



C-489-819

Administrative Review
POR: 01/01/2018 - 12/31/2018

Public Document

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March 19, 2021

MEMORANDUM TO: Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for the Preliminary Results of
Countervailing Duty Administrative Review, and the Preliminary
Intent to Rescind, in Part: Steel Concrete Reinforcing Bar from the
Republic of Turkey; 2018

I. SUMMARY

The Department of Commerce (Commerce) is conducting an administrative review of the countervailing duty (CVD) order on steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey).¹ The period of review (POR) is January 1, 2018, through December 31, 2018. The two mandatory respondents are: Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas), and Kaptan Demir Celik Endustrisi ve Ticaret A.S. (Kaptan Demir) and Kaptan Metal Dis Ticaret Ve Nakliyat A.S. (Kaptan Metal) (collectively, Kaptan). We preliminarily find that each mandatory respondent received countervailable subsidies during the POR.

II. BACKGROUND

A. Initiation and Case History

We published the *Order* on November 6, 2014. On November 1, 2019, we published the notice of opportunity to request an administrative review of the *Order* for the period January 1, 2018, through December 31, 2018.² On November 25, 2019, Icdas, and Colakoglu Dis Ticaret A.S. and Colakoglu Metalurji A.S. (Colakoglu), each requested an administrative review.³ On

¹ See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Countervailing Duty Order*, 79 FR 65926 (November 6, 2014) (*Order*).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 84 FR 58690, 58691 (November 1, 2019).

³ See Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Icdas' Request for CVD Administrative Review (2018 POR)," dated November 25, 2019; see also Colakoglu's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Colakoglu's Request for CVD Administrative Review (2018 POR)," dated November 25, 2019.



November 26, 2019, the Rebar Trade Action Coalition (RTAC or the petitioner)⁴ requested a review of 26 producers/exporters of subject merchandise,⁵ which included Colakoglu, Icdas, and Kaptan.⁶ On January 17, 2020, we published the notice initiating a review of 26 producers/exporters of rebar from Turkey.⁷ In the *Initiation Notice*, we stated our intention to select respondents based on entry data sourced from U.S. Customs and Border Protection (CBP).⁸ In January 2020, Ağır Haddecilik A.Ş., Duferco Celik Ticaret Limited, and DXT Commodities SA, each submitted no shipment letters.⁹ On February 4, 2020, Commerce received a no shipment letter from Ege Çelik Endüstrisi Sanayi ve Ticaret A.Ş.¹⁰ On February 25, 2020, we released the CBP data and requested comments from interested parties.¹¹ The petitioner filed comments on March 3, 2020.¹² Colakoglu and Kaptan responded to the petitioner's comments on March 6, 2020, and March 9, 2020, respectively.¹³ On May 7, 2020, we selected Icdas and Kaptan as the mandatory respondents in this review.¹⁴

We issued the initial questionnaire on May 8, 2020.¹⁵ Between May 29 and June 5, 2020, we received timely responses to the affiliation questions contained within section III of the initial questionnaire from Icdas, and Kaptan.¹⁶ Based on information reported by Icdas and Kaptan in their affiliation submissions, we identified additional cross-owned affiliates for each mandatory respondent from whom questionnaire responses were required.

In July 2020, we received timely initial questionnaire responses from the Government of Turkey

⁴ The individual members of the Rebar Trade Action Coalition are Byer Steel Group, Inc.; Commercial Metals Company; Gerdaul Ameristeel US Inc.; Nucor Corporation; and Steel Dynamics, Inc.

⁵ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from Turkey: Request for Administrative Review," dated November 26, 2020.

⁶ *Id.* at 2-3.

⁷ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014, 3022 (January 17, 2020) (*Initiation Notice*).

⁸ *Id.*, 85 FR at 1314.

⁹ See Ağır Haddecilik A.Ş.'s Letter, "Steel Concrete Reinforcing Bar from Turkey (C-489-819): Countervailing Duty Administrative Review (1/1/18 - 12/31/18)," dated January 29, 2020; see also Duferco Celik Ticaret Limited's Letter, "Steel Concrete Reinforcing Bar from Turkey (C-489-819): Countervailing Duty Administrative Review (1/1/18 - 12/31/18)," dated January 29, 2020; and DXT Commodities SA's Letter, "Steel Concrete Reinforcing Bar from Turkey (C-489-819): Countervailing Duty Administrative Review (1/1/18 - 12/31/18)," dated January 29, 2020.

¹⁰ See Ege Çelik Endüstrisi Sanayi ve Ticaret A.Ş.'s Letter, "Steel Concrete Reinforcing Bar from Turkey (C-489-819): Countervailing Duty Administrative Review (1/1/18 - 12/31/18)," dated February 4, 2020.

¹¹ See Memorandum, "Release of U.S. Customs and Border Protection Entry Data," dated February 25, 2020.

¹² See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Comments on CBP Data and Respondent Selection," dated March 3, 2020.

¹³ See Colakoglu's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Comments on CBP Data and Respondent Selection," dated March 3, 2020; see also Kaptan's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Comments on CBP Data and Respondent Selection," dated March 3, 2020.

¹⁴ See Memorandum, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Respondent Selection in Countervailing Duty Administrative Review for 2018," dated May 7, 2020.

¹⁵ See Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Initial Questionnaire in Countervailing Duty Administrative Review for 2018," dated May 8, 2020.

¹⁶ See Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to the Department's Section III CVD Questionnaire Identifying Affiliated Parties," dated May 29, 2020 (Icdas' AFFR); see also Kaptan's Letter "Kaptan Affiliation Response: Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey (C-489-819) (POR: 2018)," dated June 5, 2020 (Kaptan's AFFR).

(GOT), Icdas, and Kaptan.¹⁷ On June 28 and August 11, 2020, we received comments from the petitioner in response to the initial questionnaire responses for Icdas and Kaptan, respectively.¹⁸ On November 13, 2020, we issued supplemental questionnaires to the GOT, Icdas, and Kaptan.¹⁹ All parties timely responded to Commerce's supplemental questionnaires.²⁰

On July 28, 2020, the petitioner requested an extension of time to submit new subsidy allegations (NSAs), and we subsequently extended the deadline from July 29, 2020, to August 12, 2020.²¹ On August 12, 2020, the petitioner filed timely NSAs, and requested that Commerce examine the following nine programs: (1) Minimum Wage Support; (2) Export-Oriented Investment Credit Program; (3) Export-Oriented Working Capital Credit Program; (4) Specific Export Credit Program; (5); Foreign Market Research and Market Entry Grants (6) Scientific and Technological Research Council of Turkey (TUBITAK) Grants; (7) TURQUALITY Program; (8) Export Freight Support Program; and 9) Credit Guarantee Fund Equity-Backed Guarantees and Treasury Backed Guarantees.²² Based on the evidence submitted by the petitioner, on October 2, 2020, we initiated an investigation into each alleged subsidy program.²³ On October

¹⁷ See GOT's Letter, "Response of the Government of Turkey in 2018 Countervailing Duty Administrative Review on imports of Steel Concrete Reinforcing Bar from Turkey," dated July 2, 2020 (GOT July 2, 2020 IQR); *see also* Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to the Department's Section III CVD Questionnaire," dated July 2, 2020 (Icdas July 2, 2020 IQR); *see also* Kaptan's Letter, "Kaptan Initial Questionnaire Response: Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey (C-489-819) (POR: 2018)," dated July 6, 2020 (Kaptan July 6, 2020 IQR); and GOT's Letter "Additional Response of the Government of Turkey in 2018 Countervailing Duty Administrative Review on Imports of Steel Concrete Reinforcing Bar from Turkey," July 9, 2020 (GOT July 9, 2020 IQR).

¹⁸ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Comments on Icdas's Section III Countervailing Duty Questionnaire Response," dated July 28, 2020; *see also* Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Comments on Kaptan's Section III Countervailing Duty Questionnaire Response," dated August 11, 2020.

¹⁹ See Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Countervailing Duty Questionnaire," dated November 13, 2020; *see also* Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Countervailing Duty Questionnaire," dated November 13, 2020; and Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Countervailing Duty Questionnaire," dated November 13, 2020.

²⁰ See Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to the Department's Supplemental CVD Questionnaire," dated December 4, 2020 (Icdas December 4, 2020 SQR); *see also* GOT's Letter, "Response of the Government of Turkey 2018 Countervailing Duty Administrative Review of Imports of Steel Concrete Reinforcing Bars from Turkey," dated December 11, 2020 (GOT December 11, 2020 SQR); *see also* Kaptan's Letter, "Kaptan Supplemental Questionnaire Response: Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey (C-489-819) (POR: 2018)," dated December 15, 2020 (Kaptan December 15, 2020 SQR).

²¹ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Extension Request for Deadline to File New Subsidy Allegations," dated July 28, 2020; *see also* Memorandum, "Deadline for New Subsidy Allegations; 19 CFR 351.301(c)(2)(iv)(B)," dated August 10, 2020.

²² See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: New Subsidy Allegations," dated August 12, 2020 (Petitioner's NSA).

²³ See Memorandum, "Steel Concrete Reinforcing Bar from the Republic of Turkey: New Subsidy Allegations in Countervailing Duty Administrative Review," dated October 2, 2020 (NSA Memorandum); *see also* Petitioner's NSA.

15, 2020, we issued NSA questionnaires to the GOT, and each of the mandatory respondents.²⁴ Between November 9 and November 11, 2020, we received timely responses to the initial NSA questionnaires from the GOT, Icdas, and Kaptan.²⁵

We issued additional supplemental questionnaires to the GOT, Icdas, and Kaptan on February 3, 2021.²⁶ We received timely responses to these supplemental questionnaires in February 2021.²⁷

On February 17, 2021, the petitioner submitted benchmark and other factual information.²⁸ On March 1, 2021, Kaptan and Icdas submitted rebuttal comments responding to the petitioner's benchmark submission.²⁹ On March 2, 2021, the petitioner submitted pre-preliminary comments.³⁰ On March 4, 2021, we issued the third supplemental questionnaire to Icdas asking the company to publicly disclose certain cross-owned entities.³¹ On March 9, 2021, Icdas

²⁴ See Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: New Subsidy Allegation Questionnaire for the Government of the Republic of Turkey in the Countervailing Duty Administrative Review for 2018," dated October 15, 2020; *see also* Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: New Subsidy Allegation Questionnaire in the Countervailing Duty Administrative Review for 2018," dated October 15, 2020; and Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: New Subsidy Allegation Questionnaire in the Countervailing Duty Administrative Review for 2018," dated October 15, 2020.

²⁵ See GOT's Letter, "Response of the Government of Turkey to the New Subsidy Allegation Questionnaire in 2018 Countervailing Duty Administrative Review on Imports of Steel Concrete Reinforcing Bar from Turkey," dated November 9, 2020 (GOT November 9, 2020 NSAQR); *see also* Kaptan's Letter, "Kaptan New Subsidies Allegation Questionnaire Response: Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey (C-489-819) (POR: 2018)," dated November 10, 2020 (Kaptan November 10, 2020 NSAQR); *see also* Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to the Department's NSA CVD Questionnaire," dated November 11, 2020 (Icdas November 11, 2020 NSAQR).

²⁶ See Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Second Supplemental Countervailing Duty Questionnaire," dated February 3, 2021; *see also* Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Supplemental Countervailing Duty Questionnaire," dated February 3, 2021; and Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Second Supplemental Countervailing Duty Questionnaire," dated February 3, 2021.

²⁷ See Kaptan's Letter, "Kaptan Second Supplemental Questionnaire Response: Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey (C-489-819) (POR: 2018)," dated February 16, 2021 (Kaptan February 16, 2021 SSAR); *see also* GOT's Letter, "Response of the Government of Turkey to the Second Supplemental Questionnaire in 2018 Countervailing Duty Administrative Review on Imports of Steel Concrete Reinforcing Bar from Turkey," dated February 17, 2021 (GOT February 17, 2021 SSAR); *see also* Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to the Department's Second Supplemental CVD Questionnaire," dated February 17, 2021 (Icdas February 17, 2021 SSAR); *see also* GOT's Letter, "Response of the Government of Turkey to the Second Supplemental Questionnaire in 2018 Countervailing Duty Administrative Review on Imports of Steel Concrete Reinforcing Bar from Turkey," February 22, 2021 (GOT February 22, 2021 SSAR).

²⁸ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Submission of Benchmark Information," dated February 17, 2021 (RTAC Benchmark Submission).

²⁹ See Kaptan's Letter, "Kaptan Benchmark Rebuttal: Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey (C-489-819) (POR: 2018)," dated March 1, 2021; *see also* Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to RTAC's Benchmark Submission," dated March 1, 2021.

³⁰ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Pre-Preliminary Results Comments," dated March 2, 2021.

³¹ See Commerce's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Third Supplemental Countervailing Duty Questionnaire," dated March 4, 2021.

responded to the questionnaire.³² On March 15, 2021, Icdas responded to the petitioner's pre-preliminary comments.³³

B. Postponement of Preliminary Results

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby extending the deadline for the preliminary results of this review until September 20, 2020.³⁴ On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.³⁵ On October 23, 2020, Commerce further postponed the deadline for the preliminary results of this administrative review by 120 days until March 19, 2021, as permitted under section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act).³⁶

III. INTENT TO RESCIND THE ADMINISTRATIVE REVIEW, IN PART

It is Commerce's practice to rescind an administrative review of a countervailing duty order, pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended. Normally, upon completion of an administrative review, the suspended entries are liquidated at the countervailing duty assessment rate calculated for the review period. Therefore, for an administrative review of a company to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the calculated countervailing duty assessment rate calculated for the review period. According to the CBP import data, except for the two mandatory respondents (Icdas and Kaptan) and two other companies (Colakoglu Dis Ticaret A.S. and Coakoglu Metalurji A.S.), the remaining 21 companies subject to this review did not have reviewable entries of subject merchandise during the POR for which liquidation is suspended. Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we intend to rescind this administrative review with respect to the 21 additional companies, in accordance with 19 CFR 351.213(d)(3).

Entries of merchandise produced and exported by Habas are not subject to countervailing duties under the *Order* because Commerce's final determination with respect to this producer/exporter combination was negative. However, any entries of merchandise produced by any other entity and exported by Habas or produced by Habas and exported by another entity are subject to the *Order*. Because there is no evidence on the record of entries of merchandise produced by another entity and exported by Habas, or entries of merchandise produced by Habas and exported by another entity, we preliminarily determine that Habas is not subject to this

³² See Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to the Department's Third Supplemental CVD Questionnaire," dated March 9, 2021 (Icdas March 9, 2021 TSAR).

³³ See Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to RTAC's Pre-Preliminary Comments," dated March 15, 2021.

³⁴ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

³⁵ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

³⁶ See Memorandum, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Extension of Deadline for Preliminary Results in 2018 Countervailing Duty Administrative Review," dated October 23, 2020.

administrative review. Therefore, pursuant to 19 CFR 351.213(d)(3), we intend to rescind the review with respect to Habas.

A final decision on whether to rescind the review of the 21 companies with no reviewable entries (including Habas) will be made in the final results of this administrative review.

IV. NON-SELECTED RATE

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. Generally, Commerce looks to section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not examine in an administrative review. Section 705(c)(5)(A)(i) of the Act articulates a preference that we are not to calculate an all-others rate using rates which are zero, *de minimis*, or based entirely on facts available. Accordingly, to determine the rate for companies not selected for individual examination, Commerce's practice is to weight-average the net subsidy rates for the selected mandatory companies, excluding rates that are zero, *de minimis*, or based entirely on facts available.³⁷ Section 705(c)(5)(A)(ii) of the Act also provides that, where all rates are zero, *de minimis*, or based entirely on facts available, we may use "any reasonable method" for assigning the all-others rate.

For these preliminary results, Kaptan is the sole mandatory respondent with a calculated rate above *de minimis*. Therefore, we are preliminarily assigning Kaptan's net countervailable subsidy rate of 2.55 percent *ad valorem* to Colakoglu Dis Ticaret A.S., Colakoglu Metalurji A.S., the non-selected companies.

V. SCOPE OF THE ORDER

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

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

VI. SUBSIDIES VALUATION INFORMATION

³⁷ See, *e.g.*, *Certain Pasta from Italy: Final Results of the 13th (2008) Countervailing Duty Administrative Review*, 75 FR 37386, 37387 (June 29, 2010).

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. The AUL in this proceeding is 15 years, pursuant to 19 CFR 351.524(d)(2) and the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System.³⁸ No party in this review disputed the allocation period.

For non-recurring subsidies, we applied the "0.5 percent test," as described in 19 CFR 351.524(b)(2). Under this test, we divide the amount of subsidies approved under a given program in a particular year by the relevant sales value (*e.g.*, total sales or export sales), based on the nature of the program, 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. Based on this test, we allocated benefits over the AUL in this review.

B. Cross-Ownership

In accordance with 19 CFR 351.525(b)(6)(i), Commerce will normally attribute a subsidy to the products produced by the company that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(v) directs that Commerce will attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise; are a holding or parent company of the subject company; produce an input that is primarily dedicated to the production of the downstream product; or transfer a subsidy to a cross-owned company.

In accordance with 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 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* to Commerce's regulations further clarifies Commerce's cross-ownership standard.³⁹ 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

³⁸ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination in the Countervailing Duty Investigation of Steel Concrete Reinforcing Bar from the Republic of Turkey," dated September 8, 2014 (Turkey Rebar Final Determination IDM) at Allocation Period.

³⁹ See *Countervailing Duties, Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).

large minority voting interest (for example, 40 percent) or a “golden share” may also result in cross-ownership.⁴⁰

Thus, Commerce’s regulations make clear that the agency must look at the facts presented in each case to determine whether cross-ownership exists. The U.S. Court of International Trade (CIT) has upheld Commerce’s authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.⁴¹

1. Icdas

Icdas is a privately-owned corporation and parent company of a group of companies (*i.e.*, the Icdas Group) whose operations include steel manufacturing, steel trading, ocean and inland transportation, freight brokerage, insurance, electricity generation, and electricity trading, in addition to construction, tourism, travel, and catering.⁴² All companies in the Icdas Group have common family ownership, corporate officers, and interlocking directorates.⁴³

Icdas is the Icdas Group’s main manufacturer and exporter of rebar to the United States.⁴⁴ Icdas is the sole producer of subject merchandise within the Icdas Group.⁴⁵ In this review, Icdas responded on behalf of itself and the following affiliates, which sold scrap rebar to Icdas: Mardas Marmara Deniz Isletmeciligi A.S. (Mardas), Oraysan Insaat Sanayi ve Ticaret A.S. (Oraysan), Artım Demir İnşaat Turizm Sanayi Ticaret Ltd. Sti. (Artım), Anka Entansif Hayvancılık Gıda Tarım Sanayi ve Ticaret A.S. (Anka), and Karsan Gemi Insaat Sanayii Ticaret A.S. (Karsan).⁴⁶ Based on common family ownership, all these companies meet the definition of cross-ownership at 19 CFR 351.525(b)(6)(vi). Commerce preliminarily determines that the production of scrap is primarily dedicated to the production of the downstream product (Icdas is a fully integrated producer that produces billet from scrap, and rebar from billet) in accordance with 19 CFR 351.525(b)(6)(iv).⁴⁷ Further, because these companies were involved in the production of rebar during the POR as suppliers of scrap for rebar production, we preliminarily find that these companies meet the requirements of the attribution rules under 19 CFR 351.525(i) and (iv); thus, we have included these companies in our subsidy analysis.

Concerning the other Icdas-affiliated companies, because Icdas reported that none of its other affiliated companies, including Artmak Denizcilik Ticaret Ve Sanayi A.S. (Artmak), and Eras

⁴⁰ *Id.*, 63 FR at 65401.

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

⁴² *See* Icdas’ Letter, “Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.’s Response to the Department’s Section III CVD Questionnaire Identifying Affiliated Parties,” dated May 29, 2020 (Icdas’ AFFR) at 3 and Exhibit 1.

⁴³ *Id.* at 5.

⁴⁴ *Id.* at 3.

⁴⁵ *Id.* at 5.

⁴⁶ These companies provided scrap to Icdas. *See* Icdas AFFR at 5-6.

⁴⁷ *See* Icdas July 2, 2020 IQR at CVD-8.

Tasimacilik Taahhut Ins.Tic.A.S. (Eras),⁴⁸ were involved in the production, sale or export of subject merchandise, provided inputs to Icdas for subject merchandise, were a holding company, or transferred subsidies to Icdas, we preliminarily find that these companies do not satisfy the attribution criteria under 19 CFR 351.525. Therefore, we did not include these companies in our subsidy analysis.

2. Kaptan

Kaptan Demir is a privately-owned corporation and parent company of a group of companies (*i.e.*, the Kaptan Group) whose operations include, but are not limited to, steel manufacturing, steel trading, ocean and inland transportation, construction, shipping agency, and seaport operations.⁴⁹ Kaptan Demir is the sole manufacturing company of subject merchandise.⁵⁰ Kaptan also provided responses on behalf of the following affiliates during the POR: Martas Marmara Ereglisi Liman Tesisleri A.S. (Martas), Aset Madencilik A.S. (Aset), and Nur Gemicilik ve Tic. A.S.(Nur), all of which sold scrap rebar to Kaptan.⁵¹ Kaptan provided additional reporting for potential affiliates who sold scrap rebar to Kaptan during the POR.⁵² Commerce preliminarily determines that the production of scrap is primarily dedicated to the production of the downstream product (Kaptan Demir is a fully integrated producer that produces billet from scrap, and rebar from billet) in accordance with 19 CFR 351.525(b)(6)(iv).⁵³

All of the Kaptan Group companies are ultimately owned by members of the Cebi family.⁵⁴ Kaptan Demir's primary shareholders are members of the Cebi family, their children and spouses, and there is significant overlap in the executive management of all Kaptan Group companies.⁵⁵ Because the Kaptan Group companies are either directly or indirectly owned or managed by the Cebi family, they satisfy the definition of cross-ownership at 19 CFR 351.525(b)(6)(vi). Further, because the Kaptan Group companies were involved in the production of rebar during the POR as suppliers of scrap for rebar production, we preliminarily find that the Kaptan Group companies satisfy the attribution criteria under 19 CFR 351.525(i) and (iv); thus, we have included these companies in our subsidy analysis.

Concerning the other Kaptan-affiliated companies, because Kaptan reported that none of its other affiliated companies, including Kaptan Is Makinalari Hurda Alim Satim Ltd. Sti. (Kaptan Is

⁴⁸ See Icdas AFFR at 3 and Exhibit 1. In the last administrative review, we found Artmak and Eras are cross-owned with Icdas. These two companies provided an input to Icdas in the last review, but they did not provide an input to Icdas in this review. Therefore, they were not required to provide a full questionnaire response in this review. See *Turkey Rebar Fourth Review* PDM at 10.

⁴⁹ See Kaptan's Letter "Kaptan Affiliation Response: Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey (C-489-819) (POR: 2018)," dated June 5, 2020 (Kaptan's AFFR) at 3 and Exhibit 1.

⁵⁰ *Id.* at 3.

⁵¹ *Id.* at 5.

⁵² *Id.* at 6-7.

⁵³ See Kaptan's Letter, "Kaptan Initial Questionnaire Response: Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey (C-489-819) (POR: 2018)," dated July 6, 2020 (Kaptan July 6, 2020 IQR) at 4.

⁵⁴ See Kaptan AFFR at 4.

⁵⁵ *Id.*

Makinalari), Efesan Demir San. Ve Tic. A.S. (Efesan),⁵⁶ were involved in the production, sale or export of subject merchandise, provided inputs to Kaptan for subject merchandise, were a holding company, or transferred subsidies to Icdas, we preliminarily find that these companies do not satisfy the attribution criteria under 19 CFR 351.525. Therefore, we did not include these companies in our subsidy analysis.

C. Denominators

In accordance with 19 CFR 351.525(b)(1)-(5), Commerce considers the basis for a respondent's receipt of benefits under each program when attributing subsidies, *e.g.*, to the respondent's export sales (where the program is determined to be countervailable as an export subsidy) or total sales (where the program is determined to be countervailable as a domestic subsidy). In the "Programs Preliminarily Determined to Be Countervailable" section below, we describe the denominator used to calculate the subsidy rates.

D. Loan Benchmarks and Discount Rates

We are examining export financing provided by the GOT under the Rediscount Program. To determine whether government provided loans confer a benefit, we use, where possible, company-specific interest rates for comparable commercial loans.⁵⁷ Under 19 CFR 351.505(a)(2)(iv), when calculating a company-specific short-term benchmark interest rate, Commerce will normally "use an annual average of the interest rates on comparable commercial loans during the year in which the government provided loan was taken out, weighted by the principal amount of each loan." Further, when loans are denominated in a foreign currency, 19 CFR 351.505(a)(2)(i) directs us to use a benchmark denominated in the same foreign currency as the government provided loan. Icdas and Kaptan reported that they paid interest against rediscount loans during the POR and provided short-term U.S. dollar (USD) commercial loan data for benchmarking purposes.⁵⁸

To calculate the benefit from the rediscount loans, we preliminarily used USD short-term commercial loans that originated in 2018 to derive a weighted-average benchmark rate specific to each respondent, because those are comparable commercial loans that the companies could actually obtain on the market during the POR pursuant to 19 CFR 351.505(a)(3).⁵⁹

⁵⁶ See Kaptan AFFR at 4 and Exhibit 1-2. In the last administrative review, we found Kaptan Is Makinalari and Efesan are cross-owned with Kaptan. These two companies provided an input to Kaptan in the last review, but they did not provide an input to Kaptan in this review. Therefore, they were not required to provide a full questionnaire response in this review. See *Turkey Rebar Fourth Review* PDM at 10.

⁵⁷ See 19 CFR 351.505(a)(2)(i).

⁵⁸ See Icdas July 2, 2020 IQR at CVD-22; see also Kaptan July 6, 2020 IQR at Exhibit 25.

⁵⁹ This approach is consistent with Commerce's practice in prior cases. See, *e.g.*, *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) (*Turkey Pipe Final Results 2015*), and accompanying IDM at Comment 2; see also *Coated Free Sheet Paper from the Republic of Korea: Notice of Final Affirmative Countervailing Duty Determination*, 72 FR 60639 (October 25, 2007), and accompanying IDM at Comment 19; and *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 77 FR 13093 (March 5, 2012), and accompanying IDM at Comment 1.

VII. ANALYSIS OF PROGRAMS

Based on our analysis of the record information, we preliminarily find the following:

A. Programs Preliminarily Determined To Be Countervailable

1. Renewable Energy Sources Support Mechanism (YEKDEM)

Icdas reported participating in this program during the POR.⁶⁰ We found this program to be countervailable in previous administrative reviews.⁶¹ Under this program, power producers generating electricity from renewable energy sources can voluntarily participate in an alternative mechanism, known as YEKDEM.⁶² Under this price support program, the GOT guarantees that participating electricity producers using renewable energy sources will obtain a certain minimum price for electricity sold through Enerji Piyasalari Isletme A.S. (EPIAS), the electricity marketplace operator.⁶³ The guaranteed minimum price is calculated by the GOT based on the type of renewable energy source and whether the producer purchased domestically produced equipment for its power plant.⁶⁴ If the YEKDEM producer's electricity sells for below the guaranteed minimum price, then, pursuant to Law No. 5346, *all* non-YEKDEM EPIAS suppliers are billed for a portion of the difference between the minimum price and the actual EPIAS price, and the YEKDEM suppliers receive commensurate support payments out of the proceeds.⁶⁵ Icdas reported receiving such support payments from YEKDEM for all eligible months of the POR.⁶⁶

In this review, the GOT reported no changes during the POR that would affect the countervailability of the program.⁶⁷ Therefore, we continue to find this program confers a countervailable subsidy within the meaning of section 771(5) of the Act. The program provides a financial contribution within the meaning of sections 771(5)(B)(iii) and 771(5)(D)(i) of the Act because, pursuant to a government regulation, the GOT is directing a direct transfer of funds (*i.e.*, the YEKDEM support amount) from non-YEKDEM EPIAS sellers to YEKDEM participants that sold electricity through the EPIAS marketplace for less than the guaranteed minimum price. This program is *de jure* specific under section 771(5A)(D)(i) of the Act because it is limited by law to renewable energy producers.

This program provides price support payments in the form of recurring grants. In this instance, the government is not acquiring or procuring goods but, rather, facilitating a market between the

⁶⁰ See Icdas July 2, 2020 IQR at CVD-24.

⁶¹ See *Final Results 2016 Review* IDM at 8; see also *Final Results 2017 Review* IDM at 5.

⁶² See, e.g., Memorandum, "Decision Memorandum for the Preliminary Results of Countervailing Duty Administrative Review, and the Preliminary Intent to Rescind, in Part: Steel Concrete Reinforcing Bar from the Republic of Turkey; 2017," dated January 9, 2020 (Preliminary Results 2017 PDM) at 13.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ See GOT's Letter, "Response of the Government of Turkey in 2018 Countervailing Duty Administrative Review on imports of Steel Concrete Reinforcing Bar from Turkey," dated July 2, 2020 (GOT July 2, 2020 IQR) at page 25.

respondent and its customer through the provision of assistance to certain companies.⁶⁸ This assistance, although referred to as “payments” by the GOT and Icdas, does not constitute payments in exchange for goods, but, rather, grants provided to companies that generate electricity using certain fuel sources, and a direct transfer of funds from the GOT to the respondent.⁶⁹ Therefore, this program provides a benefit in the amount of the support payments to Icdas, in accordance with 19 CFR 351.504(a). Treating the benefit amount as a recurring grant, we divided the total payment amount by the total sales denominator to determine a subsidy rate for the POR.⁷⁰ Thus, we preliminarily calculate a net countervailable subsidy rate of 0.30 percent *ad valorem* for Icdas.⁷¹

2. Rediscount Program

Icdas and Kaptan reported that it paid interest on rediscount export loans which were outstanding during the POR.⁷² We found this export loan program to be countervailable in the underlying investigation and subsequent administrative reviews.⁷³ This loan program is administered by the Export Credit Bank of Turkey (Turk Eximbank) and provides financial support to Turkish exporters, manufacturer-exporters, and manufacturers supplying exporters.⁷⁴ The Turk Eximbank provides pre-shipment financing through intermediary commercial banks in foreign currency or Turkish Lira, and requires collateral from the borrower in the form of promissory notes or bonds payable.⁷⁵

In this review, the GOT reported no changes to the program during the POR that would affect the countervailability of the program.⁷⁶ Therefore, we continue to find that this loan program confers 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 to the respondents under section 771(5)(D)(i) of the Act. 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.

A benefit exists under section 771(5)(E)(ii) of the Act and 19 CFR 351.505(a)(1) equal to the difference between the amount of interest (plus any fees) the company would have paid on comparable commercial loans and the amount of interest (plus any fees) the company actually

⁶⁸ See *Preliminary Results 2017 PDM* at 13.

⁶⁹ *Id.*; see also *Biodiesel from the Republic of Indonesia, Final Affirmative Countervailing Duty Determination*, 82 FR 53471 (November 16, 2017) (*Indonesian Biodiesel*), and accompanying IDM at Comment 2 (where Commerce determined similar support payments provided to biodiesel producers that sold at less than market value to fuel blenders constituted grants, not MTAR).

⁷⁰ Although Commerce typically treats grants as non-recurring, grants of this nature tied to sales of a product (not to capital expenses) that a respondent can expect to receive on an annual basis as the result of the structure of the subsidy program are treated as recurring. See *Indonesian Biodiesel*.

⁷¹ See Memorandum, “Preliminary Results Calculations for Icdas,” dated concurrently with this Preliminary Decision Memorandum (Icdas Preliminary Calculations).

⁷² See Icdas July 2, 2020 IQR at CVD-37.

⁷³ See *Turkey Rebar Final Determination* IDM at 17-18; see also *Final Results 2016 Review* IDM at 7-8; and *Final Results 2017 Review* IDM at 5.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ See GOT July 2, 2020 IQR at 22.

paid on the rediscount loans during the POR. Because a borrower pays the interest due upfront when the loan is received, to compute the benefit, we applied a discounted benchmark interest rate calculated using each respondent's short-term weighted-average commercial interest rate data, as discussed above at "Benchmarks for Short-Term Financing," and following the methodology used for this program in prior reviews. We then summed the benefits from the loans and from that amount, in accordance with section 771(6)(A) of the Act, subtracted the fees paid for guarantees required for receipt of the loans, and divided the benefit amount by each respondent's total export sales for the POR. Thus, we preliminarily calculate a net countervailable subsidy rate of 0.02 percent *ad valorem* for Icdas and 0.18 percent *ad valorem* for Kaptan.⁷⁷

3. Land for Less Than Adequate Remuneration (LTAR) under Law 5084

Kaptan reported that its cross-owned affiliate Nur entered into an agreement whereby it received rent-free land pursuant to Law 5084.⁷⁸ The law provides support to entities operating in certain provinces, and will allocate land for free use for 49 years for entities who make investments on the property.⁷⁹ In 2014, Nur entered into a lease and investment agreement with the local government in the Surmene district to use a state controlled area of land free of rent.⁸⁰ The purpose of the agreement is to provide investment and employment incentive in the form of free or low cost land to spur employment and investment in the region.⁸¹

We find that this agreement confers a countervailable subsidy within the meaning of section 771(5) of the Act. The provision of rent-free land constitutes a financial contribution in the form of land provided for LTAR under section 771(5)(D)(iii) of the Act. The program is regionally specific under section 771(5A)(D)(iv) because the land subsidy is limited to companies located in certain designated geographic regions.

A benefit exists under section 771(5)(E)(iv) of the Act to the extent that the GOT provides land for LTAR. To compute the benefit, we computed the amount Nur should have paid for its rent-free land during the POI. Specifically, we multiplied the area of land provided to Nur (in square meters) by the monthly cost per square meter benchmark rate to derive a benefit for each month of the POI. The land benchmark was based on Colliers International's *Real Estate Market Turkey Review*.⁸² Next, we summed the monthly benefits to find the total benefit in accordance with 771(6)(A) of the Act, and then divided the benefit amount by Kaptan's and Nur's total sales during the POR. On this basis, we preliminarily calculate a net countervailable subsidy rate of 2.37 percent *ad valorem* for Kaptan.⁸³

⁷⁷ See Icdas Preliminary Calculations.

⁷⁸ See Kaptan's Letter, "Kaptan Supplemental Questionnaire Response: Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey (C-489-819) (POR: 2018)," dated December 15, 2020 (Kaptan December 15, 2020 SQR) at 28-29.

⁷⁹ See GOT February 17, 2021 SSAR at 3-4.

⁸⁰ See Kaptan December 15, 2020 SQR at Exhibit 19.

⁸¹ *Id.*

⁸² See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Submission of Benchmark Information," dated February 17, 2021 (RTAC Benchmark Submission) at Exhibit 10 and Exhibit 11.

⁸³ See Memorandum, "Preliminary Results Calculations for Kaptan," dated concurrently with this Preliminary Decision Memorandum.

B. Programs Preliminarily Determined Not To Be Countervailable

1. Provision of Natural Gas for LTAR

In the original investigation, Commerce found purchases of natural gas to be countervailable.⁸⁴ In particular, we found natural gas provided by Boru Hatlari Ile Petrol Tasima AS (BOTAS) to be countervailable, as we found BOTAS to be a government authority that provides a financial contribution within the meaning of section 771(5)(D)(iii) of the Act.⁸⁵ Further, we found that the provision of natural gas by BOTAS was predominantly used by, and disproportionately benefited, the power production sector and, thus, found the program to be *de facto* specific to the power production sector under sections 771 (5A)(D)(iii)(II) and (III) of the Act.⁸⁶

In the 2014 administrative review, we found the program to be neither *de jure* nor *de facto* specific.⁸⁷ In particular, we found no evidence indicating that the provision of natural gas to be *de jure* specific to any enterprise or industry within the meaning of section 771(5A)(D)(i) of the Act.⁸⁸ With regard to *de facto* specificity, Commerce found the no evidence indicating that BOTAS restricts its sales of natural gas to a limited number of enterprises or industries within the meaning of section 771(5A)(D)(iii)(I) of the Act.⁸⁹ Finally, in a change from the investigation, we found that Kaptan was not a power producer. Instead, we evaluated whether BOTAS' provision of natural gas was *de facto* specific to the iron and steel industry or to industrial users. In that review, we found that, during the POR, neither the industrial sector nor the iron and steel industries were disproportionately benefited within the meaning of sections 771(5A)(D)(iii)(II) and (III) of the Act.⁹⁰

In the instant review, record information shows that Kaptan purchased natural gas from BOTAS during the POR.⁹¹ For the purposes of this administrative review, we continue to find this program not to be *de facto* specific. Specifically, record evidence indicates that during the POR, the industrial users and the iron and steel industry accounted for 24 percent and 0.001 percent, respectively, of natural gas purchases.⁹² Thus, based on the record of this review, we find that BOTAS' provision of natural gas was not predominantly used by, and did not disproportionately benefit, industrial users or the iron and steel industry within the meaning of sections 771(5A)(D)(iii)(II) and (III) of the Act. On this basis, we preliminarily determine that BOTAS' sales of natural gas to Kaptan were not specific, and thus, not countervailable.

⁸⁴ See *Turkey Rebar Final Determination* IDM at 8.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination in the Countervailing Duty Investigation of Steel Concrete Reinforcing Bar from the Republic of Turkey," dated September 8, 2014 (*Turkey Rebar Final Determination* IDM) at Comment 3.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ See Kaptan July 6, 2020 IQR at 15.

⁹² See GOT July 2, 2020 IQR at 6-7.

C. Programs Preliminarily Determined Not To Confer Countervailable Benefits

1. Inward Processing Regime (IPR)⁹³

Under the IPR, Turkish manufacturers and exporters that obtain Inward Processing Certificates (IPCs) are able to import raw materials and intermediate unfinished goods that are used in the production of finished goods without paying customs duty or value-added tax (VAT).⁹⁴ The Ministry of Economy administers the IPR and the Ministry of Customs and Trade implements the IPCs.⁹⁵

Under the IPR, there are two types of IPCs available to companies: (1) D-1 certificates for imported raw materials or intermediate unfinished goods used in the production of exported goods; and (2) D-3 certificates for imported raw materials or intermediate unfinished goods used in the production of goods sold in the domestic market.⁹⁶ Applicants submit documents including an application form, an input-output table, a capacity report providing information about the production facilities, information about the goods intended to be exported, and information about the raw materials to be imported (appropriate to the kind and amount of the good to be exported).⁹⁷ An approved certificate lists the goods that can be imported without the obligation to pay the normally applicable duties and taxes.⁹⁸

Companies with a D-1 certificate can choose to use either the Suspension System, wherein they are exempt from the applicable duties and taxes upon importation, but submit a letter of guarantee or a deposit to cover the duties and taxes otherwise owed; or the Drawback System, wherein the duties and taxes are reimbursed after exportation of the finished goods.⁹⁹ Companies holding a D-3 certificate may only utilize the Suspension System, as the finished goods are not exported.¹⁰⁰ Icdas, and Kaptan reported importing goods under D-1 certificates using the Suspension System during the POR.¹⁰¹ No company in this review reported utilizing D-3 certificates to import goods.¹⁰²

Concerning D-1 certificates, pursuant to 19 CFR 351.519(a)(1)(ii), a benefit exists to the extent that the exemption extends to inputs that are not consumed in the production of the exported product, making normal allowances for waste, or if the exemption covers charges other than

⁹³ This program is also known as Inward Processing Certificate Exemption.

⁹⁴ See GOT's Letter, "Response of the Government of Turkey in 2018 Countervailing Duty Administrative Review on imports of Steel Concrete Reinforcing Bar from Turkey," dated July 2, 2020 (GOT July 2, 2020 IQR) at 45.

⁹⁵ *Id.* at 48.

⁹⁶ *Id.* at 46.

⁹⁷ *Id.* at 51.

⁹⁸ See Memorandum, "Decision Memorandum for the Preliminary Results of Countervailing Duty Administrative Review, and the Preliminary Intent to Rescind, in Part: Steel Concrete Reinforcing Bar from the Republic of Turkey; 2015" dated November 30, 2017 at Inward Processing Regime.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ See Icdas' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey; Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.'s Response to the Department's Section III CVD Questionnaire," dated July 2, 2020 (Icdas July 2, 2020 IQR) at CVD-58; see also Kaptan's Letter, "Kaptan Initial Questionnaire Response: Administrative Review of the Countervailing Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey (C-489-819) (POR: 2018)," dated July 6, 2020 (Kaptan July 6, 2020 IQR) at 35.

¹⁰² *Id.*

import charges that are imposed on the input. With regard to the VAT exemption granted under this program, pursuant to 19 CFR 351.517(a), in the case of the exemption upon export of indirect taxes, a benefit exists to the extent that Commerce determines that the amount exempted exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption.

Consistent with the prior review, we preliminarily find that, in accordance with 19 CFR 351.519(a)(4)(i), the GOT has a system in place to confirm which inputs, and in what amounts, are consumed in the production of the exported product, and that the system is reasonable for the purposes intended.¹⁰³ This finding is consistent with Commerce's determinations in prior proceedings.¹⁰⁴ We also preliminarily find, consistent with Commerce's prior determinations,¹⁰⁵ that the exemption granted on certain methods of payments used in purchasing imported raw materials under this program does not constitute a subsidy pursuant to 19 CFR 351.517(a), because the tax exempted upon export does not exceed the amount of tax levied on like products when sold for domestic consumption.

Additionally, as noted above, Icdas and Kaptan each used D-1 certificates only and received customs duty and VAT exemptions on certain imported inputs used in the production of exported goods. Based on our examination of the information submitted by the company respondents and the GOT, we preliminarily find no evidence on the record of this review to indicate that the amounts of VAT and duty exemptions on inputs imported under the program with D-1 certificates were excessive or that the companies used the imported inputs for any other product besides those exported.

Therefore, consistent with Commerce's prior determinations on the IPR and D-1 certificates,¹⁰⁶ we preliminarily find that the tax and duty exemptions, which Icdas and Kaptan received on imported inputs under D-1 certificates, did not confer countervailable benefits as the exemptions were applied only to the imported inputs consumed in the production of the exported product, making normal allowance for waste. Furthermore, we preliminarily find that the VAT exemption did not confer countervailable benefits to either Icdas or Kaptan, because the exemption did not exceed the amount levied with respect to the production and distribution of like products when sold for domestic consumption. Consequently, we preliminarily determine that the D-1 certificates under the IPR did not provide any countervailable benefits to Icdas or Kaptan during the POR.

D. Program Preliminarily Determined to Provide No Measurable Benefit During the POR

¹⁰³ See *Turkey Rebar Second Review* PDM at Inward Processing Regime.

¹⁰⁴ See, e.g., *Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 71 FR 43111 (July 31, 2006), and accompanying IDM at 10-11; *Circular Welded Carbon Steel Pipes and Tubes from Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2013 and Rescission of Countervailing Duty Administrative Review, in Part*, 80 FR 61361 (October 13, 2015), and accompanying IDM at 11-13; and *Turkey Pipe Final Results 2015* IDM at 7.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

Commerce preliminarily determines that the program listed below did not confer a measurable benefit during the POR. Consistent with the established practice, we are not including programs with non-measurable benefits (*i.e.*, calculated rates of less than 0.005 percent) in the respondents' net subsidy rate calculations. Furthermore, because the benefits from this program are non-measurable, we are not making preliminary determinations regarding financial contribution or specificity.

1. Reduction and Exemption of Licensing Fees for Renewable Resource Power Plants

E. Program For Which More Information Is Needed

We do not have enough information on the record to evaluate the countervailability of the Electricity Sales to Turkish Electricity Trade and Contracting Corporation (TETAS) program. We intend to seek additional information from the respondents after these preliminary results.

F. Programs Preliminarily Determined to Not Be Used

1. Provision of Lignite for LTAR
2. Purchase of Electricity for MTAR – Sales *via* Build-Operate-Own, Build-Operate-Transfer, and Transfer of Operating Rights Contracts
3. Research and Development Grant Program
4. Export Credits, Loans, and Insurance from Turk Eximbank
5. Large-Scale Investment Incentives
6. Strategic Investment Incentives
7. Incentives for Research & Development Activities
8. Regional Development Subsidies
9. Comprehensive Investment Incentives (also known as Super Incentive Scheme)
10. Preferential Financing from the Turkish Development Bank
11. Liquefied Natural Gas for LTAR
12. Deduction from Taxable Income for Export Revenue
13. Assistance for Participation in Trade Fairs Abroad
14. Assistance to Offset Costs Related to Antidumping/CVD Investigations
15. Export Buyer's Credit
16. Export-Oriented Investment Credit Program
17. Export-Oriented Working Capital Credit Program
18. Specific Export Credit Program
19. Foreign Market Research and Market Entry Grants
20. Scientific and Technological Research Council of Turkey (TUBITAK)
21. TURQUALITY Program
22. Export Freight Support Program
23. Credit Guarantee Fund Equity-Backed Guarantees and Treasury Backed Guarantee

VIII. RECOMMENDATION

Based on our analysis, we recommend adopting the preliminary results described above. If this recommendation is accepted, we will publish the preliminary results of review in the *Federal Register*.



Agree



Disagree

3/19/2021

X



Signed by: CHRISTIAN MARSH

Christian Marsh
Acting Assistant Secretary
for Enforcement and Compliance