

**TO: Trade Remedies Authority (UK)**

North Gate House | 21-23 Valpy Street | Reading RG1 1AF

**Date:** 26 May 2023

**Case No:** AS0020 - Ironing Boards from the Republic of Türkiye

**Subject:** Milenyum Metal Subsidy Calculations of the TRA

The Statement of Essential Facts (SES) dated 26 April 2023

Provisional Affirmative Determination (PAD) dated 26 April 2023

**MILENYUM METAL'S COMMENTS ON SUBSIDY CALCULATIONS, THE SES AND PAD**

The Trade Remedies Authority published The Statement of Essential Facts (SES) and Provisional Affirmative Determination (PAD) on 26 April 2023 concerning the subsidy investigation AS0020 - Ironing Boards from the Republic of Türkiye.

Milenyum Metal would like to submit the following views to the attention of the TRA.

Comments concerning subsidy calculations

1. At the request of Milenyum Metal, the TRA provided subsidy calculations on 3 May 2023 to Milenyum Metal. Calculations included 2 excel files.
2. The TRA calculated the amount and the subsidy margins of the countervailable subsidies for 8 subsidy programmes. Subsidy margin for all countervailable subsidies were found to be significantly less than 1% except for Free Zones Corporate Tax Exemption Programme.
3. According to The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 ("Regulations") Article 25 (4), *For the purpose of paragraphs (2) and (3), a "qualifying countervailable subsidy" is one which has a value of at least **1 per cent.** of all the sales of the goods to which the countervailable subsidy is attributable.* However, the TRA considered all countervailable subsidies which were less than 1 per cent as

qualifying subsidies. The TRA must disregard these subsidies in this investigation pursuant to Article 25 (4) of the Regulations.

4. According to the Article 26 (1) of the Regulations, *Subject to paragraphs (2) to (5), the subsidy attributable to the period of investigation must be attributed to **all of the sales of goods** during the period of investigation.* Contrary to the provisions of this Article, the TRA attributed all countervailable subsidies to export sales to the UK, instead of all of the sales of goods. If the TRA attributed the subsidy attributable to the period of investigation to all of the sales of goods during the POI for the Free Zones Corporate Tax Exemption Programme, subsidy margin would have been [0,75-0,93]%, which is also less than 1 per cent and is not a “qualifying countervailable subsidy” pursuant to Article 25 (4) of the Regulations.
5. Without prejudice to comments above, Milenyum Metal considers that Subsidy calculation and adjustment of the TRA for the Free Zones Corporate Tax Exemption Programme is also inaccurate. This adjustment was provided in the excel file “CAS199 IB - Intermediate Subsidy Calculations (NONC)” Tab “C1\_-\_Income\_statement.” The TRA disregarded all Selling Expenses stating that “all the selling expenses (mainly transport costs) were for sales to the USA.” However, as shown in the excel file “Costs request - Milenyum Metal,” which was prepared on request and reviewed by the verification team during the Verification Visit to Milenyum Metal premises in Kayseri, a) selling expenses other than transport costs (sale personnel salaries), b) other selling expenses (that are less than 1% of production cost) and c) transport costs related to export sales to the UK during the POI (CIF, CPT, DDU delivery terms) were not included in the adjustment.
6. Total amount of sales personnel salaries for the POI was [540,000-620,000] TL in the excel file “Costs request - Milenyum Metal.” Other selling expenses were provided in the trial balance for the POI. These are (main items classified under account code 760 marketing, sales and distribution expenses):
  - 760.02.003 Travel and Accommodation Expenses: [135,000-150,000] TL
  - 760.02.004 Fuel Expenses: [58,000-67,000] TL
  - 760.03.001 Export Transaction Expenses: [570,000-650,000] TL

760.03.004 Customs Brokerage Expenses: [102,000-132,000] TL

760.03.008 Representation and Hospitality Expenses: [30,000-34,000] TL

760.03.011 Missing, Incorrect and Late Loading Product Expenses: [68,000-79,500] TL

760.04.001 Depreciation: [224,000-255,000] TL.

Total: [1,200,500-1,390,000] TL

Transport costs related to export sales to the UK during the POI (CIF, CPT, DDU delivery terms) can be calculated using the excel file "Confidential\_AS0020 Questionnaire Annex II (Milenyum Metal)" Tab "B2\_-\_Sales\_to\_the\_UK" provided to the TRA during the investigation, because 18 export sale transactions to the UK included transport costs. Total of transport costs (as the difference between the net invoice value and the CIF value in accounting currency) for these transactions was [151,000-171,000] TL.

7. Portion of selling expenses during the POI for the goods concerned could be:

$[540,000-620,000] \text{ TL} + [1,200,500-1,390,000] \text{ TL} = [1,700,00-2,030,000] \text{ TL} * [0,179-0,195] = [335,000-388,000] \text{ TL}$

We should add transport cost to the UK for sales terms other than FOB. Thus:

$[335,000-388,000] \text{ TL} + [151,000-171,000] \text{ TL} = [460,000-565,000] \text{ TL}$  must be deducted by entering this amount to the cell M20 in the excel file "CAS199 IB - Intermediate Subsidy Calculations (NONC)" Tab "C1\_-\_Income\_statement."

8. Another adjustment error is that the TRA did not exclude the portion of transport (shipping) income (601.01.009 Navlun Gelirleri: [3,800,000-4,400,000] TL) (Provided to the TRA in the file, Appendix A6-5(4) Trial Balance 2021-Milenyum Metal\_Tur) falling to goods concerned from Net Sales (cell M12). The amount of this adjustment (deduction from net sales) is  $[3,800,000-4,400,000] \text{ TL} * [0,179-0,195] = [730,000-860,000] \text{ TL}$ .

9. After making the above adjustments, total amount of the subsidy becomes [615,000-705,000] TL instead of [870,000-1,050,000] TL. This adjusted amount equals to [2.2-2,7] % over export sales to the UK.

10. On the other hand, total value of all goods to which the subsidy is attributable was determined by the TRA as [119,000,000-136,000,000] TL (*File name: CAS198 IB – MM Subsidy Calculation (NONC)*). Adjusted subsidy amount above is clearly less than 1% of the total value of all goods to which the subsidy is attributable and must be disregarded pursuant to Article 25 (4) of the Regulations.
11. If the TRA would like to make adjustments in order to isolate transport costs from subsidy calculations we suggest that the Authority eliminate the non-sale factors such as exchange gain/loss and transport costs by making adjustment to net sales. In this case, exchange gains (addition)/losses (deduction) and all transport costs (deduction) could be taken into consideration. Specifically for Milenyum Metal, net sales amount calculated by the TRA is [119,000,000-136,000,000] TL (*File name: CAS198 IB – MM Subsidy Calculation (NONC)*), Exchange gain/loss is -[4,550,000-5,150,000] TL (given on the C1 - income statement tab), the transport expense is [13,600,000-15,700,000] TL (MM trial balance for 2021 – initial questionnaire response submission) and transport income is [3,800,000-4,400,000] TL (MM trial balance for 2021 account no. 601.01.009).
12. [119,000,000-136,000,000] TL + [4,550,000-5,150,000] TL – [13,600,000-15,700,000] + [3,800,000-4,400,000] TL = [100,000,000-120,000,000] TL (Total adjusted net sales). Subsidy rate = Subsidy amount / Adjusted Net All Sales = [1,300,000-1,500,000] TL / [100,000,000-120,000,000] TL = [0.012-0.014] = [1.2-1.4] %. Clearly, although this subsidy rate is above 1%, it is nevertheless below negligible rate of 2% for Türkiye as a developing country and therefore no countervailing duty must be imposed in this investigation.

#### Comments concerning SES Document

13. The TRA determined Property Tax Exemption Programme as a countervailable subsidy programme. The TRA stated in Recital 144 the following views.

*However, we found that the list of eligible buildings is finite and defined, and the eligibility criteria are clear and verifiable. Using data submitted*

*by the GoT<sup>44</sup>, we estimated the number of companies receiving the exemptions. This suggested that property taxes of 0% are not so widely available as to constitute a generally applicable tax rate. The subsidy does represent an exemption from taxes that would normally be payable, and the exemption is only available in relation to a defined list of eligible buildings.*

14. As provided in Article 4 (m) of the Property Tax Law, all buildings located in organized industrial zones, free zones, industrial zones, technology development zones and industrial sites in Turkey, which include most production and repair/maintenance buildings in the whole country, are exempt from property taxes. On the other hand, the TRA did not take into consideration that eligibility for this scheme is **automatic** based on conditions given in the property tax law of Türkiye, which suggests that the subsidy is not specific, and did not explain how the list of eligible buildings were finite. Therefore, Milenyum Metal is still of the opinion that this domestic subsidy scheme is not countervailable because it is not a specific subsidy.
15. Milenyum Metal reiterates its position concerning Recital 160 of the SES document. Subsidies which are less than 1% must be disregarded under Article 25 (4) of the Regulations and also under Article 2 of the Regulations cited in Recital 161.
16. The TRA determined that domestic sales prices increased during the IP, but the average per-unit cost of production increased by greater amounts (Recital 197). However, the TRA did not explain the reasons for the increase in the cost of production of the complainant. The TRA also did not explain how the UK producer managed to increase its prices significantly in the POI.
17. The TRA made the following comment in Recital 197: *“We have therefore determined that UK industry was prevented from increasing prices relative to its rising costs, and this was due to the increasing levels of the considerably lower priced imports of the Goods Concerned.”*. The TRA did not make any comparison with the effect of the prices of imports from other countries, and did not take into account both annually decreasing imports from Türkiye (Recital 184, Table 8) and increased market share of the UK producer.

18. As acknowledged by the TRA (Recital 211), output, capacity utilization, sales of the UK industry decreased due to Covid19 Pandemic in 2020 indicating changing market and demand conditions rather than any effect of imports, since imports (both from Türkiye and other countries) continued to decrease during the POI.
19. The TRA tied decrease in UK producer's market share to imports from Türkiye (Recital 213). However, as can be seen on Table 8 (Recital 184), UK producer's market share decreased by 7% while imports from Türkiye decreased by 8% and "imports from Türkiye relative to UK consumption" decreased by 10% in the POI. This again indicates that imports from Türkiye cannot be the source of any alleged injury to the UK industry.
20. UK producer's consistent loss figures throughout the POI (Table 12, Recital 214) is the most prominent evidence indicating that the UK producer experiences a different problem which cannot be explained by the negligible amounts of subsidies allegedly causing injury to the UK industry. It is also clear that there is no causal link between imports from Türkiye and the alleged injury to the UK industry during the IP, since there is no cause-effect relationship in the period between 2018 and 2021 as far as profitability is concerned.
21. The TRA determined that the market share for imports from Türkiye increased at a higher rate than UK industry (Recital 220). However, numbers in Table 13 do not suggest the same. Following 2019, market share for imports from Türkiye decreased by 19% in 2020 and 10% in 2021 while the complainant's market share increased by %14 in 2020 and decreased by 7% in 2021. Unfortunately, the TRA omitted the much better results of the complainant in the IP.
22. Return on investments and cash flow developments also indicate the absence of causal link between alleged injury and the subsidized imports from Türkiye, because the trends in this regard do not reveal a cause-effect relationship. No details were given concerning the nature of investments, therefore it is not possible to comment about them.

23. We established above that all indicators cited in Recital 258 as evidence of injury to the UK industry in fact showed positive trends for the UK industry. Moreover, indicators in Recital 259 (wages, productivity, employment) also reveal positive developments for the complainant during the IP.

24. Milenyum Metal is of the opinion that there is no injury caused by imports from Türkiye to UK production (i.e. no causal link exists) throughout the IP and the TRA must not apply countervailing duty on imports of ironing boards from Türkiye.

Respectfully Submitted,

Milenyum Metal Dis Ticaret ve Sanayi A.S.