

**DEPARTMENT OF COMMERCE****International Trade Administration**

[C-489-502]

**Certain Welded Carbon Steel Standard Pipe From Turkey: Preliminary Results of Countervailing Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on certain welded carbon steel standard pipe from Turkey for the period January 1, 2008, through December 31, 2008. We preliminarily find that the net subsidy rate for each company under review is *de minimis*. See the "Preliminary Results of Review" section of this notice, *infra*. Interested parties are invited to comment on these preliminary results. (See the "Public Comment" section, *infra*.)

**DATES:** *Effective Date:* April 1, 2010.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:****Background**

On March 7, 1986, the Department published in the **Federal Register** the CVD order on certain welded carbon steel pipe and tube products from Turkey. See *Countervailing Duty Order: Certain Welded Carbon Steel Pipe and Tube Products from Turkey*, 51 FR 7984 (March 7, 1986). On March 2, 2009, the Department published a notice of opportunity to request an administrative review of this CVD order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 74 FR 9077 (March 2, 2009). On March 31, 2009, we received a timely request from petitioner<sup>1</sup> to review the following companies: Borusan Group, Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (BMB), and Borusan Istikbal Ticaret T.A.S. (Istikbal), (collectively, Borusan); Yucel Boru Group, Cayirova Boru Sanayi ve Ticaret A.S., Yucelboru Ihracet Ithalat ve Pazarlama A.S., and

Yucel Boru ve Profil Endustrisi A.S. (collectively, Yucel); Tosyali dis Ticaret A.S. (Tosyali) and Toscelik Profil ve Sac Endustrisi A.S. (Toscelik Profil), (collectively, Toscelik); and Alexico Group Plc. On April 16, 2009, petitioner amended its request for an administrative review by withdrawing its request for a review of Alexico Group, Plc.

On April 27, 2009, the Department initiated an administrative review of the CVD order on certain welded carbon steel standard pipe from Turkey for the period January 1, 2008, through December 31, 2008, covering Borusan, Yucel, and Toscelik. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation, In Part*, 74 FR 19042 (April 27, 2009).

On April 29, 2009, the Department issued the initial questionnaire to Borusan, Yucel, Toscelik, and the Government of the Republic of Turkey (GOT). On May 13, 2009, Yucel notified the Department that it had no sales, shipments, or entries, directly or indirectly, of subject merchandise to the United States during the review period (POR) of January 1, 2008, through December 31, 2008.<sup>2</sup> To confirm Yucel's no shipment claim, we conducted an internal customs data query on June 16, 2009. We also issued a "no shipments inquiry" message to U.S. Customs and Border Protection (CBP), which posted the message on June 19, 2009.<sup>3</sup> The customs data query indicated that Yucel had no sales, shipments, or entries of subject merchandise to the United States during the POR. We did not receive any information from CBP contrary to Yucel's claim of no sales, shipments, or entries of subject merchandise to the United States during the POR. See Memorandum to the File through Melissa Skinner, Director, AD/CVD Operations, Office 3, titled "Customs Data Query," (July 7, 2009). On August 5, 2009, we published the notice of preliminary rescission of this CVD duty administrative review with respect to Yucel, and invited interested parties to comment. See *Welded Carbon Steel Standard Pipe and Tube from Turkey: Intent to Rescind Countervailing Duty Administrative Review, in Part*, 74 FR 39062 (August 5, 2009) (*Preliminary Rescission*). We received no comments in response to the *Preliminary*

<sup>2</sup> See Yucel's Notification of No Shipments letter to the Department (June 15, 2009). A copy of this public document is available on the public record in the Department's Central Records Unit (CRU), Room 1117 located in the main Commerce Department building.

<sup>3</sup> See Message number 9170203, available at <http://addcvd.cbp.gov>.

*Rescission*. Subsequently, on September 18, 2009, the Department rescinded the administrative review of Yucel. See *Welded Carbon Steel Standard Pipe and Tube from Turkey: Notice of Rescission of Countervailing Duty Administrative Review, In Part*, 74 FR 47921 (September 18, 2009).

On July 6, 2009, the Department received responses to the initial questionnaire from Borusan, Toscelik, and the GOT. We issued supplemental questionnaires to the GOT on August 21, 2009, and December 17, 2009, and received the government's responses on September 17, 2009, and January 4, 2010, respectively. On August 18, 2009, and October 26, 2009, we issued supplemental questionnaires to Toscelik and received the company's responses to these questionnaires on September 1, 2009, and November 9, 2009, respectively. On August 19, 2009, October 14, 2009, and October 30, 2009, we issued supplemental questionnaires to Borusan and received the company's responses on September 2, 2009, November 4, 2009, and November 10, 2009, respectively. On August 4, 2009, petitioner submitted a letter requesting that the Department conduct verification of the questionnaire responses submitted by Borusan, Toscelik, and the GOT in this review.

On July 27, 2009, petitioner filed new subsidies allegations with the Department arguing that Borusan and Toscelik received countervailable subsidies, including upstream subsidies, from the GOT.<sup>4</sup> Subsequently, on August 20, 2009, petitioner filed additional information in support of its new subsidies allegations.<sup>5</sup> On October 16, 2009, the Department declined to initiate on the new subsidies allegations presented by petitioner. See Memorandum to Melissa G. Skinner, Director, AD/CVD Operations, Office 3, from Team concerning "New Subsidies Allegations" (October 16, 2009) (New Subsidies Memorandum).<sup>6</sup> On November 3, 2009, petitioner submitted comments regarding the Department's New Subsidies Memorandum.<sup>7</sup>

<sup>4</sup> See Upstream Subsidy Allegation and New Subsidy Allegation submission (New Subsidies Submission) (July 27, 2009). The public version of this document, as well as all other public versions of proprietary documents submitted to the Department, is available on the public file in the CRU.

<sup>5</sup> See Additional Information in Support of Petitioner's Upstream Subsidy Allegation and New Subsidy Allegation submission (Additional Submission) (August 20, 2009).

<sup>6</sup> A public version of this memorandum and all public Departmental memoranda are available on the public file in the CRU.

<sup>7</sup> A public document on file in the CRU.

<sup>1</sup> Petitioner is Wheatland Tube Company.

Being issued concurrently with this notice of preliminary results is the Department's response to petitioner's November 3, 2009, comments regarding the Department's New Subsidies Memorandum. See Memorandum to Melissa G. Skinner, Director, AD/CVD Operations, Office 3, from Team concerning "Response to Petitioner's Comments on New Subsidies Allegations Memorandum" (March 25, 2010). In the March 25, 2010, memorandum, the Department reiterates its decision to not initiate on the upstream subsidy allegation regarding income tax exemptions provided to OYAK, the Turkish military pension fund.

On November 20, 2009, the Department postponed the deadline for the preliminary results of this administrative review until March 31, 2010. See *Welded Carbon Steel Standard Pipe from Turkey: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 74 FR 60238 (November 20, 2009). In addition, as explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the preliminary results of this administrative review is now April 7, 2010. See Memorandum to the Record from Ronald K. Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested and not rescinded. Therefore, the only companies subject to this review are Borusan and Toscelik. This review covers 14 programs.

#### Scope of the Order

The products covered by this order are certain welded carbon steel pipe and tube with an outside diameter of 0.375 inch or more, but not over 16 inches, of any wall thickness (pipe and tube) from Turkey. These products are currently provided for under the Harmonized Tariff Schedule of the United States (HTSUS) as item numbers 7306.30.10, 7306.30.50, and 7306.90.10. Although the HTSUS subheadings are provided

for convenience and customs purposes, the written description of the merchandise is dispositive.

#### Period of Review

The period for which we are measuring subsidies is January 1, 2008, through December 31, 2008.

#### Company History

Toscelik Profil and its affiliated foreign trading company, Tosyali, are owned by Tosyali Holding, a Turkish holding company. Toscelik Profil, which produces subject merchandise for both the domestic and export markets, was established in 1992. Tosyali, founded in 1996, is the exporter of record with respect to Toscelik Profil's export sales and sells subject merchandise to unaffiliated customers in the United States. Consistent with 19 CFR 351.525(c), we are attributing any subsidies received by Tosyali to Toscelik Profil.

BMB and its affiliated foreign trading company, Istikbal, are both part of the Borusan Group. BMB produces subject merchandise for both the home and export markets and was acquired by the Borusan Group in 1998. During the POR, all subject merchandise exported to the United States was exported from Turkey by BMB. For sales of subject merchandise to other destinations, Istikbal was the exporter from Turkey. Consistent with 19 CFR 351.525(c), we are attributing any subsidies received by Istikbal to BMB.

#### Subsidies Valuation Information

##### Benchmark Interest Rates

To determine whether government-provided loans under review conferred a benefit, the Department uses, where possible, company-specific interest rates for comparable commercial loans. See 19 CFR 351.505(a). Where no company-specific benchmark interest rates are available, as is the case in this review, the Department's regulations direct us to use a national average interest rate as the benchmark. See 19 CFR 351.505(a)(3)(ii). However, according to the GOT, there is no official national average short-term interest rate available in Turkey.<sup>8</sup> Therefore, consistent with our past practice in Turkey CVD proceedings,<sup>9</sup> we have calculated the

<sup>8</sup> See GOT's Initial Questionnaire Response at 19 (July 6, 2009).

<sup>9</sup> See *Carbon and Certain Alloy Steel Wire Rod from Turkey; Final Negative Countervailing Duty Determination*, 67 FR 55815 (August 30, 2002), and accompanying Issues and Decision Memorandum (Wire Rod Memorandum) at "Benchmark Interest Rates;" see also *Preliminary Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*,

2008 benchmark interest rate for short-term Turkish Lira denominated loans based on short-term interest rate data as reported by *The Economist*. In the public version of its July 6, 2009, questionnaire response at Exhibit 25, Borusan submitted, for each month of the POR, a copy of the print edition of *The Economist* that contains interest rate data for Turkey. The short-term Turkish Lira interest rates sourced from *The Economist* do not include commissions or fees paid to commercial banks, *i.e.*, they are nominal rates. See Wire Rod Memorandum at 4.

To calculate the 2008 benchmark, we performed a simple average calculation of the monthly rates to compute an annual short-term interest rate for Turkey. See Memorandum to the File from Kristen Johnson regarding Short-Term Turkish Lira Benchmark (March 25, 2010). We then compared that interest rate with the interest rates that the company paid during the POR against export financing provided by the Export Credit Bank of Turkey (Export Bank). This methodology is consistent with the Department's practice. See *Certain Welded Carbon Steel Standard Pipe From Turkey: Preliminary Results of Countervailing Duty Administrative Review*, 72 FR 62837, 62838 (November 7, 2007) (*2006 Pipe Prelim*); see also *Preliminary Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 71 FR 68550, 68551 (November 27, 2006) (*2005 Pipe Prelim*), unchanged in *Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 72 FR 13479 (March 22, 2007); *Preliminary Results of Countervailing Duty New Shipper Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 72 FR 8348, 8349 (February 26, 2007) (*NSR Prelim*), unchanged in *Final Results of Countervailing Duty New Shipper Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 72 FR 24278 (May 2, 2007).

#### Analysis of Programs

##### I. Programs Preliminarily Determined To Be Countervailable

###### A. Deduction From Taxable Income for Export Revenue

Addendum 4108 of Article 40 of the Income Tax Law, effective June 2, 1995, allows taxpayers engaged in export activities to claim a lump sum

72 FR 62837, 62838 (November 7, 2007) (*2006 Pipe Prelim*), unchanged in *Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 73 FR 12080 (March 6, 2008).

deduction from gross income, in an amount not to exceed 0.5 percent of the taxpayer's foreign-exchange earnings. The deduction for export earnings may either be taken as a lump sum on a company's annual income tax return or be shown as a separate account within the company's selling expenses in the chart of accounts to record the subtraction of relevant expenses from gross income.

Consistent with prior determinations, we preliminarily find that this tax deduction is a countervailable subsidy. *See 2006 Pipe Prelim*, 72 FR at 62838; *see also NSR Prelim*, 72 FR at 8350. The income tax deduction provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Tariff Act of 1930, as amended (the Act), because it represents revenue forgone by the GOT. The deduction provides a benefit in the amount of the tax savings to the company pursuant to section 771(5)(E) of the Act. It is also specific under section 771(5A)(B) of the Act because its receipt is contingent upon export earnings. In this review, no new information or evidence of changed circumstances has been submitted to warrant reconsideration of the Department's prior finding of countervailability for this program.

During 2008, BMB, Istikbal, and Tosyali utilized the deduction for export earnings with respect to their 2007 income taxes.

The Department typically treats a tax deduction as a recurring benefit in accordance with 19 CFR 351.524(c)(1). To calculate the countervailable subsidy rate for this program, we calculated the tax savings realized by BMB, Istikbal, and Tosyali in 2008, as a result of the deduction for export earnings. For BMB and Istikbal, we divided their combined tax savings by Borusan's total export sales for 2008. For Tosyali, we divided the tax savings realized by Toscelik's total export sales for 2008.

On this basis, we preliminarily determine the net countervailable subsidy for this program to be 0.06 percent *ad valorem* for Borusan and to be 0.09 percent *ad valorem* for Toscelik.

#### B. Foreign Trade Companies Short-Term Export Credits

The Foreign Trade Company (FTC) loan program was established by the Turkish Export Bank to meet the working capital needs of exporters, manufacturer-exporters, and manufacturers supplying exporters. This program is specifically designed to benefit Foreign Trade Corporate Companies (FTCC) and Sectoral Foreign

Trade Companies (SFTC).<sup>10</sup> An FTCC is a company whose export performance was at least US\$100 million in the previous year.

To eligible companies, the Export Bank provides short-term export loans in Turkish Lira or foreign currency, based on their prior export performance and financial criteria, up to 100 percent of the free on board (FOB) export commitment. The loan interest rates are set by the Export Bank and the term is 120 to 180 days for Turkish Lira-denominated loans and 120 to 360 days for foreign currency denominated loans. To qualify for an FTC loan, along with the necessary application documents, a company must provide a bank letter of guarantee, equivalent to the loan's principal and interest amount, because the financing is a direct credit from the Export Bank. Istikbal was the only Borusan company to pay interest against FTC credits during the POR. Toscelik did not use this program during the POR.

Consistent with previous determinations, we preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. *See, e.g., 2006 Pipe Prelim*, 72 FR at 62839. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT, under section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act in the amount of the difference between the payments of interest that Istikbal made on its loans during the POR and the payments the company would have made 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. Further, the FTC loans are not tied to a particular export destination. Therefore, we have treated this program as an untied export loan program, which renders it countervailable regardless of whether the loans were used for exports to the United States. *See 2006 Pipe Final* (affirming preliminary results, 72 FR at 62839).

Pursuant to 19 CFR 351.505(a)(1), we have calculated the benefit as the difference between the payments of interest that Istikbal made on its FTC loans during the POR and the payments the company would have made on

comparable commercial loans.<sup>11</sup> In accordance with section 771(6)(A) of the Act, we subtracted from the benefit amount the fees that Istikbal paid to commercial banks for the required letters of guarantee. We then divided the resulting benefit by Borusan's total export sales for 2008. On this basis, we preliminarily find that the net countervailable subsidy for this program is 0.02 percent *ad valorem* for Borusan.

#### C. Pre-Export Credits

The Pre-Export Credit program meets the working capital needs of exporters, manufacturers, and manufacturers supplying exporters, except for FTC and SFTC classified exporters, which are ineligible to receive credits under this program. Eligible applicants are companies that exported more than \$200,000 of goods in the previous 12 months. Like FTC loans, the Export Bank directly extends pre-export loans to eligible companies. These loans are contingent upon an export commitment. The loans, whose interest rates are set by the Turkish Export Bank, are denominated in either Turkish Lira or foreign currency and have a maximum maturity of 360 and 540 days, respectively. To qualify for a pre-export loan, along with the necessary application documents, a company must provide a bank letter of guarantee, equivalent to the loan's principal and interest amount. During the POR, BMB was the only Borusan company that paid interest against pre-export loans. Toscelik did not use this program during the POR.

Consistent with previous determinations, we preliminarily find that these loans confer a countervailable subsidy within the meaning of section 771(5) of the Act. *See, e.g., 2006 Pipe Prelim*, 72 FR at 62839. The loans constitute a financial contribution in the form of a direct transfer of funds from the GOT, under section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act in the amount of the difference between the payments of interest that BMB made on the loans during the POR and the payments the company would have made 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.

Further, like the FTC loans, these loans are not tied to a particular export destination. Therefore, we have treated this program as an untied export loan

<sup>10</sup> To promote exports and diversity in products exported, the GOT encouraged small and medium scale enterprises to form SFTC, which comprise five to ten companies that operate together in a similar sector.

<sup>11</sup> *See* "Benchmark Interest Rates," *supra* (discussing the benchmark rates used in these preliminary results).

program rendering it countervailable regardless of whether the loans were used for exports to the United States. See *2006 Pipe Prelim*, 72 FR at 62839.

Pursuant to 19 CFR 351.505(a)(1), we have calculated the benefit as the difference between the payments of interest that BMB made on its pre-export loans during the POR and the payments the company would have made on comparable commercial loans. In accordance with section 771(6)(A) of the Act, we subtracted from the benefit amount the fees which BMB paid to commercial banks for the required letters of guarantee. We then divided the resulting benefit by Borusan's total export value for 2008. On this basis, we preliminarily find that the net countervailable subsidy for this program is 0.02 percent *ad valorem* for Borusan.

#### D. Pre-Shipment Export Credits

Turkey's Export Bank provides short-term pre-shipment export loans through intermediary commercial banks to exporters, manufacturer-exporters, and manufacturers supplying exporters and SFTCs to assist the borrowers in meeting their export commitments. The commercial banks, which assume the default risks of the borrowers, are allocated credit lines by the Export Bank to make the loans. These loans cover up to 100 percent of the FOB export value, are denominated in either Turkish Lira or foreign currency, and have maximum terms of 360 and 540 days, respectively. The interest rates charged on these pre-shipment loans are set by the Export Bank. However, because these loans are provided through intermediary commercial banks, those banks can add a maximum one percent to the Turkish Lira loan interest rate and 0.5 percent to the foreign currency loan interest rate as their commissions.<sup>12</sup>

In previous determinations, the Department found this program to be countervailable because receipt of the loans is contingent upon export performance and a benefit was conferred to the extent that the interest rates paid on the government loan were less than the amount the recipient would pay on comparable commercial loans. See, e.g., *Final Results of Countervailing Duty Administrative Review: Certain Welded Carbon Steel Standard Pipe from Turkey*, 71 FR 43111 (July 31, 2006) (*2004 Pipe Final*), and accompanying Issues and Decision Memorandum (2004 Pipe Memorandum) at "Pre-Shipment Export Credits" under "Programs Determined To Be Countervailable."

<sup>12</sup> See GOT Initial Questionnaire Response at 13 (July 6, 2009).

The Department also found that this program is an untied export loan program because the loans are not specifically tied to a particular destination at the time of approval and the borrower only has to show that the export commitment was satisfied (*i.e.*, exports amounting to the FOB value of the credit) to close the loan. *Id.* In this review, no new information or evidence of changed circumstances has been submitted to warrant reconsideration of the Department's prior findings for this program. During the POR, BMB was the only Borusan company that paid interest against pre-shipment export credit loans. Toscelik used pre-shipment export credit loans during the POR, but did not pay interest on (*i.e.*, realize a benefit from) those loans in 2008.

Consistent with the *2004 Pipe Final*, 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 section 771(5)(D)(i) of the Act. A benefit exists under section 771(5)(E)(ii) of the Act in the amount of the difference between the payments of interest that BMB made on the loans during the POR and the payments the company would have made 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.

Pursuant to 19 CFR 351.505(a)(1), we have calculated the benefit as the difference between the payments of interest that BMB made on its pre-shipment export loans during the POR and the payments the company would have made on comparable commercial loans. It is the Department's practice to normally compare effective interest rates rather than nominal rates in making the loan comparison. See *Countervailing Duties; Final Rule*, 63 FR 65348, 65362 (November 25, 1998) (*Preamble*). "Effective" interest rates are intended to take account of the actual cost of the loan, including the amount of any fees, commissions, compensating balances, government charges, or penalties paid in addition to the "nominal" interest rate.

The benchmark short-term Turkish Lira interest rates sourced from *The Economist*, however, do not include commissions or fees paid to commercial banks, *i.e.*, they are nominal rates. See "Benchmark Interest Rate," section *supra*. Therefore, for these preliminary results, we compared the benchmark Turkish Lira interest rate to the interest rate that BMB was charged on the pre-

shipment export credit loans, exclusive of the intermediary bank commissions, to make the comparison on a nominal interest rate basis.

After computing the benefit amount, we subtracted from the benefit amount the fees which BMB paid to commercial banks for the required letters of guarantee, as provided under section 771(6)(A) of the Act. We then divided that amount by Borusan's total export value for 2008. On this basis, we preliminarily find that the net countervailable subsidy for this program is 0.02 percent *ad valorem* for Borusan.

## II. Program Preliminary Determined To Be Not Countervailable

### A. Law 4857, Article 30

Under Law 4857, which has been in effect since 2003, the GOT, through its Ministry of Labor and Social Security and Undersecretariat of Treasury, encourages companies to employ handicapped workers by exempting the employer's share of insurance premium paid to the Undersecretariat of Treasury (Treasury) for the handicapped workers. The GOT explained that Article 30 of Law 4857, most recently amended in May 2008, outlines the requirement to employ disabled persons and ex-convicts. Article 30 states that "employers in private businesses employing 50 or more employees are obliged to employ three percent handicapped and in public businesses four percent handicapped and two percent ex-convicts in jobs appropriate for their professions and physical and psychological status."<sup>13</sup>

Regarding employers with 50 or more employees, the GOT reported that for the handicapped workers within the three percent quota, 100 percent of the employer's share of insurance premium for the handicapped workers is paid by the Treasury. For handicapped workers exceeding the quota (*i.e.*, more than three percent), only 50 percent of the employer's share of insurance premium is paid by the Treasury for the handicapped workers. Employers that employ less than 50 employees are not obliged to employ handicapped workers, but should they, 50 percent of the employer's share of insurance premium for the handicapped workers is paid by the Treasury. The GOT also added that there are protected businesses for which 100 percent of the employer's share of insurance premium for handicapped workers is paid by the

<sup>13</sup> See GOT Supplemental Questionnaire Response at Exhibit 1 (January 4, 2010). For example, Article 30 indicates that handicapped workers cannot be employed in underground and underwater works.

Treasury. The GOT explained that protected businesses are businesses supported by the government for the purpose of creating jobs and providing professional rehabilitation for the handicapped who may not be employed in the normal labor market. The GOT stated that as of December 30, 2009, there were no longer protected businesses in Turkey. Toscelik provided to the Department Article 30 of Law 4857 in this review.<sup>14</sup>

Because Article 30 of Law 4857 does not limit access to the benefit, but indicates that an exemption of insurance premium is available to all employers who employ handicapped workers in jobs appropriate for their professions and physical and psychological status, we preliminarily determine that this program is not specific within the meaning of section 771(5A)(D) of the Act. This approach is consistent with the Department's decisions in other CVD proceedings. For example, in *Steel Plate from Korea*, the Department found the "Special Tax Credit for Boosting Employment" not to be countervailable because the tax credit was available to nearly all companies in Korea except for a small category of businesses, which the GOK deemed "harmful to juveniles, affecting public morals, certain private teaching institutes, and certain real estate businesses." See *Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea*, 72 FR 38565 (July 13, 2007) (*Steel Plate from Korea*), and accompanying Issues and Decision Memorandum at "Special Tax Credit for Boosting Employment." Because we preliminarily find that this program is not specific, we need not address whether the program provides a financial contribution or benefit.

### III. Programs Preliminary Determined To Not Confer Countervailable Benefits

#### A. Inward Processing Certificate Exemption

Under the Inward Processing Certificate (IPC)<sup>15</sup> program, companies are exempt from paying customs duties and value added taxes (VAT) on raw materials and intermediate unfinished goods imported to be used in the production of exported goods. Companies may choose whether to be

exempted from the applicable duties and taxes upon importation (*i.e.*, the Suspension System) or have the duties and taxes reimbursed after exportation of the finished goods (*i.e.*, the Drawback System). Under the Suspension System, companies provide a letter of guarantee that is returned to them upon fulfillment of the export commitment.

To participate in this program, a company must hold an IPC, which lists the amount of raw materials/intermediate unfinished goods to be imported and the amount of product to be exported. To obtain an IPC, an exporter must submit an application, which states the amount of imported raw material required to produce the finished products and a "letter of export commitment," which specifies that the importer of materials will use the materials to produce exported goods. Once an IPC is issued, the producer must show the certificate to Turkish customs each time it imports raw materials on a duty exempt basis. There are two types of IPCs: (1) D-1 certificate for imported raw materials or intermediate unfinished goods used in the production of exported goods, and (2) D-3 certificate for imported raw materials or intermediate unfinished goods used in the production of goods sold in the domestic market and defined as "domestic sales and deliveries considered as exports."<sup>16</sup> The GOT also reported that imports made with an acceptance credit, deferred payment letter of credit, or cash against goods payment in relation to an IPC are exempt from paying the three percent Resource Utilization Support Fund.<sup>17</sup> During the POR, Borusan and Toscelik used D-1 certificates of the importation of raw materials used in the production of exported carbon steel pipe and tube. Neither Borusan nor Toscelik used D-3 certificates during the POR.<sup>18</sup>

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 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 the Department

determines that the amount exempted exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption.

In prior reviews, the Department has found 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. See, *e.g.*, 2004 Pipe Memorandum at "Inward Processing Certificate Exemption" under "Programs Determined To Not Confer Countervailable Benefits." The Department has also found 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. See Wire Rod Memorandum at "Inward Processing Certificate Exemptions" and Comment 8. No new information is on the record of this proceeding to warrant a reconsideration of the Department's earlier findings.

During the POR, under D-1 certificates, Borusan and Toscelik received duty and VAT exemptions on certain imported inputs used in the production of steel pipes and tubes. Consistent with the Department's findings in 2004 Pipe Final and based on our review of the information supplied by Borusan and Toscelik regarding this program, we preliminarily determine there is no evidence on the record of this review that indicates the amount of exempted inputs imported under the program were excessive or that the firms used the imported inputs for any other product besides those exported.

Therefore, consistent with past cases,<sup>19</sup> we preliminarily determine that the tax and duty exemptions, which Borusan and Toscelik received on imported inputs under D-1 certificates of the IPC program, did not confer countervailable benefits as Borusan and Toscelik consumed the imported inputs in the production of the exported product, making normal allowance for waste. We further preliminarily find that the VAT exemption did not confer countervailable benefits on Borusan or Toscelik because the exemption does not exceed the amount levied with respect to the production and

<sup>14</sup> See Toscelik's Supplemental Questionnaire Response at Exhibit 4, pages 13-14 (November 9, 2009).

<sup>15</sup> During the POR, the IPC was implemented under Resolution No. 2005/8391. A copy of this resolution was submitted by the GOT in its July 6, 2009, Initial Questionnaire Response at Exhibit 26.

<sup>16</sup> See GOT's Initial Questionnaire Response at 43 (July 6, 2009).

<sup>17</sup> See GOT's Supplemental Questionnaire Response at II-5 (September 17, 2009).

<sup>18</sup> For more information on D-3 certificates, see GOT's Initial Questionnaire Response at 42-45 (July 6, 2009).

<sup>19</sup> See 2004 Pipe Memorandum, 2005 Pipe Prelim, 2006 Pipe Prelim, and NSR Prelim.

distribution of like products when sold for domestic consumption. Further, because Borusan and Toscelik did not import any goods under a D-3 certificate during the POR, we preliminarily determine that this aspect of the IPC program was not used.

#### *B. Withholding of Income Tax on Wages and Salaries*

Toscelik reported that during the POR the company received an exemption from the withholding of income tax on wages and salaries paid to employees at its Osmaniye facility.<sup>20</sup> Toscelik stated that the Osmaniye facility produces spiral-welded pipe and flat-rolled steel, products which are not subject merchandise.<sup>21</sup> As such, Toscelik stated that the Osmaniye plant is not involved in the production or sale of subject merchandise. Toscelik, therefore, argued that any tax exemption benefits relating to the Osmaniye facility are not relevant to this proceeding.

We preliminarily find that we need not address Toscelik's argument that the withholding tax exemption is unrelated to the production and sale of subject merchandise. Assuming that there was a financial contribution, by dividing the 2008 tax exemption benefit amount by Toscelik's total sales for 2008, we preliminarily determine that a subsidy rate under this program is less than 0.005 percent *ad valorem*.<sup>22</sup> Consistent with the Department's practice,<sup>23</sup> a subsidy rate of less than 0.005 percent *ad valorem* does not confer a measurable benefit and, therefore, we have not included it in the calculation of the net countervailable rate.

Consequently, we preliminarily determine that it is unnecessary for the Department to make a finding as to the countervailability of this program in this review. If a future administrative review of Toscelik is requested, we will further examine the withholding tax exemption at that time.

<sup>20</sup> See Toscelik's Supplemental Questionnaire Response at 11 (September 1, 2009).

<sup>21</sup> See Toscelik's Supplemental Questionnaire Response at 3 (November 9, 2009).

<sup>22</sup> See Preliminary Calculations Memorandum for Toscelik (March 31, 2010).

<sup>23</sup> See *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*, 74 FR 46100, 46103, 46106 (September 8, 2009) at "Research and Development Grants Under the Industrial Development Act" and "R&D Grants Under the Act on the Promotion of the Development of Alternative Energy," unchanged in *Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 74 FR 55192 (October 27, 2009).

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

We examined the following programs and preliminarily determine that Borusan and Toscelik did not apply for or receive benefits under these programs during the POR:

- A. Post-Shipment Export Loans.
- B. Pre-Shipment Rediscount Loans.
- C. Export Credit Bank of Turkey Buyer Credits.
- D. Subsidized Turkish Lira Credit Facilities.
- E. Subsidized Credit for Proportion of Fixed Expenditures.
- F. Subsidized Credit in Foreign Currency.
- G. Regional Subsidies.

#### *Verification*

The Department's regulations provide that factual information upon which the Secretary relies for the final results of an administrative review will be verified if a domestic party timely requests verification and the Secretary has not conducted verification during either of the two immediately preceding administrative reviews. See 19 CFR 351.307(b)(1)(v). As such, because the Department has not verified Borusan in either of the two immediately preceding administrative reviews of this order (*i.e.*, the 2005 and 2006 administrative reviews),<sup>24</sup> and petitioner requested that the Department conduct a verification in this review, the Department will be verifying the questionnaire responses submitted by Borusan after these preliminary results.

#### *Preliminary Results of Review*

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 2008, through December 31, 2008, we preliminarily determine the total net countervailable subsidy rate for Borusan is 0.12 percent *ad valorem* and for Toscelik is 0.09 percent *ad valorem*; both rates are *de minimis*, pursuant to 19 CFR 351.106(c)(1).

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review. If the final results remain the same as these preliminary results, the Department will instruct CBP to liquidate without regard to countervailing duties all shipments of subject merchandise produced by

<sup>24</sup> Borusan was last verified during the 2004 administrative review. Toscelik was last verified during the new shipper review that covered the period of January 1, 2005, through December 31, 2005.

Borusan and Toscelik entered, or withdrawn from warehouse, for consumption from January 1, 2008, through December 31, 2008. The Department will also instruct CBP not to collect cash deposits of estimated countervailing duties on all shipments of the subject merchandise produced by Borusan and Toscelik, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

We will instruct CBP to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed administrative proceeding for each company. Those rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested.

These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### *Public Comment*

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case and rebuttal briefs will be due at the dates specified by the Department. The Department will notify interested parties of the case and rebuttal due dates once those dates are finalized. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issues, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of

proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(1)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of arguments made in any case or rebuttal briefs.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: March 25, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-7419 Filed 3-31-10; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Technical Information Service

#### Request for Nominations for Members to Serve on the National Technical Information Service Advisory Board

**AGENCY:** National Technical Information Service; Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The National Technical Information Service (NTIS) is seeking five (5) qualified candidates to serve as members of its Advisory Board, one of whom will also be designated as chairperson. The Board will meet at least semiannually to advise the Secretary of Commerce and the Director of NTIS on NTIS's mission, plans, general policies and fee structure. NTIS is seeking candidates who can provide guidance on trends in the information industry as the result of technological change and on how NTIS can best adapt to these changes in meeting the needs of its customers.

**DATES:** Requests to be considered as a nominee should be received by May 3, 2010. Please include a resume and a statement of why you wish to be considered and what you believe you can contribute as a member.

**SUPPLEMENTARY INFORMATION:** The Board was established pursuant to Section 3704b(c) of Title 15, United States Code. Members will be appointed by the Secretary and will serve for three-year terms. They will receive no compensation but will be authorized travel and per diem expenses. Members are considered Special Government Employees and will be subject to all applicable ethics rules. They will be

required to submit a financial disclosure statement.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steven D. Needle, Designated Federal Officer, at the mailing address indicated below, by telephone at (703) 605-6404, or via e-mail at [sneedle@ntis.gov](mailto:sneedle@ntis.gov). If submitting an inquiry via e-mail, please state "NTIS Advisory Board" in the subject line.

**ADDRESSES:** Completed requests to be considered as a nominee or requests for information should be sent to Mr. Steven D. Needle, Office of the Director, National Technical Information Service, 5301 Shawnee Road, Alexandria, VA 22312.

Dated: March 26, 2010.

**Bruce Borzino,**

*Director.*

[FR Doc. 2010-7414 Filed 3-31-10; 8:45 am]

**BILLING CODE 3510-04-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[Docket ID DOD-2010-OS-0034]

#### Defense Transportation Regulation, Part IV

**AGENCY:** United States Transportation Command (USTRANSCOM), DOD.

**ACTION:** Notice.

**SUMMARY:** DOD has issued Phase III Final-Draft Business Rules for the Defense Personal Property Program (DP3) in the Defense Transportation Regulation (DTR) Part IV (DTR 4500.9R). The Phase III Business Rules encompass procedures for Non-temporary Storage (NTS), Domestic Small Shipments (dS2, formerly DPM), Domestic and International Local Moves (dLM and iLM) and International Intra-Country Moves (iCM). DP3 Phase III Business Rules will appear as DTR Part IV, Appendix V, and are available for review on the USTRANSCOM Web site at [http://www.transcom.mil/j5/pt/dtr\\_part\\_iv\\_phase\\_iii.cfm](http://www.transcom.mil/j5/pt/dtr_part_iv_phase_iii.cfm).

**DATES:** Comments must be received on or before 1 June 2010.

**ADDRESSES:** Do not submit comments directly to the point of contact under **FOR FURTHER INFORMATION CONTACT** or mail your comments to any address other than what is shown below. Doing so will delay the posting of the submission. Request comments be submitted in the identified matrix-format posted with the business rules. You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

*Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jim Teague, United States Transportation Command, TCJ5/4-PI, 508 Scott Drive, Scott Air Force Base, IL 62225-5357; (618) 229-1985.

**SUPPLEMENTARY INFORMATION:** In furtherance of DOD's goal to develop and implement an efficient personal property program to facilitate quality movements for our military members and civilian employees, Phase III Business Rules were developed in concert with the Military Services and SDDC. The following Phase III Business Rules are available for review and comment:

- Attachment V.C—TSP Qualifications
- Attachment V.D—Rate Filing
- Attachment V.E—Customer Satisfaction Survey
- Attachment V.F—Best Value Score
- Attachment V.G—Electronic Bill Payment
- Attachment V.H—TSP Ranking
- Attachment V.J—Shipment Management
- Attachment V.Q—Quality Assurance

**Note:** The associated operational NTS Tender of Service, dS2 Solicitation, and dLM/iLM/iCM Tender of Service are available on the Military Surface Deployment and Distribution Command (SDDC) Web site at: <http://www.sddc.army.mil/Public/Personal%20Property/Defense%20Personal%20Property%20Program/Phase%20III?summary=fullcontent>.

Any subsequent modification(s) to the business rules will be published in the **Federal Register** and incorporated into the Defense Transportation Regulation (DTR) Part IV (DTR 4500.9R). These program requirements do not impose a legal requirement, obligation, sanction or penalty on the public sector, and will not have an economic impact of \$100 million or more.

#### Additional Information

A complete version of the DTR is available via the Internet on the USTRANSCOM homepage at <http://www.regulations.gov>