 776(d) of the Act itself.

We find that the Act anticipates a two-step process for determining an appropriate AFA rate in CVD cases: (1) Commerce may apply its hierarchy methodology; and (2) Commerce may apply the highest rate derived from this hierarchy to a respondent, should it choose to apply that hierarchy in the first place, unless, after an evaluation of the situation that resulted in the use of AFA, Commerce determines that the situation warrants a rate different than the rate derived from the hierarchy be applied.⁵⁷

In applying the AFA rate provision, it is well established that when selecting the rate from among possible sources, Commerce seeks to use a rate that is sufficiently adverse to effectuate the statutory purpose of section 776(b) of the Act to induce respondents to provide Commerce with complete and accurate information in a timely manner. This ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."⁵⁸ Further, "in the case of an uncooperative respondent, Commerce is in the best position, based on its expert knowledge of the market and the individual respondent, to select adverse facts that will create the proper deterrent to non-cooperation with its investigations and assure a reasonable

⁵⁷ This differs from AD proceedings, for which no hierarchy applies, under section 776(d)(1)(B) of the Act. Under that provision, "any dumping margin from any segment of the proceeding under the applicable {AD} order" may be applied, which suggests an adverse rate could be derived from different available margins, given the facts on the record.

⁵⁸ See SAA, H.R. Doc. No. 103-316, vol. 1, at 870, reprinted in 1994 U.S.C.C.A.N 4040, 4090; see also *Essar Steel Ltd. v. United States*, 678 F. 3d 1268, 1276 (Fed. Cir. 2012) (finding that "the purpose of the adverse facts statute is 'to provide respondents with an incentive to cooperate' with Commerce's investigation, not to impose punitive damages.") (quoting *F. Lii De Cecco Di Filippo Fara S. Martino S.p.A. v. United States*, 216 F. 3d 1027, 1032 (Fed. Cir. 2000) (*De Cecco*)).

margin.”⁵⁹ It is pursuant to this knowledge and experience that Commerce has implemented its AFA hierarchy in CVD cases to select an appropriate AFA rate.⁶⁰

In applying its AFA hierarchy in CVD investigations, Commerce’s goal is as follows: in the absence of necessary information from cooperative respondents, Commerce is seeking to find a rate that is a relevant indicator of how much the government of the country under investigation is likely to subsidize the industry at issue, through the program at issue, while inducing cooperation. Accordingly, in sum, the three factors that Commerce takes into account in selecting a rate are: (1) the need to induce cooperation, (2) the relevance of a rate to the industry in the country under investigation (*i.e.*, can the industry use the program from which the rate is derived), and (3) the relevance of a rate to a particular program, though not necessarily in that order of importance.

Furthermore, the hierarchy (as well as section 776(d)(1) of the Act) recognizes that there may be a “pool” of available rates that Commerce can rely upon for purposes of identifying an AFA rate for a particular program. In investigations for example, this “pool” of rates could include the rates for the same or similar programs used in either that same investigation or prior CVD proceedings for that same country. Of those rates, the hierarchy provides a general order of preference to achieve the goal identified above. The hierarchy therefore does not focus on identifying the highest possible rate that could be applied from among that “pool” of rates; rather, it adopts the factors identified above of inducement, relevancy to the industry, and relevancy to the particular program.

Under the first step of Commerce’s investigation hierarchy, Commerce applies the highest nonzero rate calculated for a cooperating company for the identical program in the investigation. Under this step, we will even use a *de minimis* rate as AFA if that is the highest rate calculated for another cooperating respondent in the same industry for the same program. However, if there is no identical program match within the investigation, or if the rate is zero, then Commerce will shift to the second step of its investigation hierarchy and either apply the highest non-*de minimis* rate calculated for a cooperating company in another CVD proceeding involving the same country for the identical program or, if the identical program is not available, for a similar program. This step focuses on the amount of subsidies that the government has provided in the past under the investigated program. The assumption under this step is that the non-cooperating respondent under investigation uses the identical program at the highest above *de minimis* rate of any other company using the identical program.

⁵⁹ See *De Cecco*, 216 F. 3d at 1032.

⁶⁰ Commerce has adopted a practice of applying its hierarchy in CVD cases. See, e.g., *Finished Carbon Steel Flanges from India: Final Affirmative Countervailing Duty Determination*, 82 FR 29479 (June 29, 2017), and accompanying IDM at Comment 4 (applying the AFA hierarchical methodology within the context of a CVD investigation); see also *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review; 2012*, 80 FR 41003 (July 14, 2015), and accompanying IDM at 11-15 (applying the AFA hierarchical methodology within the context of a CVD administrative review). However, depending on the type of program, Commerce may not always apply its AFA hierarchy. See, e.g., *Certain Uncoated Paper from Indonesia: Final Affirmative Countervailing Duty Determination*, 81 FR 3104 (January 20, 2016), and accompanying IDM at 7-8 (applying, outside of the AFA hierarchical context, the highest combined standard income tax rate for corporations in Indonesia).

Finally, if no such rate exists, under the third step of Commerce’s investigation hierarchy, Commerce applies the highest rate calculated for a cooperating company from any non-company-specific program that the industry subject to the investigation could have used for the production or exportation of subject merchandise.⁶¹

In all three steps of Commerce’s AFA investigation hierarchy, if Commerce were to choose low AFA rates consistently, the result could be a negative determination with no order (or a company-specific exclusion from an order) and a lost opportunity to correct future subsidized behavior. In other words, the “reward” for a lack of cooperation would be no order discipline in the future for all or some producers and exporters. Thus, in selecting the highest rate available in each step of Commerce’s investigation AFA hierarchy (which is different from selecting the highest possible rate in the “pool” of all available rates), Commerce strikes a balance between the three necessary variables: inducement, industry relevancy, and program relevancy.⁶²

Furthermore, we find that section 776(d)(2) of the Act applies as an exception to the selection of an AFA rate under section 776(d)(1) of the Act; that is, after “an evaluation of the situation that resulted in the application of an adverse inference,” Commerce may decide that given the unique and unusual facts on the record, the use of the highest rate within that step is not appropriate.

There are no facts on this record to suggest that a rate other than the highest rate envisioned under the appropriate step of the hierarchy applied in accordance with section 776(d)(1) of the Act should be applied as AFA. As explained above, Commerce is preliminarily applying AFA to Celik Halat and its relevant cross-owned affiliates. Accordingly, we are applying the applicable subsidy rate calculated for Guney Celik as AFA for Celik Halat for the following programs:

- Deductions for Taxable Income for Export Revenue
- Regional Investment Incentive Scheme
- Research and Development (R&D) Incentives
- TUBITAK Grants
- Foreign Fair Support

⁶¹ In an investigation, unlike an administrative review, Commerce is just beginning to achieve an understanding of how the industry under investigation uses subsidies. Commerce may have no prior understanding of the industry and no final calculated and verified rates for the industry.

⁶² It is significant that all interested parties, since at least 2007, that choose not to provide requested information have been put on notice that Commerce, in the application of facts available with an adverse inference, may apply its hierarchy methodology and select the highest rate in accordance with that hierarchy. *See, e.g., Coated Free Sheet Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007), and accompanying IDM at 2 (“As AFA in the instant case, {Commerce} is relying on the highest calculated final subsidy rates for income taxes, VAT and policy lending programs of the other producer/exporter in this investigation, Gold East Paper (Jiangsu) Co., Ltd. (GE). GE did receive any countervailable grants, so for all grant programs, we are applying the highest subsidy rate for any program otherwise listed . . .”). Therefore, when an interested party is making a decision as to whether or not to cooperate and respond to a request for information by Commerce, it does not make this decision in a vacuum; instead, the interested party makes this decision in an environment in which Commerce may apply the highest rate as AFA under its hierarchy.

For all other programs not mentioned above, we are applying, where available, the highest above-*de minimis* subsidy rate calculated for the same or comparable programs in a Turkey CVD investigation or administrative review as AFA for Celik Halat. For this preliminary determination, we are able to match, based on program names, descriptions, and benefit treatments, the following programs to the same or similar programs from other Turkey CVD proceedings:

- Rediscount Program
- Investment Credit for Export
- Export-Oriented Business/Export Oriented Working Capital Credit Program
- Pre-Export Credit Program
- Foreign Market Research
- 1511 - Research Technology Development and Innovation Projects
- Provision of Natural Gas for LTAR
- Provision of Land for LTAR
- Exemption from Property Tax
- Inward Processing Certificates
- Free Zones Law No. 3218: Corporate Income Tax Exemption
- Free Zones Law No. 3218: Exemption from Income Tax for Workers' Wages
- Tax and Fee Incentives for Renewable Energy
- Large Scale Investment Incentive Scheme" (LSIIS), Strategic Investment Incentive Scheme (SIIS), and General Investment Incentive Scheme (GIIS)
- Project-Based Investment Incentive Scheme

Based on the methodology described above, we preliminarily determine the AFA countervailable subsidy rate for Celik Halat to be 135.06 percent *ad valorem*. The Appendix to this memorandum contains a chart summarizing our calculation of this rate.

Corroboration of AFA Rate

Section 776(c)(1) 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 defined as "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."⁶³ The SAA provides that, to "corroborate" secondary information, Commerce will satisfy itself that the secondary information to be used has probative value.⁶⁴

Commerce will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that Commerce need not prove that the selected facts available are the best alternative information.⁶⁵ Furthermore, Commerce is not

⁶³ See SAA at 870.

⁶⁴ *Id.*

⁶⁵ *Id.* at 869-870.

required to estimate what the countervailable subsidy rate would have been if the interested party failing to cooperate had cooperated or to demonstrate that the countervailable subsidy rate reflects an “alleged commercial reality” of the interested party.⁶⁶

With regard to the reliability aspect of corroboration, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs. With respect to the relevance aspect of corroboration, Commerce will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Commerce will not use information where circumstances indicate that the information is not appropriate as AFA.⁶⁷

In the absence of record evidence concerning the non-responsive companies’ usage of the subsidy programs at issue due to their decision not to participate in the investigation, Commerce reviewed the information concerning Turkish subsidy programs in other cases. Where we have a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs in this case. The relevance of these rates is that they are actual calculated CVD rates for Turkish programs, from which the non-responsive company could actually receive a benefit. Due to the lack of participation by these companies and the resulting lack of record information concerning these programs, Commerce has corroborated the rates it selected to use as AFA to the extent practicable for this preliminary determination.

VII. 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.⁶⁸

Commerce finds the AUL period in this proceeding to be 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service’s Depreciation Range System, as revised.⁶⁹ Commerce notified the respondents of the 15-year AUL period in the initial questionnaire and requested data accordingly. No party in this proceeding has disputed this allocation period. We, therefore, preliminarily determine that a 15-year AUL period is appropriate to allocate benefits from non-recurring subsidies.

Furthermore, for non-recurring subsidies, we have applied the “0.5 percent test,” as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of the subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales) for the same year. If the amount of the subsidies is less than 0.5 percent of the relevant sales value, then the benefits are allocated to the year of receipt rather than across the AUL period.

⁶⁶ See section 776(d) of the Act.

⁶⁷ See, *e.g.*, *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

⁶⁸ See 19 CFR 351.524(b).

⁶⁹ See U.S. Internal Revenue Service Publication 946 (2018), “How to Depreciate Property,” at Table B-2: Table of Class Lives and Recovery Periods.

B. Attribution of Subsidies

Cross-Ownership

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

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of Commerce's regulations states that this standard will normally be met where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. The *Preamble*⁷⁰ to Commerce's regulations further clarifies Commerce's cross-ownership standard. According to the *Preamble*, relationships captured by the cross-ownership definition include those where:

{T}he interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits). . . . Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.⁷¹

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 Court of International Trade has upheld Commerce's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.⁷²

⁷⁰ See *Countervailing Duties; Final Rule*, 63 FR 65347 (November 25, 1998) (*Preamble*).

⁷¹ *Id.* at 65401.

⁷² See *Fabrique de Fer de Charleroi, SA v. United States*, 166 F. Supp. 2d 593, 600-04 (CIT 2001).

Celik Halat

In its affiliation responses, Celik Halat stated its intention to file CVD questionnaire responses for itself, Dogan Holding, and Adilbey Holding. Celik Halat reported that Dogan Holding was its parent company and that Adilbey Holding was the parent company of Dogan Holding.⁷³ Thus, we preliminarily find that Dogan Holding and Adilbey Holding are cross-owned parent companies of Celik Halat, pursuant to 19 CFR 351.525(b)(6)(iii) and 19 CFR 351.525(b)(6)(vi). Celik Halat stated it did not have any other affiliated companies that meet the definition of cross-ownership provided in 19 CFR 351.525(b)(6)(vi).

Guney Celik

Guney Celik responded to Commerce's initial questionnaire on behalf of itself and Guney International, a wholly-owned subsidiary of Guney Celik during the AUL period and cross-owned affiliate in the POI.⁷⁴ Guney Celik reported that cross-ownership exists between Guney Celik and Guney International. However, we preliminarily find that Guney International does not meet the attribution requirements under 19 CFR 351.525; therefore, Guney International is not cross-owned with Guney Celik. Accordingly, we have not attributed any subsidies received by Guney International to Guney Celik for our preliminary determination. Guney Celik stated it did not have any other affiliated companies that may meet the definition of cross-ownership provided in 19 CFR 351.525(b)(6)(vi).

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce considers the basis for the respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export or total sales. As discussed in the "Programs Preliminarily Determined to Be Countervailable" section below and in Guney Celik's Preliminary Calculation Memorandum,⁷⁵ where a program is found to be countervailable as a domestic subsidy, we used total product sales as the denominator. Where a program is found to be contingent upon export activities, we used total export sales.

D. Loan Benchmarks and Interest Rates

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

⁷³ See Celik Halat July 24, 2020 AFFR at 3-4, and 6.

⁷⁴ See Guney Celik June 30, 2020 AFFR; and Guney Celik July 24, 2020 SAFFR.

⁷⁵ See Memorandum, "Preliminary Results Calculation Memorandum for Guney Celik," dated concurrently with this memorandum (Guney Celik's Preliminary Calculation Memorandum).

In addition, 19 CFR 351.505(a)(2)(ii) states that Commerce will not consider a loan provided by a government-owned special-purpose bank for purposes of calculating benchmark rates.⁷⁶ Guney Celik did not provide short-term commercial loan information for benchmarking purposes. Therefore, consistent with 19 CFR 351.505(a)(3)(ii), Commerce used a national average interest rate for comparable commercial loans.⁷⁷

VIII. ANALYSIS OF PROGRAMS

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

A. Programs Preliminarily Determined to Be Countervailable

1. Deductions for Taxable Income for Export Revenue

Addendum 4108 of Article 40 of Income Tax Law No. 193 allows exporters to claim a lump sum deduction from gross income from export, construction, maintenance, assembly, and transportation activities abroad at a rate of 0.5 percent of the exporters' foreign exchange earnings from such activities.⁷⁸ This deduction is presumed to cover expenditures without documentation and appears as a lump sum on the participating exporter's annual income tax return.⁷⁹ The tax program is administered by the GOT's Ministry of Treasury and Finance.⁸⁰ Guney Celik reported that it claimed this deduction in its fiscal year 2018 income tax return, which was filed with the tax authorities during the POI.⁸¹

Commerce preliminarily finds that the income tax deduction constitutes a financial contribution under section 771(5)(D)(ii) of the Act because it is revenue forgone by the GOT. Because receiving a deduction is contingent upon export revenue, we preliminarily determine that the program is export specific within section 771(5A)(B) of the Act. The benefit received is equal to the amount of tax savings to the company (*i.e.*, the amount of additional taxes that would have been paid absent the program), in accordance with section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).

Pursuant to 19 CFR 351.524(c)(1), Commerce typically treats tax deductions as recurring benefits. Therefore, we preliminarily determine that this program provides a recurring benefit. The amount of the benefit is equal to the tax that would have been paid absent the program (*i.e.*, the tax savings). To determine that, we took the amount Guney Celik reported as a deduction from their 2018 taxable income and multiplied it by the corporate tax rate in effect at the time they filed their return.⁸² Consistent with the methodology described in the "Denominators" section above, we attributed the subsidy received by Guney Celik to its export sales, in

⁷⁶ See, e.g., *Certain Frozen Warmwater Shrimp from India: Final Affirmative Countervailing Duty Determination*, 78 FR 50385 (August 19, 2013), and accompanying IDM at "Benchmark and Discount Rates" section.

⁷⁷ See Guney Celik's Preliminary Calculation Memorandum.

⁷⁸ See GOT July 27, 2020 IQR at 40.

⁷⁹ *Id.* at 41-42.

⁸⁰ *Id.* at 41.

⁸¹ See Guney Celik July 27, 2020 IQR at 20.

⁸² See Guney Celik's Preliminary Calculation Memorandum.

accordance with 19 CFR 351.525(b)(6)(iv). On this basis, we preliminarily determine that Guney Celik received a net countervailable subsidy rate of 0.11 percent *ad valorem* under this program. As described above, as AFA concerning benefit, we also preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 0.11 percent *ad valorem* under this program.

2. Inward Processing Certificates

Inward Processing Regime is a system allowing Turkish manufacturers/exporters to obtain raw materials and intermediate unfinished goods that are used in the production of exported goods without paying customs duties, including VAT, and without being subject to commercial policy measures, if any.⁸³ In *OCTG from Turkey*, Commerce found this program to be export specific.⁸⁴ Thus, taking into consideration the record evidence and, consistent with *OCTG from Turkey*, we preliminarily determine that this program provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue forgone by the GOT,⁸⁵ and it is specific as an export subsidy under 771(5A)(B) of the Act. As described above, as AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 14.01 percent *ad valorem* under this program.

3. Free Zones Law No. 3218: Corporate Income Tax Exemption

According to Article 3 of the Free Zones Law number 3218, income generated in the free zone is exempted from income and corporate taxes until the end of the fiscal year when Turkey officially joins the European Union.⁸⁶ In *Carbon Steel Pipes and Tubes from Turkey*, we found this program to be countervailable.⁸⁷ We preliminarily determine that the income tax exemptions provided under this program constitute a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act. We also preliminarily determine that this program is specific under section 771(5A)(D)(iv) of the act because it is limited to firms with branches located in free zones. As described above, as AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 14.01 percent *ad valorem* under this program.

4. Free Zones Law No. 3218: Exemption from Income Tax for Workers' Wages

According to Provisional Article 3 of Free Zones Law No. 3218, the GOT provides an income tax exemption on wages paid to workers of companies located within "free zones" that export at least 85 percent of the goods produced within the free zone; percentage calculation is based on

⁸³ See GOT July 27, 2020 IQR at 66.

⁸⁴ See *Oil Country Tubular Goods from the Republic of Turkey: Preliminary Results of Countervailing Duty Administrative Review*; 2017, 84 FR 39797 (August 12, 2020) (*OCTG from Turkey*), and accompanying PDM at 8-11.

⁸⁵ See GOT July 27, 2020 IQR at 66-77.

⁸⁶ *Id.* at 63-64.

⁸⁷ See *Circular Welded Carbon Steel Pipes and Tubes Final Results of Countervailing Duty Administrative Review; Calendar Year 2011*, 78 FR 64916 (October 20, 2013) (*Carbon Steel Pipes and Tubes from Turkey*), and accompanying IDM at 15-16.

the free on board value of the merchandise.⁸⁸ We preliminarily determine that this program provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue forgone by the GOT and is specific as an export subsidy under 771(5A)(B) of the Act. As described above, as AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 14.01 percent *ad valorem* under this program.

5. Tax and Fee Incentives for Renewable Energy

The Law on the Duties and Responsibilities of the Energy Market Regulatory Authority (EMRA) tasks the Energy Market Regulatory Board of EMRA to take necessary actions for promotion of electricity generation from renewables.⁸⁹ Under this program, facilities that use renewable energy are exempted from paying annual fees and receive a discount on transmission usage fees.⁹⁰ We preliminarily determine that this program provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act, in the form of revenue forgone by the GOT. We also preliminarily determine that this program is *de jure* specific under section 771(5A)(D)(i) of the Act because the regulation expressly limits the program to facilities that use renewable resources. As described above, as AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 14.01 percent *ad valorem* under this program.

6. Investment Incentive Scheme Program (Investment Encouragement Program)

According to the GOT, the Investment Encouragement Program (IEP) consists of four separate incentive schemes: (1) “Regional Investment Incentive Scheme”(RIIS); (2) “Large Scale Investment Incentive Scheme”(LSIIS); (3) “Strategic Investment Incentive Scheme” (SIIS); and (4) “General Investment Incentive Scheme”(GIIS).⁹¹ The IEP 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), which has been in force since June 2012.⁹² 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.⁹³ For VAT programs under each of these incentive schemes, we intend to issue additional questionnaires to the GOT after the preliminary determination. We will make findings on these programs in a post-preliminary determination.

⁸⁸ See GOT July 27, 2020 IQR at 62-63.

⁸⁹ *Id.* at 64-65.

⁹⁰ *Id.*

⁹¹ *Id.* at 78

⁹² *Id.* at 78-79 and Exhibit 26.

⁹³ *Id.*

a) Regional Investment Incentive Scheme (RIIS)

The programs available to IIC holders under the RIIS include, *inter alia*, customs duty exemptions, VAT exemptions, interest support, social security premium support (employer's share and employee's share), and tax reductions.⁹⁴ 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.⁹⁵ Decree No. 2012/3305 outlines the sectors eligible for incentives in each province and the minimum investment required by region for each eligible sector.⁹⁶ Guney Celik reported that it was eligible for and received IICs under this program during the AUL that allows them to receive customs duty exemptions,⁹⁷ VAT exemptions on imported equipment, VAT exemptions on equipment purchased domestically, income tax deductions, and social security support.⁹⁸

The GOT confirmed that Guney Celik was eligible to receive customs duty exemptions, VAT exemptions, tax reductions, and social security premium support (employer's share) with its IICs.⁹⁹ As noted above, we intend to request additional information from the GOT regarding VAT exemptions and to make findings regarding this part of the RIIS program in our post-preliminary determination.

(1) Income Tax Reductions

Under the Income 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. 2012/3305.¹⁰⁰ Guney Celik reported that it received a total tax reduction amount for its 2018 tax return filed during the POI as a result of this program.¹⁰¹ Commerce has found this tax reduction program to be countervailable in a prior CVD case involving Turkey.¹⁰²

We preliminarily find that these income 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.¹⁰³

⁹⁴ *Id.*

⁹⁵ *Id.* at 108.

⁹⁶ *Id.* at Exhibit 26.

⁹⁷ We preliminary determine that the customs duty exemption provided no measurable benefit to Guney Celik during the POI.

⁹⁸ See Guney Celik July 27, 2020 IQR at 32-33.

⁹⁹ See GOT July 27, 2020 IQR at 105.

¹⁰⁰ See GOT July 27, 2020 IQR at 96-97.

¹⁰¹ See Guney Celik July 27, 2020 IQR at Exhibit 6.2.

¹⁰² See *Quartz Products from Turkey Final Determination* IDM at 5.

¹⁰³ See GOT July 27, 2020 IQR at 84 and Exhibit 26.

Pursuant to 19 CFR 351.524(c)(1), Commerce typically treats income tax deductions as recurring benefits. Therefore, we preliminarily determine that this program provides a recurring benefit. The amount of the benefit is equal to the tax that would have been paid absent the program (*i.e.*, the tax savings). To determine that, we took the amount Guney Celik reported deducting from their taxable income on their 2018 corporate income tax return and multiplied it by the corporate tax rate in effect at the time they filed their return.¹⁰⁴ Consistent with the methodology described in the “Denominators” section, above, we attributed the subsidies received by Guney Celik to its total sales, in accordance with 19 CFR 351.525(b)(6)(iv). On this basis, we preliminarily determine that Guney Celik received a net countervailable subsidy rate of 0.14 percent *ad valorem* under this program.¹⁰⁵

(2) Social Security Premium Support

The GOT states that, under this program, for any additional employment created by a company’s investment pursuant to IIC under the RIIS, the amount of employer’s share of the associated social security premium on the legal minimum wage paid by the investor is covered by the GOT’s Ministry of Science, Industry and Technology (MoIT).¹⁰⁶ Guney Celik reported receiving benefits under this program.¹⁰⁷

We preliminarily determine that this program is a financial contribution in the form of direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act because Guney Celik received direct support from the MoIT. We preliminarily determine that Guney Celik benefitted under section 771(5)(E) of the Act in the amount of the social security premium support it received from the MoIT. The funds provide a benefit in the amount of the social security premium payment reduction 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.¹⁰⁸ To calculate a subsidy rate, we divided Guney Celik’s POI benefit by its total POI sales. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.02 percent *ad valorem* for Guney Celik.¹⁰⁹

For total benefits received under RIIS, as AFA, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 0.16 percent *ad valorem* under this program.

¹⁰⁴ See Guney Celik’s Preliminary Calculation Memorandum.

¹⁰⁵ *Id.*

¹⁰⁶ See GOT July 27, 2020 IQR at 100.

¹⁰⁷ See Guney Celik July 27, 2020 IQR at 33.

¹⁰⁸ See GOT July 27, 2020 IQR at 84 and Exhibit 26.

¹⁰⁹ See Guney Celik’s Preliminary Calculation Memorandum.

b) Large Scale Investment Incentive Scheme (LSIIS), Strategic Investment Incentive Scheme (SIIS), and General Investment Incentive Scheme (GIIS)

Under these programs, eligible companies can receive customs duty exemptions, VAT exemptions and refunds, interest support, social security premium support, tax deduction, land allocation, and income tax withholding support.¹¹⁰

Custom Duty Exemption: imports of the machinery and equipment that are used in investment within the scope of the IIC are exempted from customs duty.

Interest Support: This support is available for investment loans with a maturity of at least one year that are borrowed to finance the investment related to Regional Investments (Region 3, 4, 5, and 6), Strategic Investments, R&D and Environmental Investments. The MoIT covers a portion of the interest/profit share of the loans that does not exceed 70 percent of the fixed investment amount registered on the certificate for a specific period not to exceed five years. The amount of interest rate support varies by region.

Social Security Premium Support: for any additional employment created by investment pursuant to an IIC under the LSIIS, the amount corresponding to the employer's share of the social security premium on legal minimum wage paid by the investor is covered by the MoIT.

Income Tax Deduction: Reduced income or corporate tax rates are applied for the companies until the total deduction reaches the "contribution amount."

Land Allocation: State-owned lands are allocated for investments with incentive certificate in accordance with the rules and principles defined by the Ministry of Treasury and Finance, depending on the availability of such land in the provinces where investments are made.

Social Security Premium Support for Employee's Share (Only for Region 6): This scheme allows the MoIT to cover the employee's share of the social security premium to the Social Security Institution in the amount corresponding to the legal minimum wage for additional personnel recruited for new investments in Region 6.

Income Tax Withholding Support (Only for Region 6): For additional employment created by the investments to be realized within the scope of the incentive certificates issued for Region 6, the income tax that is calculated on the basis of the portion of the employees' wages that corresponds to the minimum wage is not levied. This support is available for the investments in Region 6 only for 10 years.

We preliminarily determine that these programs provide financial contribution within the meaning of sections 771(5)(D)(i), (ii), and (iii) of the Act. We also preliminarily determination that they are specific under section 771(5A)(D)(i) and (iv) of the Act because they are limited to firms making a specified investment in certain geographic regions. As AFA concerning benefit,

¹¹⁰ See GOT July 27, 2020 IQR at 78 and 107.

we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 14.01 percent *ad valorem* under this program.

7. Project Based Investment Incentive System

According to the GOT, this program is based on Law No.6745, which has been in force since September 7, 2016. The aim of this program is to support investment projects that support the current and future needs of the country, have high value and R&D intensity, and contribute to technological transformation. For a project to be supported, the minimum fixed investment amount is 500 million Turkish Liras.¹¹¹ The project- based investment system benefits may include tax incentives, employment incentives, financial incentives, incentives related to land allocation, and other incentives. We preliminarily determine that this program provides a financial contribution within the meaning of 771(5)(D)(i) of the Act. We also preliminarily determination that his program is *de jure* specific because the program is limited to projects with a fixed investment amount of at least 500 million Turkish Liras. As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 14.01 percent *ad valorem* under this program.

8. 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.*, development of technological knowledge and innovation in product and production processes).¹¹² Under the Law on Supporting Research, Development, and Design Activities (Law No. 5746), MoIT provides support to technology centers, R&D centers, and R&D projects.¹¹³ Benefits 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.¹¹⁴ Commerce has found government-provided assistance provided under Law No. 5746 to be countervailable in a prior CVD case regarding Turkey.¹¹⁵

Guney Celik reported that it qualified as an R&D center by applying to MoIT.¹¹⁶

a) Corporate Income Tax Deductions for R&D Expenses

Guney Celik reported that, pursuant to Law No. 5746, it claimed corporate income tax deductions for R&D expenses in its 2018 tax return.¹¹⁷ We preliminarily find that this income tax deduction constitutes financial contributions in the form of revenue foregone within the meaning of section 771(5)(D)(ii) of the Act. The income tax deductions a provides 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 this program is specific according to section 771(5A)(D)(i) of the Act

¹¹¹ *Id.* at 117.

¹¹² *Id.* at 118.

¹¹³ *Id.* at 118-119.

¹¹⁴ *Id.* at Exhibit 35.

¹¹⁵ See *Quartz Products from Turkey Preliminary Determination* PDM at 17-19.

¹¹⁶ See Guney Celik July 27, 2020 IQR at 36-37 and Exhibit 22.

¹¹⁷ *Id.* at 37.

because the enterprises eligible for this program are limited to enterprises that maintain technology center businesses, R&D centers, and design centers as specified in Article 1(2) of Law No. 5746.¹¹⁸

Pursuant to 19 CFR 351.524(c)(1), Commerce typically treats tax deductions as recurring benefits. Therefore, we preliminarily determine that this program provides a recurring benefit. The amount of the benefit is equal to the tax that would have been paid absent the program (*i.e.*, the tax savings). To determine that, we took the amount Guney Celik reported deducting from their taxable income under this program on their 2018 corporate income tax return and multiplied it by the corporate tax rate in effect at the time they filed their return.¹¹⁹ Consistent with the methodology described in the “Denominators” section, above, we attributed the subsidies received by Guney Celik to its export sales, in accordance with 19 CFR 351.525(b)(6)(iv). On this basis, we preliminarily determine that Guney Celik received a net countervailable subsidy rate of 0.08 percent *ad valorem* under this program.¹²⁰

As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 0.08 percent *ad valorem* under this program.

b) Insurance Premium Support

Guney Celik reported that it received benefits under the Insurance Premium Support portion of the R&D Incentives Program. We preliminarily determine that this is a financial contribution in the form of direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act because Guney Celik received direct support from the MoIT. We preliminarily determine that Guney Celik benefitted under section 771(5)(E) of the Act in the amount of the insurance premium support it received from the MoIT.¹²¹ 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 this program are limited those that maintain technology center businesses, R&D centers, and design centers as specified in Article 1(2) of Law No. 5746.¹²² To calculate a subsidy rate, we divided Guney Celik’s POI benefit by its total POI sales. On this basis, we preliminarily determine a net countervailable subsidy rate of 0.01 percent *ad valorem* for Guney Celik.¹²³

As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 0.01 percent *ad valorem* under this program.

9. Foreign Fair Support

Under the Foreign Fair Support program, the Ministry of Trade reimburses companies for certain expenditures related to participation in trade fairs abroad.¹²⁴ The purpose of this program is to support Turkish companies’ participation in international trade fairs abroad in order to increase

¹¹⁸ See GOT July 27, 2020 QR at Exhibit 29.

¹¹⁹ See Guney Celik’s Preliminary Calculation Memorandum.

¹²⁰ *Id.*

¹²¹ See Guney Celik July 27, 2020 IQR at 40.

¹²² See GOT July 27, 2020 QR at Exhibit 29.

¹²³ See Guney Celik’s Preliminary Calculations Memorandum.

¹²⁴ See GOT July 27, 2020 IQR at 138-139.

exports and to support the promotional activities of the exhibition organizers.¹²⁵ The Foreign Fair Support program is regulated by the “Decree on Supporting Participation to Fairs in Abroad” numbered 2017/4, which replaced the Communiqué on Supporting Participation in Fairs Abroad, no. 2009/5, in July 2017.¹²⁶

Guney Celik reported that it benefitted from this program.¹²⁷ According to the Decree on Supporting Participation to Fairs in Abroad no. 2017/4, the support under the program is provided to Turkish corporations that are members of the exporters’ associations and entities that will participate in trade fairs abroad.¹²⁸ The program provides reimbursement of up to 50 percent of eligible transportation services, exhibition booth fee/rent, and travel tickets of company representatives.¹²⁹

We preliminarily determine that this program provides a financial contribution in the form of direct transfer of funds under section 771(5)(D)(i) of the Act because Guney Celik received reimbursement from the Ministry of Trade for expenses covered by this program. We preliminarily determine that Guney Celik benefitted from Foreign Fair Support under section 771(5)(E) of the Act in the amount of the reimbursement for expenses incurred related to its participation in international trade fairs.¹³⁰ We preliminarily determine that the program is export specific within the meaning of section 771(5A)(A) and (B) of the Act because it is provided to Turkish corporations that are members of the exporters’ associations and entities that will participate in trade fairs abroad.¹³¹

Guney Celik failed to provide sales information for the AUL period. Therefore, we are using facts available regarding the “0.5 percent test” of 19 CFR 351.524 and allocating all funds Guney Celik received under this program to calculate the net countervailable subsidy rate attributable to the respondent. Accordingly, to calculate the net countervailable subsidy rate for Guney Celik, we divided the total POI benefit to Guney Celik by the its total sales during the POI. On this basis, we preliminarily find that Guney Celik received a net countervailable subsidy rate of 0.03 percent *ad valorem* for this program.¹³² As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 0.03 percent *ad valorem* under this program.

10. Foreign Market Research

Under the Foreign Market Research program, the Ministry of Trade will provide 70 percent of transportation and accommodation expenses for company employees to attend market research trips abroad, up to a maximum amount of 5,000 U.S. dollars per trip.¹³³ The Ministry of Trade will provide funding for a maximum of two company employees to attend ten foreign market

¹²⁵ *Id.* at 138-139 and Exhibit 32.

¹²⁶ *Id.* at 139.

¹²⁷ See Guney Celik July 27, 2020 IQR at 40.

¹²⁸ See GOT July 27, 2020 IQR at Exhibit 32.

¹²⁹ *Id.* at 138 and Exhibit 32.

¹³⁰ See Guney Celik July 27, 2020 IQR at 40.

¹³¹ See GOT July 27, 2020 IQR at Exhibit 32.

¹³² See Guney Celik’s Preliminary Calculation Memorandum.

¹³³ See GOT July 27, 2020 IQR at 153-154.

research trips per company per year.¹³⁴ The GOT reported that the purpose of the program is to support Turkish companies engaged in industrial and/or commercial activities in Turkey for their market access researches and activities.¹³⁵ The Foreign Market Research program is regulated by the Communiqué on Market Research and Market Access Support No. 2011/1 published in March 2011.¹³⁶ We preliminarily determine that this is a financial contribution within the meaning of section 771(5)(D)(i) in the form of direct transfer of funds. Consistent with *Olives from Spain* regarding a similar program,¹³⁷ we preliminarily determine that the program is export specific within the meaning of section 771(5A)(A) and (B) of the Act because the respondents are reimbursed for expenses incurred for foreign market research, activities by which companies seek to expand their export sales.¹³⁸ This program provided no measurable benefit for Guney Celik in the POI. As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 2.11 percent *ad valorem* under this program.

11. Scientific and Technological Research Council of Turkey (TUBITAK) Grants

The GOT reports that the TUBITAK administered several grants during the AUL period.

a) 1501 TUBITAK Industrial R&D Projects Grant Program

The GOT reports the 1501 TUBITAK Industrial R&D Projects Grant Program was created to increase research-technology development capability, innovation culture, and competitiveness of companies.¹³⁹ The purpose of this program is to support R&D projects to: (1) develop or improve new products; (2) develop new techniques to diminish the cost and/or raise the quality and standard of a product; and (3) develop new production technologies.¹⁴⁰ The GOT reports that any company can apply for and receive reimbursement of up to 75 percent of approved expenses under this program, regardless of region or sector.¹⁴¹

Guney Celik reported it received funding under this TUBITAK grant program during the AUL period.¹⁴² We preliminarily determine that this program provides a financial contribution in the form of direct transfer of funds under section 771(5)(D)(i) of the Act because Guney Celik received reimbursement from the TUBITAK for expenses covered by this program. We preliminarily determine that Guney Celik benefitted under section 771(5)(E) of the Act in the amount of the reimbursement for expenses incurred related to its participation in the program.¹⁴³

¹³⁴ *Id.* at 153-154.

¹³⁵ *Id.* at 153.

¹³⁶ *Id.* at 154.

¹³⁷ *Ripe Olives from Spain: Final Affirmative Countervailing Duty Determination*; 83 FR 28186 (June 18, 2018) (*Olives from Spain*), and accompanying IDM at 14-15.

¹³⁸ See GOT July 27, 2020 IQR at 139.

¹³⁹ See GOT July 27, 2020 IQR at 170.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² See Guney Celik July 27, 2020 IQR at 44.

¹⁴³ *Id.*

Because the actual recipients are limited in number, we preliminarily determine that this program is *de facto* specific, in accordance with section 771(5A)(D)(iii)(I) of the Act.¹⁴⁴

Guney Celik failed to provide sales information for the AUL period. Therefore, we are using facts available regarding the “0.5 percent test” of 19 CFR 351.524 and allocating all funds Guney Celik received under this program. To calculate the net countervailable subsidy rate attributable to Guney Celik, we divided the total POI benefit to Guney Celik by its total sales during the POI. On this basis, we preliminarily find that Guney Celik received a net countervailable subsidy rate of 0.04 percent *ad valorem* for this program.¹⁴⁵ As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 0.04 percent *ad valorem* under this program.

b) 1511 - Research Technology Development and Innovation Projects

The GOT reports the 1511 - Research Technology Development and Innovation Projects in Priority Areas Grant Program was created to support private sector companies’ projects in the priority areas of Turkey by: (1) increasing technological competence and knowledge; (2) evaluating existing capabilities in different areas; (3) developing unique technologies; and (4) gaining acceleration in technological development.¹⁴⁶

Guney Celik reported it received funding under this TUBITAK grant program during the AUL period.¹⁴⁷ We preliminarily determine that this program provides a financial contribution in the form of direct transfer of funds under section 771(5)(D)(i) of the Act because Guney Celik received reimbursement from the Ministry of Trade for expenses covered by this program. We preliminarily determine that Guney Celik benefitted from this program under section 771(5)(E) of the Act in the amount of funds it received. We also preliminarily determine that this program is specific under section 771(5A)(D)(iv) of the Act because the rebates provided under the program are limited to companies located in a certain designated geographical region¹⁴⁸ within the jurisdiction of the authority providing the subsidy.

Guney Celik failed to provide sales information for the AUL period. Therefore, we are using facts available regarding the “0.5 percent test” of 19 CFR 351.524 and allocating all funds Guney Celik received under this program. This program provided no measurable benefit for Guney Celik in the POI. As AFA concerning benefit, we preliminarily determine Celik Halat and its cross-owned affiliates received a countervailable subsidy rate of 2.11 percent *ad valorem* under this program.

¹⁴⁴ See GOT July 27, 2020 IQR at 179.

¹⁴⁵ See Guney Celik’s Preliminary Calculation Memorandum.

¹⁴⁶ See GOT July 27, 2020 IQR at 182-183.

¹⁴⁷ See Guney Celik July 27, 2020 IQR at 44.

¹⁴⁸ *Id.* at 183 and Exhibit 40.

12. Exemption from Property Tax

According to the GOT, this program provides an exemption on property tax for buildings in organized industrial zones (OIZs).¹⁴⁹ Article 4(m) of Property Tax Law No. 1319 establishes that buildings in such areas are exempted from property tax permanently as of July 2017.¹⁵⁰ Guney Celik reported benefiting from this program.¹⁵¹ Commerce has found this program to be countervailable in *Quartz Products from Turkey Final Determination*.¹⁵²

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. We preliminarily find that this program is regional specific under section 771(5A)(D)(iv) of the Act because it is limited to companies located in OIZs.¹⁵³

As noted above, we are using AFA to determine the benefit for this program for both Guney Celik and Celik Halat because they failed to provide timely information regarding benefits they potentially received under this program. Therefore, we have assigned the AFA rate of 14.01 percent *ad valorem* for this program to both Guney Celik and Celik Halat.¹⁵⁴

13. Provision of Natural Gas for LTAR

The petitioners alleged that Turkish steel producers with vertically integrated power plants received countervailable subsidies by purchasing natural gas at discounted prices from Boru Hatlari ile Petrol Taşıma A.S. (BOTAS).¹⁵⁵ The GOT reported that BOTAS was founded by the Ministry of Energy and Natural Resources as a “State Economic Enterprise.”¹⁵⁶ Therefore, in accordance with Decree Law No. 233, all of BOTAS’s board members are appointed by the Turkish President and the Turkish Prime Minister.¹⁵⁷ Furthermore, all investment decisions must be approved by the GOT’s Council of Ministers and “in line with determined government programs.”¹⁵⁸ All of BOTAS’s profits are “transferred to the Treasury.”¹⁵⁹ For these reasons, Commerce finds BOTAS to be a government authority providing a financial contribution in the form of goods or services under section 771(5)(D)(iii) of the Act.

The GOT reported that, in 2019, the total consumption of natural gas in Turkey was 45,285,498,424 standard cubic meters (SM3) and that GOT-owned natural gas companies sold a substantial majority of the natural gas consumed in Turkey during the same period.¹⁶⁰ The GOT also provided a breakdown of six industries/sectors that purchased natural gas during the POI,¹⁶¹

¹⁴⁹ *Id.* at 51.

¹⁵⁰ *Id.* at 52.

¹⁵¹ See Guney Celik July 27, 2020 IQR at 23.

¹⁵² See *Quartz Products from Turkey Final Determination* IDM at 5.

¹⁵³ See GOT July 27, 2020 IQR at 51.

¹⁵⁴ See Appendix.

¹⁵⁵ See Initiation Checklist at 23.

¹⁵⁶ See GOT July 27, 2020 IQR at 20.

¹⁵⁷ *Id.* at 17 and Exhibit 10.

¹⁵⁸ *Id.* at 18 and Exhibit 10.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.* at 8.

¹⁶¹ *Id.* at 11-12.

which indicates that industrial users (*i.e.*, the “Industrial Sector”) accounted for the highest sector-specific ratio of natural gas purchases in 2019 (*i.e.*, 27.43 percent or 11,258,000,000 SM3).¹⁶² The “Conversion Sector” (*i.e.* power producers), the “Service Sector,” the “Transportation Sector,” and the “Energy Sector” (*i.e.*, the other four non-miscellaneous industries/sectors) accounted for 27.00 percent, 10.17 percent, 0.91 percent, and 4.39 percent, respectively, of all natural gas purchased during the POI.¹⁶³ Therefore, because industrial users consumed 27.43 percent of natural gas during the POI, we determine that the natural gas sold by BOTAS is predominantly used by and specific to industrial users, including Celik Halat, within the meaning of section 771(5A)(D)(iii)(II) of the Act. Additionally, evidence on the record indicates that Celik Halat is also a power producer.¹⁶⁴ Therefore, because power producers consumed 27.00 percent of natural gas during the POI, we determine that the natural gas sold by BOTAS is predominantly used and specific to power producers, including Celik Halat, within the meaning of section 771(5A)(D)(iii)(II) of the Act.

As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 1.99 percent *ad valorem* under this program. We intend to address this program with regard to Guney Celik in the post-preliminary determination.

14. Provision of Land for LTAR

According to the GOT, this program is provided pursuant to “Law Concerning Incentives on Investments and Employment and on the Amendment of Certain Laws” (Law No. 5084), dated February 6, 2004.¹⁶⁵ The support is provided to firms operating in the provinces laid out in the Article 2 of Law No. 5084.¹⁶⁶ This program, set forth in the Provisional Article 1 of Law No. 5084, aims to promote investment and employment in provinces where the development level is relatively low.¹⁶⁷ The record evidence shows that, under Provisional Article 1 of Law No. 5084, non-allocated parcels in OIZs were included in the land that could be granted free of charge by the administrative bodies in the OIZ.¹⁶⁸ We preliminarily determine that this program provides a financial contribution under 771(5)(D) (iii) of the Act. We also preliminarily determine that this program is specific under section 771(5A)(D)(i) and (iv) of the Act because the program is limited to specific geographic regions. As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 0.54 percent *ad valorem* under this program.

15. Rediscount 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

¹⁶² *Id.*

¹⁶³ *Id.* (The sixth section, “other sector,” accounts for 32.23 percent of natural gas usage).

¹⁶⁴ *See* Petition at 42-43.

¹⁶⁵ *See* GOT July 27, 2020 IQR at 25.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *See* Petition at Exhibit CVD-TR-39.

manufacturers and exporters producing goods for export.¹⁶⁹ 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 commercial banks that apply to be administering banks with the Central Bank of Turkey."¹⁷⁰ Loans issued under this program are short-term in nature and are applied for on an on-going basis.¹⁷¹ A loan application is required for each loan obtained.¹⁷² Commerce has found this program to be countervailable in a prior CVD case regarding Turkey.¹⁷³

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. We also preliminarily find that this program is specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance. As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 1.96 percent *ad valorem* under this program.

16. Investment Credit for Export

The ExIm Bank of Turkey provides financing for machine, equipment and accessory expenditures.¹⁷⁴ The record evidence shows that manufacturers of export goods and manufacturer exporters can benefit from this program.¹⁷⁵ We preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds from the government under section 771(5)(D)(i) of the Act. We also preliminarily find this program is specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance. As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 8.82 percent *ad valorem* under this program.

17. Export-Oriented Business/Export Oriented Working Capital Credit Program

According to the GOT, the Export Oriented Working Capital Credit program aims at financing raw materials, intermediate goods, machinery, and equipment purchases, as well as other financial needs of companies. The ExIm Bank of Turkey provides financing to the purchasing of raw materials and intermediate goods. The credited company is obliged to fulfill its export

¹⁶⁹ See GOT August 7, 2020 IQR at 9.

¹⁷⁰ *Id.* at 9-10.

¹⁷¹ *Id.*

¹⁷² *Id.* at 13-14.

¹⁷³ 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), 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), and accompanying IDM at 4.

¹⁷⁴ See GOT July 27, 2020 IQR at 30-31.

¹⁷⁵ See Petitioner at Exhibit CVD-TR-32.

commitment within the credit period, and the program is contingent upon export commitment.¹⁷⁶ We preliminarily determine that this program constitutes a financial contribution in the form of a direct transfer of funds from the government under section 771(5)(D)(i) of the Act. We also preliminarily find this program is specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance. As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 8.82 percent *ad valorem* under this program. This program provided no measurable benefit to Guney Celik during the POI.¹⁷⁷

18. Pre-Export Credit Program

The Pre-Export Credit Program in TL (“PEC-TL”) and the Pre-Export Credit Program in foreign currency (“PEC-FX”) were established in 1997 and 1994, respectively.¹⁷⁸ This program is administered by the ExIm Bank of Turkey. This program is designed to provide financial support to exporters, manufacturer-exporters, and manufacturers supplying exporters, except Foreign Trade Corporate Companies and Sectoral Foreign Trade Companies, without requiring any past export performance.¹⁷⁹ Companies must submit a written export commitment to receive the loan.¹⁸⁰

We preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT under 771(5)(D)(i) of the Act. 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. The program is also specific in accordance with section 771(5A)(B) of the Act because receipt of the loans is contingent upon export performance. As AFA concerning benefit, we preliminarily determine Celik Halat and its relevant cross-owned affiliates received a countervailable subsidy rate of 8.82 percent *ad valorem* under this program. We preliminarily determine that Guney Celik received no measurable benefit under this program during the POI.¹⁸¹

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

We preliminarily determine that the following programs did not confer a measurable benefit to Guney Celik during the POI:

1. 1511 - Research Technology Development and Innovation Projects
2. Foreign Fair Support

¹⁷⁶ See GOT July 27, 2020 IQR at 196.

¹⁷⁷ See Guney Celik’s Preliminary Calculation Memorandum.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.* at 195.

¹⁸⁰ *Id.* at 199.

¹⁸¹ See Guney Celik’s Preliminary Calculation Memorandum.

3. Export-Oriented Business/Export Oriented Working Capital Credit Program
4. Pre-Export Credit Program
5. RIIS – Customs Duty Exemption

C. Programs Preliminarily Found to Be Not Used by Guney Celik

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

1. Provision of Land for LTAR
2. Rediscount Program
3. Investment Credit for Export
4. Export Buyer's Credits
5. Free Zones Law No. 3218: Corporate Income Tax Exemption
6. Free Zones Law No. 3218: Exemption from Income Tax for Workers' Wages
7. Tax and Fee Incentives for Renewable Energy
8. Large Scale Investment Incentive Scheme
9. Project Based Investment Incentive Scheme

D. Programs for Which We Require Additional Information

We preliminarily determine that we require additional information from the GOT regarding the following programs, and we will address them in our post-preliminary determination:

1. Exemption on Exchange Tax for Foreign Exchange Transactions
2. Provision of Steel Wire Rod for LTAR
3. Investment Incentive Scheme Program - VAT programs
4. Natural Gas for LTAR
5. Guney Celik's Unknown Tax Program
6. Export Buyer's Credit
7. Renewable Energy Mechanism

IX. RECOMMENDATION

We recommend that you approve the preliminary findings described above.



Agree



Disagree

9/14/2020

X  _____

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

APPENDIX

AFA Rate Calculation

Program	AFA Rate (%)
Direct Tax Exemptions and Reductions	
Deductions from Taxable Income for Export Revenue	0.11 ¹⁸²
Corporate Income Tax Deductions for R&D Expenses	0.08 ¹⁸³
Loan Programs	
Rediscount Program	1.96 ¹⁸⁴
Investment Credit for Export	8.82 ¹⁸⁵
Export-Oriented Business/Export Oriented Working Capital Credit Program	8.82 ¹⁸⁶
Pre-Export Credit Program	8.82 ¹⁸⁷
Grant Programs	
Foreign Fair Support	0.03 ¹⁸⁸
1501 TUBITAK Industrial R&D Projects Grant Program	0.04 ¹⁸⁹
Insurance Premium Support	0.01 ¹⁹⁰
Foreign Market Research	2.11 ¹⁹¹
1511 - Research Technology Development and Innovation Projects	2.11 ¹⁹²
LTAR Programs	
Natural Gas for LTAR	3.30 ¹⁹³
Land for LTAR	0.54 ¹⁹⁴

¹⁸² See Guney Celik Prelim Calculation Memorandum.

¹⁸³ *Id.*

¹⁸⁴ See *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2015*, 82 FR 47479 (October 12, 2017), and accompanying IDM at 6.

¹⁸⁵ See *Welded Line Pipe from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 80 FR 61371 (October 13, 2015) (*WLP Investigation*), and accompanying IDM at 8.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ See Guney Celik Prelim Calculation Memo.

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ See *Pasta from Turkey: Preliminary Results of Countervailing Duty Administrative Review; 2014*, 81 FR 52825 (August 10, 2016), and accompanying PDM at 6, unchanged in *Pasta from Turkey: Final Results of Countervailing Duty Administrative Review; 2014*, 81 FR 90775 (December 15, 2016).

¹⁹² *Id.*

¹⁹³ See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 16056 (March 20, 2020), and accompanying IDM at 4, unchanged in *Steel Concrete Reinforcing Bar from the Republic of Turkey: Correction to Final Results of Countervailing Duty Administrative Review; 2017*, 85 FR 20665 (April 14, 2020)..

¹⁹⁴ See *Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Final Affirmative Countervailing Duty Determination*, 81 FR 47349 (July 21, 2016), and accompanying IDM at 15.

Tax Programs	
Regional Investment Incentive Scheme—Income Tax Deductions	0.14 ¹⁹⁵
Regional Investment Incentive Scheme—Social Security Premium Support	0.02 ¹⁹⁶
Corporate Income Tax Deductions for R&D Expenses	0.08 ¹⁹⁷
Exemption from Property Tax	14.01 ¹⁹⁸
Inward Processing Certificates	14.01 ¹⁹⁹
Free Zones Law No. 3218: Corporate Income Tax Exemption	14.01 ²⁰⁰
Free Zones Law No. 3218: Exemption from Income Tax for Workers' Wages	14.01 ²⁰¹
Tax and Fee Incentives for Renewable Energy	14.01 ²⁰²
Large Scale Investment Incentive Scheme, Strategic Investment Incentive Scheme, and General Investment Incentive Scheme	14.01 ²⁰³
Project-Based Investment Incentive Scheme	14.01 ²⁰⁴
Total AFA Rate:	135.06%

¹⁹⁵ See Guney Celik Prelim Calculation Memo.

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ See WLP Investigation IDM at 8.

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.*