



Exporter Questionnaire

Product: Steel Reinforcing Bar

From: The Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey.

Period of Investigation: 1 July 2013 to 30 June 2014

Response due by: 27 November 2014 (extended to 17 December 2014)

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Anti-Dumping Commission website: www.adcommission.gov.au

**Return completed
questionnaire to:**

Anti-Dumping Commission
1010 La Trobe Street
DOCKLANDS VIC 3008
AUSTRALIA

Attention: Director Operations 3

PUBLIC RECORD

2

GOODS UNDER CONSIDERATION

The goods under consideration (the goods) i.e. the goods exported to Australia, allegedly at dumped prices are:

"Hot-rolled deformed steel reinforcing bar whether or not in coil form, commonly identified as rebar or debar, in various diameters up to and including 50 millimetres, containing indentations, ribs, grooves or other deformations produced during the rolling process.

The goods covered by this application include all steel reinforcing bar meeting the above description of the goods regardless of the particular grade or alloy content or coating.

Goods excluded from this application are plain round bar, stainless steel and reinforcing mesh."

The goods are typically classified to the following Subheadings in Schedule 3 of the *Customs Tariff Act 1995*.

- 7214.20.00 (statistical code 47);
- 7228.30.90 (statistical code 49);
- 7213.10.00 (statistical code 42); and
- 7227.90.90 (statistical code 42).

These goods, if imported from Spain under these tariff subheadings, are subject to a general rate of duty of 5%; and the goods imported from Korea, Malaysia, Singapore, Taiwan, Thailand and Turkey are subject to a "free" rate of duty.

PUBLIC RECORD

3

TABLE OF CONTENTS

GOODS UNDER CONSIDERATION.....	2
TABLE OF CONTENTS	3
INSTRUCTIONS.....	4
WHY YOU HAVE BEEN ASKED TO FILL OUT THIS QUESTIONNAIRE?.....	4
WHAT HAPPENS IF YOU DO NOT RESPOND TO THIS QUESTIONNAIRE?	4
DUE DATE FOR RESPONSE	4
CONFIDENTIAL AND NON-CONFIDENTIAL SUBMISSIONS	4
EXPORTER'S DECLARATION	5
VERIFICATION OF THE INFORMATION THAT YOU SUPPLY	5
IF YOU DO NOT MANUFACTURE THE GOODS	6
IF YOU DO NOT EXPORT THE GOODS	6
OUTLINE OF INFORMATION REQUIRED BY THIS QUESTIONNAIRE	6
SOME GENERAL INSTRUCTIONS FOR PREPARING YOUR RESPONSE	7
INSTRUCTIONS ON PROVIDING ELECTRONIC DATA	7
FURTHER INFORMATION.....	8
SECTION A COMPANY STRUCTURE AND OPERATIONS	9
A-1 IDENTITY AND COMMUNICATION	9
A-2 REPRESENTATIVE OF THE COMPANY FOR THE PURPOSE OF INVESTIGATION	9
A-3 COMPANY INFORMATION.....	10
A-4 GENERAL ACCOUNTING/ADMINISTRATION INFORMATION	12
A-5 INCOME STATEMENT.....	16
A-6 SALES	16
SECTION B SALES TO AUSTRALIA (EXPORT PRICE).....	17
SECTION C EXPORTED GOODS & LIKE GOODS.....	22
SECTION D DOMESTIC SALES	23
SECTION E FAIR COMPARISON	26
E-1 COSTS ASSOCIATED WITH EXPORT SALES	27
E-2 COSTS ASSOCIATED WITH DOMESTIC SALES.....	29
E-3 DUPLICATION	36
SECTION F EXPORT SALES TO COUNTRIES OTHER THAN AUSTRALIA (THIRD COUNTRY SALES)	37
SECTION G COSTING INFORMATION AND CONSTRUCTED VALUE.....	38
G-1. PRODUCTION PROCESS AND CAPACITY	38
G-2. PROVIDE INFORMATION ABOUT YOUR COMPANY'S TOTAL PRODUCTION IN THE FOLLOWING TABLE:	39
G-3. COST ACCOUNTING PRACTICES.....	39
G-4 COST TO MAKE AND SELL ON DOMESTIC MARKET.....	40
G-5 COST TO MAKE AND SELL GOODS UNDER CONSIDERATION (GOODS EXPORTED TO AUSTRALIA)	42
G-6 MAJOR RAW MATERIAL COSTS.....	43
SECTION H EXPORTER'S DECLARATION	45
SECTION I CHECKLIST	46
APPENDIX GLOSSARY OF TERMS	47

PUBLIC RECORD

4

INSTRUCTIONS

Why you have been asked to fill out this questionnaire?

The Anti-Dumping Commission (the Commission) is responsible for investigating the allegation that steel reinforcing bar has been exported to Australia from the Republic of Korea (Korea), Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand (Thailand) and the Republic of Turkey (Turkey) at prices less than their normal value and that the dumping has caused material injury to the Australian industry.

The Commission will use the information you provide to determine normal values and export prices over the investigation period. This information will determine whether steel reinforcing bar is dumped. You may make separate submissions concerning any other matter, for example, injury.

The Commission's investigation will be carried out under the provisions of the Part XVB of the *Customs Act 1901*.

What happens if you do not respond to this questionnaire?

You do not have to complete the questionnaire. However, if you do not respond, do not provide all of the information sought, do not provide information within a reasonable time period, or do not allow the Commission to verify the information, we may deem you uncooperative. In that case the Commission may be required to rely on information supplied by other parties (possibly information supplied by the Australian industry). In that case we may assess a dumping margin for your company based upon normal values that may be the highest determined in your country during the investigation period.

It is in your interest, therefore, to provide a complete and accurate submission, capable of verification.

Due date for response

Manufacturers and exporters are requested to respond to this questionnaire and return it to the Commission within the time specified on the cover page. There is a statutory time limit imposed for the investigation. The Commission may not be able to consider submissions received after the due date.

If you cannot lodge your submission by the due date please advise the investigation case manager as soon as possible.

Confidential and non-confidential submissions

You are required to lodge one confidential version (for official use only) and one non-confidential version (for public record) of your submission by the due date.

Please ensure that *each page* of information you provide is clearly marked either "FOR OFFICIAL USE ONLY" or "PUBLIC RECORD".

PUBLIC RECORD

5

All information provided to the Commission in confidence will be treated accordingly. The non-confidential version of your submission will be placed on the public record.

Please note, Australia's anti-dumping and countervailing legislation requires that to the extent that information given to the Commission is claimed to be confidential or whose publication would adversely affect a business or commercial interest, the person giving the information must ensure that a summary of that information contains sufficient detail to allow a reasonable understanding of the substance of the information, but does not breach confidentiality nor adversely affect those interests.

The legislation allows that a person is not required to provide a summary for the public record if the Commission can be satisfied that no such summary can be given that would allow a reasonable understanding of the substance of the information. However, such a summary would add considerably to an interested party's understanding of information contained in a document.

As provided for in Australia's anti-dumping and countervailing legislation, all submissions are required to have a bracketed explanation of deleted or blacked out information for the non-confidential version of the submission. Note that if such an explanation is not provided, the Commission may disregard the information in the submission. An example of a statement to accompany deleted/blacked out text is:

[explanation of cost allocation through the divisions].

If, for some reason, you cannot produce a non-confidential summary, please contact the investigation case manager.

Exporter's declaration

At section H, you are required to make a declaration that the information contained in your submission is complete and correct. Alternatively, if you did not export the goods during the period of investigation, you may make a declaration to that effect.

You must return a signed declaration with your response to the questionnaire.

Verification of the information that you supply

The Commission will seek to verify the information provided in your submission. Where there are a large number of exporters, the Commission may have to verify information from selected exporters only. The purpose of the visit is to verify the information submitted in response to this questionnaire. It is not meant to be a chance for you to provide new or additional information. The Commission expects your response to the questionnaire to be complete and accurate.

Verification visits take several days. We will want to examine in detail your company's records in respect of the goods and will ask for copies of documents relating to the manufacture and sale of the goods. We will need to consult with your staff, particularly your financial controller (or accountant) and your domestic and export sales people. We may also need to see your factory, in which case we will need to consult with your operational managers.

PUBLIC RECORD

6

After gathering the information we will prepare a report of the visit. We will provide you with a draft of the report and then respond to any questions you have. We will ask you to prepare a non-confidential copy of the report for the public record.

If you do not manufacture the goods

You may export but not produce or manufacture the goods (for example, you are a trading company, broker, or vendor dealing in the goods).

In such cases it is important that you forward a copy of this questionnaire to the relevant manufacturers **immediately**. You should also inform the investigation case officer of the contact details for these manufacturers.

You should complete those sections of the questionnaire that you are reasonably able to complete. If, for example, you are unable to supply details of production costs, you should clearly explain why the section does not apply to your company.

If you do not export the goods

Depending on the arrangement for sale of the goods to Australia through an intermediary, the Commission will have to determine who is the exporter of the goods for the purpose of this investigation.

In any case, information (such as cost of production data) supplied by the manufacturer will be relevant to establishing the normal value of the goods. In the absence of verified information, the Commission may use other available information. This information may result in a decision less favourable to your company.

Outline of information required by this questionnaire

- | | |
|------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section A | General information relating to your company including financial reports. |
| Section B | A complete list of your company's exports to Australia over the investigation period. |
| Section C | A list of goods sold on the domestic market of the country of export (like goods) that may be compared to the goods under consideration (the goods). |
| Section D | A detailed list of all of your company's sales of like goods in your domestic market. |
| Section E | Information to allow a fair comparison between export and domestic prices. |
| Section F | Information in relation to your company's exports of like goods to countries other than Australia. |
| Section G | Costs to make and sell, for exports to Australia and for the domestic market. |
| Section H | Your declaration. |

PUBLIC RECORD

7

Section I A checklist.

Appendix 1 A glossary of terms used in this questionnaire

Some general instructions for preparing your response

- When answering the questionnaire please carefully read all instructions. The Commission requires a response to *all* sections of this questionnaire. Please provide an explanation if a question is not relevant to your situation.
- Answer questions in the order presented in the questionnaire. Please ensure that information submitted conforms to the requested format and is clearly labelled. Please repeat the question to which you are responding and place your answer below it.
- Identify source documents and advise where they are kept. During on-site verification you should be prepared to substantiate all the information you have submitted. Every part of the response should be traceable to company documents that are used in the ordinary course of business.
- We recommend that you retain all work sheets used in answering the questionnaire, in particular those linking the information supplied with management and accounting records. This will help us to verify the information.
- Clearly identify all units of measurement and currencies used. Apply the same measurement consistently throughout your response to the questionnaire.

Instructions on providing electronic data

- It is important that information is submitted in electronic format.
- Electronic data should be emailed or submitted on a CD-ROM, in IBM/MS-DOS format, or another operating system whose disk format is compatible with this MS-DOS version.
- The data must be created as spreadsheet files, preferably in Microsoft Excel, or alternatively in an Excel compatible format (for example, Excel can normally access data in Dbase or as an ASCII file).
- The Excel files must be compatible to the USA version.
- If you cannot present electronic data in the requested format contact the investigation case officer as soon as possible.

PUBLIC RECORD

8

Further information

Before you respond to the questionnaire you should read all the documentation enclosed with this application including the applicant's non-confidential submission, the booklet *Australia's Anti-Dumping and Countervailing Administration* and the Anti-Dumping Notice notifying the initiation of the investigation. We also advise that you read the attached glossary of terms.

If you require further assistance, or you are having difficulties completing your submission, please contact the investigation case manager. The Commission will need to know the reasons.

PUBLIC RECORD

9

SECTION A COMPANY STRUCTURE AND OPERATIONS

This section requests information relating to company details and financial reports.

A-1 Identity and communication

Please nominate a person within your company who can be contacted for the purposes of this investigation:

Head Office:

Name: Filiz Haseski
Position in the company: Assistant General Manager
Address: Fuatpasa Sok. No:26 34880 Soganlik Kartal- ISTANBUL
Telephone: +90 216 453 64 00
Facsimile number: +90 216 452 55 97
E-mail address of contact person: filiz.haseski@habas.com.tr

Factory:

Address: Sanayi Caddesi no: 26 Bozköy - Aliğa / İzmir
Telephone: +90 232 625 11 70
Facsimile number: +90 232 625 11 84
E-mail address of contact person: hakki.cakmak@habas.com.tr

A-2 Representative of the company for the purpose of investigation

If you wish to appoint a representative to assist you in this investigation, provide the following details:

Name:	Andrew Percival	Kevin Reilly
Position:	Special Counsel	Principal
Address:	Corrs Chambers Westgarth Level 17, 8 Chifley 8-12 Chifley Square NSW 2000	GTR Consulting 2 Julianne Close Bolwarra Heights Sydney NSW 2320
Telephone:	+61 2 9210 6228	+61 411 439 366
Facsimile number:	+61 2 9210 6611	+61 2 4930 1217
E-mail address:	<u>andrew.percival@corrs.com.au</u>	<u>kevin@gtrconsulting.com.au</u>

PUBLIC RECORD

10

A-3 Company information

1. What is the legal name of your business? What kind of entity is it (eg. company, partnership, sole trader)? Please provide details of any other business names that you use to export and/or sell goods.

Answer: Habas's legal name is HABAS Sinai ve Tibbi Gazlar Istihsal Endustri A.S. It is a corporation. There are no other business names that Habas uses.

2. Who are the owners and/or principal shareholders? Provide details of shareholding percentages for joint owners and/or principal shareholders. (List all shareholders able to cast, or control the casting of, 5% or more of the maximum amount of votes that could be cast at a general meeting of your company).

Answer: Please see Confidential Exhibit A-3.2

3. If your company is a subsidiary of another company, list the principal shareholders of that company.

Answer: Habas is not a subsidiary of another company.

4. If your parent company is a subsidiary of another company, list the principal shareholders of that company.

Answer: Habas is not a subsidiary of another company.

5. Provide a diagram showing all associated or affiliated companies and your company's place within that corporate structure.

Answer: Please see Confidential Exhibit A-3.5

6. Are any management fees/corporate allocations charged to your company by your parent or related company?

Answer: [REDACTED] a holding group company charges a [REDACTED] annual management fee to Habas.

PUBLIC RECORD

11

7. Describe the nature of your company's business. Explain whether you are a producer or manufacturer, distributor, trading company, etc.

Answer: Habas is a privately owned Turkish corporation. The Company is principally engaged in manufacture, distribution and sale of steel products, industrial gas and electricity power. The company has approximately 1,500 employees. Habas' head office is located at Soganlik in Istanbul, Turkey.

From an operational standpoint, Habas is divided into two business segments, namely, industrial gas and steel, each of which operates as a separate business unit with its own sales network and management. Accounting systems and human resources operations for both business units are, however, commonly operated in central departments. Brief descriptions of the business segments are as follows:

- **Industrial Gas:** Habas' industrial gas division is involved in production, distribution and sale of oxygen, nitrogen, argon and other industrial gases along with tubes and gas containers generally used in medical treatment and industrial manufacturing. The company has gas-filling operations in several locations across Turkey. A small part of the gas produced was also used in the manufacturing of subject merchandise during the POI.
- **Steel:** Habas' Steel division manufactures and sells steel billets, reinforcing bars and wire rod to world markets. In its steel plant in Western Turkey near Izmir, Habas operates a steel melt shop capable of manufacturing 3 million tons of crude steel per year. Also in the same location Habas operates three bar mills and a wire rod mill. In order to transport finished products to export locations and to facilitate receiving incoming scrap cargoes, Habas operates a port about 4 miles away from the steel plant. The steel plant has been operating since 1987.

In 2002 and 2004, Habas started operating two power plants, one near Izmir, the other one near Bilecik. The power plant in the Izmir region sells electricity to the national electrical grid, while the plant in Bilecik did not operate commercially in the POI.

8. If your business does not perform all of the following functions in relation to the goods under consideration, then please provide names and addresses of the companies which perform each function:

- produce or manufacture
- sell in the domestic market
- export to Australia, and
- export to countries other than Australia.

Answer: All of these functions are performed by Habas.

PUBLIC RECORD

12

9. Provide your company's internal organisation chart. Describe the functions performed by each group within the organisation.

Answer: Please see Confidential Exhibit A-3.9.

10. Provide a copy of your most recent annual report together with any relevant brochures or pamphlets on your business activities.

Answer: Habas does not prepare annual report. A brochure showing the company products is attached in Exhibit A-3.10

A-4 General accounting/administration information

1. Indicate your accounting period.

Answer: Habas's accounting period is the calendar year.

2. Indicate the address where the company's financial records are held.

Answer: Fuatpasa Sok. No:26 34880 Soganlik Kartal- ISTANBUL

3. Please provide the following financial documents for the two most recently completed financial years plus all subsequent monthly, quarterly or half yearly statements:

- chart of accounts;
- audited consolidated and unconsolidated financial statements (including all footnotes and the auditor's opinion);
- internal financial statements, income statements (profit and loss reports), or management accounts, that are prepared and maintained in the normal course of business for the goods under consideration.

These documents should relate to:

- the division or section/s of your business responsible for the production and sale of the goods under consideration, and
- the company.

Answer: Please see as follows:

Confidential Exhibit A-4.3-A Chart of Accounts

Confidential Exhibit A-4.3-B Audited Financial Statements for 2012 and 2013

Confidential Exhibit A-4.3-C Statutory Financial Statements for 2012, 2013 and POI.

Please note that consolidated financial statements are not prepared. Only annual audited financial statements are prepared. Divisional financial statements are not prepared.

PUBLIC RECORD

13

4. If you are not required to have the accounts audited, provide the unaudited financial statements for the two most recently completed financial years, together with your taxation returns. Any subsequent monthly, quarterly or half yearly statements should also be provided.

Answer: Habas's accounts are audited.

5. Do your accounting practices differ in any way from the generally accepted accounting principles in your country? If so, provide details.

Answer: It does not.

6. Describe:

The significant accounting policies that govern your system of accounting, in particular:

- the method of valuation for raw material, work-in-process, and finished goods inventories (eg last in first out –LIFO, first in first out- FIFO, weighted average);

Answer: Raw materials are entered into inventory at prices actually paid, including shipment costs. Any exchange differences related to payment are included in the costs of raw materials. Because of the speed of the company's production processes, products spend only minutes in an in-process state. Accordingly Habas does not have work-in-process as such in its accounting. Inventory of billets, which are both intermediate products and finished products that are sold, is listed in the company's financial statements as "Semi-finished goods". The inventory value of billets is calculated using the [REDACTED] based on [REDACTED]. The calculation is made once per year, at year-end. Finished goods inventory value is calculated using [REDACTED] based on [REDACTED]. The calculation is made quarterly for interim statements but is reversed and is only retained once per year, at year-end.

- costing methods, including the method (eg by tonnes, units, revenue, direct costs etc) of allocating costs shared with other goods or processes (such as front office cost, infrastructure cost etc);

Answer: Costing is done per tonne. Habas tracks costs on a [REDACTED] basis.

- valuation methods for damaged or sub-standard goods generated at the various stages of production;
- valuation methods for scrap, by products, or joint products;

PUBLIC RECORD

14

Answer: Damaged and substandard goods are either sold or used as scrap. When the damaged goods are used as scrap, they are valued at [REDACTED].

- valuation and revaluation methods for fixed assets;
- average useful life for each class of production equipment and depreciation method and rate used for each;

Answer: Prior to 2005, fixed assets were valued at [REDACTED].
[REDACTED] In 2005, [REDACTED] Asset values for
assets acquired before January 1, 2005, [REDACTED].

Depreciation in Habas' statutory financial statements was calculated
[REDACTED] from January 1, 2005 onwards and [REDACTED].

[Confidential information regarding valuation of fixed assets]
See below for average useful lives.

	Life range	Method
Buildings & land improvements	25 years	[REDACTED]
Machinery & equipment	22 years	[REDACTED]
Vehicles	5 years	[REDACTED]
Furniture & fixtures	10 years	[REDACTED]
Intangible assets	5 years	[REDACTED]

- treatment of foreign exchange gains and losses arising from transactions;
- treatment of foreign exchange gains/losses arising from the translation of balance sheet items;

PUBLIC RECORD

15

Answer: In its accounting, Habas analyzes and [REDACTED]

[REDACTED] In
this case, [REDACTED]
[REDACTED].

[Confidential information regarding treatment of foreign exchange gains/losses]

- inclusion of general expenses and/or interest;

Answer: Habas does not capitalize either G&A or financial expenses as part of inventory or fixed assets in the normal course of business except certain exchange gains and losses.

- provisions for bad or doubtful debts;

Answer: Habas makes a provision for bad debts only when [REDACTED]
[REDACTED].

- expenses for idle equipment and/or plant shut-downs;

Answer: There is [REDACTED]. By law, assets that are specifically held for resale or are in process for incorporation into capital assets are not depreciated

- costs of plant closure;

Answer: Not applicable.

- restructuring costs;

Answer: Not applicable.

- by-products and scrap materials resulting from your company's production process; and

PUBLIC RECORD

16

Answer: By products are either sold or recycled as scrap at the meltshop,

- effects of inflation on financial statement information.

Answer: Since FY 2004, Turkish law requires that Turkish companies prepare "inflation corrected" financial statements under certain conditions. Those conditions were not met for 2012, 2013 or the POI.

7. In the event that any of the accounting methods used by your company have changed over the last two years provide an explanation of the changes, the date of change, and the reasons for it.

Answer: Not applicable.

A-5 Income statement

Please fill in the following table. It requires information concerning all products produced and for the goods under consideration ('*goods under consideration*' (the goods) is defined in the Glossary of Terms in the appendix to this form). You should explain how costs have been allocated.

Note: if your financial information does not permit you to present information in accordance with this table please present the information in a form that closely matches the table.

Prepare this information on a spread sheet named "**Income statement**".

This information will be used to verify the completeness of cost data that you provide in Section G. If, because of your company's structure, the allocations would not be helpful in this process, please explain why this is the case.

Answer: Please see Confidential Exhibit A-5 Income Statement

A-6 Sales

State your company's net turnover (after returns and all discounts), and free of duties and taxes. Use the currency in which your accounts are kept, in the following format:

Prepare this information in a spreadsheet named "TURNOVER".

This information will be used to verify the cost allocations to the goods under consideration in Section G.

Also, you should be prepared to demonstrate that sales data shown for the goods is a complete record by linking total sales of these goods to relevant financial statements.

Answer: Please see Confidential Exhibit A-6 Turnover

12534387/1

PUBLIC RECORD

17

SECTION B
SALES TO AUSTRALIA (EXPORT PRICE)

This section requests information concerning your export practices and prices to Australia. You should include costs incurred beyond ex-factory. Export prices are usually assessed at FOB point, but the Commission may also compare prices at the ex factory level.

*You should report prices of **all** goods under consideration (the goods) **shipped** to Australia during the investigation period.*

The invoice date will normally be taken to be the date of sale. If you consider:

the sale date is not the invoice date (see 'date of sale' column in question B4 below) and;

an alternative date should be used when comparing export and domestic prices

*you **must** provide information in section D on domestic selling prices for a matching period - even if doing so means that such domestic sales data predates the commencement of the investigation period.*

B-1 For each customer in Australia to whom you shipped goods in the investigation period list:

name;
address;
contact name and phone/fax number where known; and
trade level (for example: distributor, wholesaler, retailer, end user, original equipment).

Answer: Please see Confidential Exhibit B-1

B-2 For each customer identified in B1 please provide the following information.

(a) Describe how the goods are sent to each customer in Australia, including a diagram if required.

Answer: Goods are shipped [REDACTED]
on a [REDACTED] **basis. [Confidential information regarding export sale and trade term] Please see Confidential Exhibit B-2**

(b) Identify each party in the distribution chain and describe the functions performed by them. Where commissions are paid indicate whether it is a pre or post exportation expense having regard to the date of sale.

Answer: There are [REDACTED] **. Goods are shipped** [REDACTED] **[Confidential information regarding export sale]**

PUBLIC RECORD

18

- (c) Explain who retains ownership of the goods at each stage of the distribution chain. In the case of DDP sales, explain who retains ownership when the goods enter Australia.

Answer: [REDACTED]
[Confidential information regarding shipping terms]

- (d) Describe any agency or distributor agreements or other contracts entered into in relation to the Australian market (supply copy of the agreement if possible).

Answer: Not applicable. There are no such agreements.

- (e) Explain in detail the process by which you negotiate price, receive orders, deliver, invoice and receive payment. If export prices are based on price lists supply copies of those lists.

Answer: Generally, [REDACTED]

[REDACTED]
[Confidential information regarding export sale process]

- (f) State whether your firm is related to any of its Australian customers. Give details of any financial or other arrangements (e.g. free goods, rebates, or promotional subsidies) with the customers in Australia (including parties representing either your firm or the customers).

Answer: Not applicable. Habas is not affiliated with its Australian customers.

- (g) Details of the forward orders of the goods under consideration (include quantities, values and scheduled shipping dates).

PUBLIC RECORD

19

Answer: Not applicable. Habas does not engage in forward agreements.

- B-3** Do your export selling prices vary according to the distribution channel identified? If so, provide details. Real differences in trade levels are characterised by consistent and distinct differences in functions and prices.

Answer: Export selling prices [REDACTED]

- B-4** Prepare a spreadsheet named "Australian sales" listing all shipments (i.e. transaction by transaction) to Australia of the goods under consideration in the investigation period. You must provide this list in electronic format. Include the following export related information:

Answer: Please see Confidential Exhibit B-4. All the expenses reported are explained below.

- B-5** If there are any other costs, charges or expenses incurred in respect of the exports listed above which have not been identified in the table above, add a column (see "other factors" in question B-4) for each item, and provide a description of each item. For example, other selling expenses (direct or indirect) incurred in relation to the export sales to Australia.

Answer: Habas reports the following charges:

[REDACTED]

[REDACTED]

[REDACTED]

PUBLIC RECORD

20

[REDACTED]
[Confidential information regarding costs, charges and expenses associated with export sale]

B-6 For each type of discount, rebate, allowance offered on export sales to Australia:

- provide a description; and
- explain the terms and conditions that must be met by the importer to obtain the discount.

Where the amounts of these discounts, rebates etc are not identified on the sales invoice, explain how you calculated the amount shown in your response to question B4. If they vary by customer or level provide an explanation.

Answer: Not applicable. Habas does not offer discounts.

B-7 If you have issued credit notes (directly or indirectly) to the customers in Australia, in relation to the invoices listed in the detailed transaction by transaction listing in response to question B4, provide details of each credit note if the credited amount has **not** been reported as a discount or rebate.

Answer: Not applicable. Habas did not issue any credit notes.

B-8 If the delivery terms make you responsible for arrival of the goods at an agreed point within Australia (eg. delivered duty paid), insert additional columns in the spreadsheet for all other costs incurred. For example:

Import duties	Amount of import duty paid in Australia
Inland transport	Amount of inland transportation expenses within Australia included in the selling price
Other costs	Customs brokers, port and other costs incurred (itemise)

Answer: Not applicable. Habas did not export rebar to Australia on a duty paid basis.

B-9 Select two shipments, in different quarters of the investigation period, and provide a complete set of all of the documentation related to the export sale. For example:

- the importer's purchase order, order confirmation, and contract of sale;
- commercial invoice;
- Applicable test certificates and production reports.
- bill of lading, export permit;

PUBLIC RECORD

21

- freight invoices in relation to movement of the goods from factory to Australia, including inland freight contract;
- marine insurance expenses; and
- letter of credit, and bank documentation, proving payment.

The Commission will select additional shipments for payment verification at the time of the visit.

Answer: Please see Confidential Exhibit B-9

SECTION C

EXPORTED GOODS & LIKE GOODS

- C-1** Fully describe all of the goods you have exported to Australia during the investigation period. Include specification details and any technical and illustrative material that may be helpful in identifying, or classifying, the exported goods.

Answer: Habas has exported rebar in accordance with [REDACTED]
[REDACTED] to Australia.

- C-2** List each type of goods exported to Australia (these types should cover all types listed in spreadsheet "Australian sales" – see section B of this questionnaire).

Answer: See below:

Specification	Grade
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

- C-3** If you sell like goods on the domestic market, for each type that your company has exported to Australia during the investigation period, list the most comparable model(s) sold domestically;
- and provide a detailed explanation of the differences where those goods sold domestically (ie. the like goods – see explanation in glossary) are not identical to goods exported to Australia.

Answer: Habas believes rebar exported to Australia can be compared to rebar sold in domestic market since rebar is a fungible product except for the small sizes that are less than 10 mm. Rebar less than 10 mm has a comparatively longer process than rest of the rebar sizes.

- C-4** Please provide any technical and illustrative material that may be helpful in identifying or classifying the goods that your company sells on the domestic market.

Answer: Please see Confidential Exhibit C-4 for copies of specifications corresponding to merchandise exported to Australia and sold in the domestic market.

PUBLIC RECORD

23

SECTION D DOMESTIC SALES

This section seeks information about the sales arrangements and prices in the domestic market of the country of export.

*All domestic sales made during the investigation period must be listed transaction by transaction. If there is an extraordinarily large volume of sales data and you are unable to provide the complete listing electronically you **must** contact the case officer **before** completing the questionnaire. If the case officer agrees that it is not possible to obtain a complete listing he or she will consider a method for sampling that meets the Commission requirements. If agreement cannot be reached as to the appropriate method the Commission may not visit your company.*

The Commission will normally take the invoice date as being the date of sale in order to determine which sales fall within the investigation period.

If, in response to question B4 (Sales to Australia, Export Price), you have reported that the date of sale is not the invoice date and you consider that this alternative date should be used when comparing domestic and export prices –

*you **must** provide information on domestic selling prices for a matching period - even if doing so means that such domestic sales data predates the commencement of the investigation period.*

If you do not have any domestic sales of like goods you must contact the case officer who will explain the information the Commission requires for determining a normal value using alternative methods.

D-1 Provide:

- a detailed description of your distribution channels to domestic customers, including a diagram if appropriate;
- information concerning the functions/activities performed by each party in the distribution chain; and
- a copy of any agency or distributor agreements, or contracts entered into.

Answer: In the domestic market, sales are usually shipped from [REDACTED]. Habas makes shipments both on [REDACTED]. Habas, from time to time, also provides mill test certificates to the customer showing that the merchandise is produced in accordance with the applicable Turkish standards.

[Confidential information regarding shipping terms]

If any of the customers listed are associated with your business, provide details of that association. Describe the effect, if any, that association has upon the price.

Answer: Not applicable. Habas did not sell product concerned to any affiliated companies.

PUBLIC RECORD

24

- D-2** Do your domestic selling prices vary according to the distribution channel identified? If so, provide details. Real differences in trade levels are characterised by consistent and distinct differences in functions and prices.

Answer: Selling prices [REDACTED].

- D-3** Explain in detail the sales process, including:

- the way in which you set the price, receive orders, make delivery, invoice and finally receive payment; and the terms of the sales;
- whether the invoice price is based on theoretical or actual weight ;and
- whether price includes the cost of delivery to customer.

Answer: [REDACTED]

[REDACTED] . [Confidential information regarding domestic sale process]

If sales are in accordance with price lists, provide copies of the price lists.

Answer: Not applicable. Habas does not use price lists for its home market sales.

- D-4** Prepare a spreadsheet named "**domestic sales**" listing **all** sales of like goods made during the investigation period. The listing must be provided on a CD-ROM. Include all of the following information.

Answer: Please see Confidential Exhibit D-5.

Costs marked with * are explained in section E-2.

PUBLIC RECORD

25

- D-5** If there are any other costs, charges or expenses incurred in respect of the sales listed which have not been identified in the table in question D-4 above add a column for each item (see "other factors"). For example, certain other selling expenses incurred.

Answer: Except for packing, Habas has no other charges incurred in respect of the domestic sales.

- D-6** For each type of commission, discount, rebate, allowance offered on domestic sales of like goods:
- provide a description; and
 - explain the terms and conditions that must be met by the customer to qualify for payment.

Where the amounts of these discounts, rebates etc are not identified on the sales invoice, explain how you calculated the amounts shown in your response to question D4.

If you have issued credit notes, directly or indirectly to the customers, provide details if the credited amount has **not** been reported as a discount or rebate.

Answer: Not applicable. Habas does not offer commissions, discounts, and rebates in the domestic market.

- D-7** Select two domestic sales, in different quarters of the investigation period, that are at the same level of trade as the export sales. Provide a complete set of documentation for those two sales. (Include, for example, purchase order, order acceptance, commercial invoice, discounts or rebates applicable, credit/debit notes, long or short term contract of sale, inland freight contract, bank documentation showing proof of payment.)

The Commission will select additional sales for verification at the time of our visit.

Answer: Please see Confidential Exhibit D-7.

SECTION E FAIR COMPARISON

Section B sought information about the export prices to Australia and Section D sought information about prices on your domestic market for like goods (ie. the normal value).

Where the normal value and the export price are not comparable adjustments may be made. This section informs you of the fair comparison principle and asks you to quantify the amount of any adjustment.

As prices are being compared, the purpose of the adjustments is to eliminate factors that have unequally modified the prices to be compared.

To be able to quantify the level of any adjustment it will usually be necessary to examine cost differences between sales in different markets. The Commission must be satisfied that those costs are likely to have influenced price. In practice, this means that the expense item for which an adjustment is claimed should have a close nexus to the sale. For example, the cost is incurred because of the sale, or because the cost is related to the sale terms and conditions.

Conversely, where there is not a direct relationship between the expense item and the sale a greater burden is placed upon the claimant to demonstrate that prices have been affected, or are likely to have been affected, by the expense item. In the absence of such evidence the Commission may disallow the adjustment.

Where possible, the adjustment should be based upon actual costs incurred when making the relevant sales. However, if such specific expense information is unavailable cost allocations may be considered. In this case, the party making the adjustment claim must demonstrate that the allocation method reasonably estimates costs incurred.

A party seeking an adjustment has the obligation to substantiate the claim by relevant evidence that would allow a full analysis of the circumstances, and the accounting data, relating to the claim.

The investigation must be completed within strict time limits therefore you must supply information concerning claims for adjustments in a timely manner. Where an exporter has knowledge of the material substantiating an adjustment claim that material is to be available at the time of the verification visit. The Commission will not consider new claims made after the verification visit.

E-1 Costs associated with export sales

(These cost adjustments will relate to your responses made at question B-4, 'Australian sales')

1. Transportation

Explain how you have quantified the amount of inland transportation associated with the export sale ("**Inland transportation costs**"). Identify the general ledger account where the expense is located. If the amount has been determined from contractual arrangements, not from an account item, provide details and evidence of payment.

Answer: Habas [REDACTED]. The shipment to Australia is made on containers and the shipment to port is included in [REDACTED]. [Confidential information regarding transportation and shipping process]

2. Handling, loading and ancillary expenses

List all charges that are included in the export price and explain how they have been quantified ("**Handling, loading & ancillary expenses**"). Identify the general ledger account where the expenses are located. If the amounts have been determined using actual observations, not from a relevant account item, provide details.

The various export related ancillary costs are identified in the table at question B4, for example:

- terminal handling;
- wharfage and other port charges;
- container taxes;
- document fees and customs brokers fees;
- clearance fees;
- bank charges, letter of credit fees
- other ancillary charges.

Answer: Loading and handling charges incurred at the port of exportation are reported on [REDACTED] regarding the rebar exports. These include [REDACTED]. Generally these charges are included in [REDACTED]. Whenever there are separate items related to handling within the [REDACTED], Habas reported [REDACTED]. [Confidential information regarding transportation and shipping process]

3. Credit

PUBLIC RECORD

28

The cost of extending credit on export sales is not included in the amounts quantified at question B4. However, the Commission will examine whether a credit adjustment is warranted and determine the amount. Provide applicable interest rates over each month of the investigation period. Explain the nature of the interest rates most applicable to these export sales eg, short term borrowing in the currency concerned.

Answer: Habas provides [REDACTED]



[Confidential information regarding interest rates]

If your accounts receivable shows that the average number of collection days differs from the payment terms shown in the sales listing, *and if* export prices are influenced by this longer or shorter period, calculate the average number of collection days. See also item 4 in section E-2 below.

4. Packing costs

List material and labour costs associated with packing the export product. Describe how the packing method differs from sales on the domestic market, for each model. Report the amount in the listing in the column headed 'Packing'.

Answer: Habas has reported the packing costs based on its [REDACTED]

5. Commissions

For any commissions paid in relation to the export sales to Australia:

- provide a description; and
- explain the terms and conditions that must be met.

Report the amount in the sales listing in question B-4 under the column headed "Commissions". Identify the general ledger account where the expense is located.

Answer: Habas has not paid any commissions.

6. Warranties, guarantees, and after sales services

PUBLIC RECORD

29

List the costs incurred. Show relevant sales contracts. Show how you calculated the expenses ("**Warranty & guarantee expenses**" and "**Technical assistance & other services**"), including the basis of any allocations. Include a record of expenses incurred. Technical services include costs for the service, repair, or consultation. Where these expenses are closely related to the sales in question, an adjustment will be considered. Identify the ledger account where the expense is located.

Answer: Not applicable.

7. Other factors

There may be other factors for which an adjustment is required if the costs affect price comparability – these are identified in the column headed "**Other factors**". For example, other variable or fixed selling expenses, including salesmen's salaries, salesmen's travel expenses, advertising and promotion, samples and entertainment expenses. Your consideration of questions asked at Section G, concerning domestic and export costs, would have alerted you to such other factors.

Answer: Habas from time to time incurs [REDACTED]

[REDACTED]. These charges are reported on [REDACTED]

[Confidential information regarding charges incurred by Habas]

8. Currency conversions

In comparing export and domestic prices a currency conversion is required. Fluctuations in exchange rates can only be taken into account when there has been a 'sustained' movement during the period of investigation (see article 2.4.1 of the WTO Agreement). The purpose is to allow exporters 60 days to adjust export prices to reflect 'sustained' movements. Such a claim requires detailed information on exchange movements in your country over a long period that includes the investigation period.

Answer: Not applicable.

E-2 Costs associated with domestic sales

(These cost adjustments will relate to your responses made at question D-4, "**domestic sales**")

The following items are not separately identified in the amounts quantified at question D-4. However you should consider whether any are applicable.

1. Physical characteristics

The adjustment recognises that differences such as quality, chemical composition, structure or design, mean that goods are not identical and the differences can be quantified in order to ensure fair comparison.

The amount of the adjustment shall be based upon the market value of the difference, but where this is not possible the adjustment shall be based upon the difference in cost plus the gross profit mark-up (i.e. an amount for selling general and administrative costs (S G & A) plus profit).

The adjustment is based upon actual physical differences in the goods being compared and upon the manufacturing cost data. Identify the physical differences between each model. State the source of your data.

Answer: Not applicable. Products can be compared if they fall within the same carbon content limitation.

2. Import charges and indirect taxes

If exports to Australia:

- are partially or fully exempt from internal taxes and duties that are borne by the like goods in domestic sales (or on the materials and components physically incorporated in the goods), or
- if such internal taxes and duties have been paid and are later remitted upon exportation to Australia;

Answer: Not applicable.

the price of like goods must be adjusted downwards by the amount of the taxes and duties.

The taxes and duties include sales, excise, turnover, value added, franchise, stamp, transfer, border, and excise taxes. Direct taxes such as corporate income tax are not included as such taxes do not apply to the transactions.

Adjustment for drawback is not made in every situation where drawback has been received. Where an adjustment for drawback is appropriate you must provide information showing the import duty borne by the domestic sales. (That is, it is not sufficient to show the drawback amount and the export sales quantity to Australia. For example, you may calculate the duty borne on domestic sales by quantifying the total amount of import duty paid and subtracting the duty refunded on exports to all countries. The difference, when divided by the domestic sales volume, is the amount of the adjustment).

In substantiating the drawback claim the following information is required:

- a copy of the relevant statutes/regulations authorising duty exemption or remission, translated into English;
- the amount of the duties and taxes refunded upon *exportation* and an explanation how the amounts were calculated and apportioned to the exported goods;
- an explanation as to how you calculated the amount of duty payable on imported materials is borne by the goods sold *domestically* but is not borne by the exports to Australia;

PUBLIC RECORD

31

Substitution drawback systems

Annex 3 of the WTO Agreement on Subsidies provides: *"Drawback systems can allow for the refund or drawback of import duties on inputs which are consumed in the production process of another product and where the export of this latter product contains domestic inputs having the same quality and characteristics as those substituted for the imported inputs"*

If such a scheme operates in the country of export adjustments can also be made for the drawback payable on the substituted domestic materials, provided the total amount of the drawback does not exceed the total duty paid.

Answer: Habas reports the per unit amount of import duties and other charges Habas would have had to pay had the finished product not been exported to Australia.

The Turkish inward processing regime ("IPR") provides tax exemptions to the Turkish manufacturer/exporters by permitting manufacturer/exporters to import raw materials free of import duties, resource utilization fund (KKDF) and value added tax if such inputs are intended for producing final goods for export. Under this system, the beneficiary of IPR has to submit to the Customs authorities at the time of importation a letter of guarantee or pledge of money covering the total of all duties, charges and VAT that would otherwise be owed. The Turkish IPR law and an English translation are provided in Exhibit E-2-2.A

Habas imports [REDACTED]

The reported per unit amount of duty drawback is calculated by [REDACTED]

[REDACTED]. Worksheets showing the calculation of the per unit duty drawback amount is provided in Confidential Exhibit E-2-2.B The per unit duty drawback is reported [REDACTED]. Please note Habas has reported the duty drawback as [REDACTED].

[Confidential information regarding duty drawback system]

3. Level of trade

PUBLIC RECORD

32

Question D-4 asks you to indicate the level of trade to the domestic customer. To claim an adjustment for level of trade differences you will need to quantify the amount by which level of trade influences price.

Trade level is the level a company occupies in the distribution chain. The trade level to which that company in turn sells the goods and the functions carried out distinguish a level of trade. Examples are producer, national distributor, regional distributor, wholesaler, retailer, end user, and original equipment.

It may not be possible to compare export prices and domestic prices at the same level of trade. Where relevant sales of like goods at the next level of trade must be used to determine normal values an adjustment for the difference in level of trade may be required where it is shown that the difference affects price comparability.

The information needs to establish that there are real trade level differences, not merely nominal differences. Real trade level differences are characterised by a consistent pattern of price differences between the levels and by a difference in functions performed. If there is no real trade level differences all sales are treated as being at the same level of trade.

A real difference in level of trade (may be adjusted for using either of the following methods:

- (a) *costs arising from different functions*: the amount of the costs, expenses etc incurred by the seller in domestic sales of the like goods resulting from activities that would not be performed were the domestic sales made at the same level as that of the importer.

This requires the following information:

- a detailed description of each sales activity performed in selling to your domestic customers (for example sales personnel, travel, advertising, entertainment etc);
- the cost of carrying out these activities in respect of like goods;
- for each activity, whether your firm carries out the same activity when selling to importers in Australia;
- an explanation as to why you consider that you are entitled to a level of trade adjustment.

or

- (b) *level discount*: the amount of the discount granted to purchasers who are at the same level of trade as the importer in Australia. This is determined by an examination of price differences between the two levels of trade in the exporter's domestic market, for example sales of like goods by other vendors or sales of the same general category of goods by the exporter. For this method to be used it is important that a clear pattern of pricing be established for the differing trade levels. Such pattern is demonstrated by a general availability of the discounts to the level - isolated instances would not establish a pattern of availability.

PUBLIC RECORD

33

Answer: The vast majority of Habas' domestic customers are [REDACTED]. Habas has very few [REDACTED] and has [REDACTED]. Habas does not consider that it carries out [REDACTED]. [Confidential information regarding domestic customers]

4. Credit

The cost of extending credit on domestic sales is not included in the amounts quantified at question D-4. However, the Commission will examine whether a credit adjustment is warranted and determine the amount. An adjustment for credit is to be made even if funds are not borrowed to finance the accounts receivable.

The interest rate on domestic sales in order of preference is:

- the rate, or average of rates, applying on actual short term borrowing's by the company; or
- the prime interest rate prevailing for commercial loans in the country for credit terms that most closely approximate the credit terms on which the sales were made; or
- such other rate considered appropriate in the circumstances.

Provide the applicable interest rate over each month of the investigation period.

If your accounts receivable shows that the average number of collection days differs from the payment terms shown in the sales listing, and if domestic prices are influenced by this longer or shorter period, calculate the average number of collection days.

Where there is no fixed credit period agreed at the time of sale the period of credit is determined on the facts available. For example, where payment is made using an open account system¹, the average credit period may be determined as follows:

1. Calculate an accounts receivable turnover ratio

This ratio equals the total credit sales divided by average accounts receivable. (It is a measure of how many times the average receivables balance is converted into cash during the year).

In calculating the accounts receivable turnover ratio, credit sales should be used in the numerator whenever the amount is available from the financial statements. Otherwise net sales revenue may be used in the numerator.

¹ Under an open account system, following payment the balance of the amount owing is carried into the next period. Payment amounts may vary from one period to the next, with the result that the amount owing varies.

PUBLIC RECORD

34

An average accounts receivable over the year is used in the denominator. This may be calculated by:

- using opening accounts receivable at beginning of period plus closing accounts receivable at end of period divided by 2, or
- total monthly receivables divided by 12.

2. Calculate the average credit period

The average credit period equals 365 divided by the accounts receivable turnover ratio determined above at 1.

The resulting average credit period should be tested against randomly selected transactions to support the approximation.

The following items are identified in the amounts quantified at question D-4:

Answer: Habas' customers generally pay [REDACTED]
[REDACTED]. Therefore Habas believes [REDACTED].

Habas has not used [REDACTED]
[REDACTED].

[Confidential information regarding payment terms]

5. Transportation

Explain how you have quantified the amount of inland transportation associated with the domestic sales ("**Inland transportation Costs**"). Identify the general ledger account where the expense is located. If the amount has been determined from contractual arrangements, not from an account item, provide details and evidence of payment.

Answer: All domestic sales are on [REDACTED] basis therefore there is [REDACTED].

[Confidential information regarding transportation and shipping terms]

6. Handling, loading and ancillary expenses

List all charges that are included in the domestic price and explain how they have been quantified ("**Handling, loading and ancillary Expenses**"). Identify the general ledger account where the expense is located. If the amounts have been determined using actual observations, not from a relevant account item, provide details.

Answer: Please see above.

7. Packing

PUBLIC RECORD

35

List material and labour costs associated with packing the domestically sold product. Describe how the packing method differs from sales on the domestic market, for each model. Report the amount in the listing in the column headed **"Packing"**.

Answer: Habas has reported the packing costs based on its accounting system based on allocation of its packing costs.

8. Commissions

For any commissions paid in relation to the domestic sales:

- provide a description
- explain the terms and conditions that must be met.

Report the amount in the sales listing under the column headed **"Commissions"**. Identify the general ledger account where the expense is located.

Answer: Not applicable.

9. Warranties, guarantees, and after sales services

List the costs incurred. Show relevant sales contracts. Show how you calculated the expenses (**"Warranty & Guarantee expenses"** and **"Technical assistance & other services"**), including the basis of any allocations. Include a record of expenses incurred. Technical services include costs for the service, repair, or consultation. Where these expenses are closely related to the sales in question, an adjustment will be considered. Identify the ledger account where the expense is located.

Answer: Not applicable.

10. Other factors

There may be other factors for which an adjustment is required if the costs affect price comparability – these are identified in the column headed **"Other factors"**. List the factors and show how each has been quantified in per unit terms. For example:

- *inventory carrying cost*: describe how the products are stored prior to sale and show data relating to the average length of time in inventory. Indicate the interest rate used;
- *warehousing expense*: an expense incurred at the distribution point;
- *royalty and patent fees*: describe each payment as a result of production or sale, including the key terms of the agreement;
- *advertising*; and
- *bad debt*.

Answer: Not applicable.

E-3 Duplication

In calculating the amount of the adjustments you must ensure that there is no duplication.

For example:

- adjustments for level of trade, quantity or other discounts may overlap, or
- calculation of the amount of the difference for level of trade may be based upon selling expenses such as salesperson's salaries, promotion expenses, commissions, and travel expenses.

Separate adjustment items must avoid duplication.

An adjustment for quantities may not be granted unless the effect on prices for quantity differences is identified and separated from the effect on prices for level of trade differences.

Answer: Not applicable.

PUBLIC RECORD

37

SECTION F EXPORT SALES TO COUNTRIES OTHER THAN AUSTRALIA (THIRD COUNTRY SALES)

Your response to this part of the questionnaire may be used by the Commission to select sales to a third country that may be suitable for comparison with exports to Australia.

Sales to third countries may be used as the basis for normal value in certain circumstances. The Commission may seek more detailed information on particular third country sales where such sales are likely to be used as the basis for determining normal value.

Answer: Habas is not responding to this Section as Habas believes the domestic market can be used for comparison.

F-1 Using the column names and column descriptions below provide a summary of your export sales to countries other than Australia.

Column heading	Explanation
Country	Name of the country that you exported like goods to over the investigation period.
Number of customers	The number of different customers that your company has sold like goods to in the third country over the investigation period.
Level of trade	The level of trade that you export like goods to in the third country.
Quantity	Indicate quantity, in units, exported to the third country over the investigation period.
Unit of quantity & Invoice weight basis	Show unit of quantity (eg kg). Specify whether invoicing is done on theoretical or actual weight basis
Value of sales	Show net sales value to all customers in third country over the investigation period
Currency	Currency in which you have expressed data in column SALES
Payment terms	Typical payment terms with customer(s) in the country eg. 60 days=60 etc
Shipment terms	Typical shipment terms to customers in the third country eg CIF, FOB, ex-factory, DDP etc.

Supply this information in spreadsheet file named "Third country"

F-2 Please identify any differences in sales to third countries which may affect their comparison to export sales to Australia.

SECTION G

COSTING INFORMATION AND CONSTRUCTED VALUE

The information that you supply in response to this section of the questionnaire will be used for various purposes including:

- testing the profitability of sales of like goods on the domestic market;*
- determining a constructed normal value of the goods under consideration (the goods) - ie of the goods exported to Australia; and*
- making certain adjustments to the normal value.*

You will need to provide the cost of production of both the exported goods (the goods) and for the like goods sold on the domestic market. You will also need to provide the selling, general, and administration costs relating to goods sold on the domestic market; the finance expenses; and any other expenses (eg. non-operating expenses not included elsewhere) associated with the goods.

In your response please include a worksheet showing how the selling, general, and administration expenses; the finance expenses; and any other expenses have been calculated.

If, in response to question B4 (Sales to Australia, Export Price) you:

- reported that the date of sale is not the invoice date and consider that this alternative date should be used when comparing domestic and export prices, and*
- provided information on domestic selling prices for a matching period as required in the introduction to Section D (Domestic Sales)*

you must provide cost data over the same period as these sales even if doing so means that such cost data predates the commencement of the investigation period.

At any verification meeting you must be prepared to reconcile the costs shown to the accounting records used to prepare the financial statements.

G-1. Production process and capacity

1. Describe the production process for the goods. Provide a flowchart of the process. Include details of all products manufactured using the same production facilities as those used for the goods. Also specify all scrap or by-products that result from producing the goods.

Answer: Flowchart of Habas's production process for wire rod and rebar is provided in Confidential Exhibit G-1.1

G-2. Provide information about your company's total production in the following table:

* rather than showing a 'name-plate' optimal capacity it is more meaningful to show the maximum level of production that may reasonably be attained under normal operating conditions. For example assuming: normal levels of maintenance and repair; a number of shifts and hours of operation that is not abnormally high; and a typical production mix.

Provide this information on a spreadsheet named "**Production**".

Answer: Please see Confidential Exhibit G-.2

G-3. Cost accounting practices

1. Outline the management accounting system that you maintain and explain how that cost accounting information is reconciled to your audited financial statements.

Answer: Habas

[REDACTED] . Thus the company's cost accounting, such as it is, [REDACTED] . In the normal course of business the company [REDACTED] . In these calculations, the company [REDACTED] .

The company's normal year-end cost accounting calculations are best described as [REDACTED]

[REDACTED] . [Confidential information regarding cost accounting]

2. Is your company's cost accounting system based on standard (budgeted) costs? State whether standard costs were used in your responses to this questionnaire. If they were state whether all variances (ie differences between standard and actual production costs) have been allocated to the goods - and describe how those variances have been allocated.

Answer: Not applicable. [REDACTED]

3. Provide details of any significant or unusual cost variances that occurred during the investigation period.

Answer: Not applicable

4. Describe the profit/cost centres in your company's cost accounting system.

Answer: The cost center hierarchy of direct and indirect cost centers of Habas Steel Division is shown in Confidential Exhibit G-3.4

PUBLIC RECORD

40

- 5 For each profit/cost centre describe in detail the methods that your company normally uses to allocate costs to the goods under consideration. In particular specify how, and over what period, expenses are amortised or depreciated, and how allowances are made for capital expenditures and other development costs.

Answer: Please see G-2.1 above.

- 6 Describe the level of product specificity (models, grades etc) that your company's cost accounting system records production costs.

Answer: Please see G-2.1 above. The company [REDACTED]. [Confidential information regarding cost accounting]

- 7 List and explain all production costs incurred by your company which are valued differently for cost accounting purposes than for financial accounting purposes.

Answer: Habas cost accounting is [REDACTED]. [Confidential information regarding cost accounting]

- 8 State whether your company engaged in any start-up operations in relation to the goods under consideration. Describe in detail the start-up operation giving dates (actual or projected) of each stage of the start-up operation.

Answer: Not applicable.

- 9 State the total cost of the start-up operation and the way that your company has treated the costs of the start-up operation in its accounting records.

Answer: Not applicable.

G-4 Cost to make and sell on domestic market

This information is relevant to testing whether domestic sales are in the ordinary course of trade.²

² The Commission applies the tests set out in s.269TAA of the Customs Act 1901 to determine whether goods are in ordinary course of trade. These provisions reflect the WTO anti-dumping agreement – see Article 2.2.1.
12534387/1

PUBLIC RECORD

41

1. Please provide (in the format shown in the table below) the actual unit cost to make and sell each model/type* (identified in section C) of the like goods sold on the domestic market. Provide this cost data for each quarter over the investigation period. If your company calculates costs monthly, provide monthly costs.
2. Indicate the source of cost information (account numbers etc) and/or methods used to allocate cost to the goods. Provide documentation and worksheets supporting your calculations.

	Quarter X	Quarter X	Quarter X	Quarter X
Like Domestic Model/Type – from spreadsheet LIKE GOOD (section C-3)				
Material Costs ¹				
Direct Labour				
Manufacturing Overheads				
Other Costs ²				
Total Cost to Make				
Selling Costs				
Administration Costs				
Financial Costs				
Delivery Expenses ³				
Other Costs ³				
Unit Cost to Make and Sell				

Prepare this information in a spreadsheet named "**Domestic CTMS**".

¹ Identify each cost separately. Include indirect material costs as a separate item only if not included in manufacturing overheads.

² Relating to costs of production only; identify each cost separately.

³ Identify each cost separately. Please ensure non-operating expenses **that relate to the goods under consideration** are included. Where gains/losses due to foreign currency exchange are incurred, please provide detail of the amounts separately for transaction and translation gains/losses.

Provide this information for each quarter (or month if your company calculates costs on a monthly basis) over the period of the investigation.

Provide the information broken down into fixed and variable costs, and indicate the % total cost represented by fixed costs.

If you are unable to supply this information in this format, please contact the case officer for this investigation at the address shown on the cover of this questionnaire.

Please specify unit of currency.

PUBLIC RECORD

42

Answer: Please see Confidential Exhibit G-4.2.

As mentioned above, in the normal course of business the company only calculates [REDACTED]

. The company also [REDACTED]

Therefore Habas has provided the quarterly costs for rebar products in Confidential Exhibit G-4.2

[Confidential information regarding cost accounting]

G-5 Cost to make and sell goods under consideration (goods exported to Australia)

The information is relevant to calculating the normal values based on costs. It is also relevant to calculating certain adjustments to the normal value.

	Quarter X	Quarter X	Quarter X	Quarter X
Model/Type exported to Australia – from spreadsheet LIKEGOOD				
Material Costs ¹				
Direct Labour				
Manufacturing Overheads				
Other Costs ²				
Total Cost to Make				
Selling Costs				
Administration Costs				
Financial Costs				
Delivery Expenses ³				
Other Costs ³				
Unit Cost to Make and Sell				

Prepare this information in a spreadsheet named "**Australian CTMS**".

¹ Identify each cost separately. Include indirect material costs as a separate item only if not included in manufacturing overheads.

² Relating to costs of production only; identify each cost separately.

PUBLIC RECORD

43

³ Identify each cost separately. Please ensure non-operating expenses that relate to the goods are included. Where gains/losses due to foreign currency exchange are incurred, please provide detail of the amounts separately for transaction and translation gains/losses.

Provide this information for each quarter (or month if your company calculates costs on a monthly basis) over the period of the investigation.

Provide the information broken down into fixed and variable costs, and indicate the % total cost represented by fixed costs.

If you are unable to supply this information in this format, please contact the case officer for this investigation at the address shown on the cover of this questionnaire.

Please specify unit of currency.

Answer: Please see above explanation and Confidential Exhibit G-5.2. Habas

therefore the costs provided in Confidential Exhibit G-5.2 apply to exported products as well.

[Confidential information regarding cost accounting]

- 1 Where there are cost differences between goods sold to the domestic market and those sold for export, give reasons and supporting evidence for these differences.

Answer: Please see above

- 2 Give details and an explanation of any significant differences between the costs shown, and the costs as normally determined in accordance with your general accounting system. Reference should be made to any differences arising from movements in inventory levels and variances arising under standard costing methods.

Answer: Habas has reported the costs as it appears in its accounting system.

- 3 In calculating the unit cost to make and sell, provide an explanation if the allocation method used (eg number, or weight etc) to determine the unit cost differs from the prior practice of your company.

Answer: Costs are

[Confidential information regarding cost accounting]

G-6 Major raw material costs

List major raw material costs, which individually account for 10% or more of the total production cost.

For these major inputs:

12534387/1

PUBLIC RECORD

44

- identify materials sourced in-house and from associated entities;
- identify the supplier; and
- show the basis of valuing the major raw materials in the costs of production you have shown for the goods (eg market prices, transfer prices, or actual cost of production).

Where the major input is produced by an associate of your company the Commission will compare your purchase price to a normal market price. If the associate provides information on the cost of production for that input such cost data may also be considered.

Normal market price is taken to be the price normally available in the market (having regard to market size, whether the input is normally purchased at 'spot prices' or under long term contracts etc).

The term associate is defined in section 269TAA of the *Customs Act*. Included in that definition are companies controlled by the same parent company (a company that controls 5% or more of the shares of another is taken to be an associated company); companies controlled by the other company; and companies having the same person in the board of directors.

Answer: Major raw materials are [REDACTED]
[REDACTED]. Habas purchases [REDACTED]

[Confidential information regarding major raw materials]

PUBLIC RECORD

45

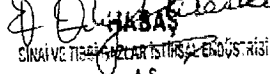
**SECTION H
EXPORTER'S DECLARATION**

**SECTION H
EXPORTER'S DECLARATION**

☒ I hereby declare that HABAŞ SİNAİ VE TIBBİ GAZLAR İSTİHSAL ENDÜSTRİSİ A.Ş. did, during the period of investigation export the goods under consideration and have completed the attached questionnaire and, having made due inquiry, certify that the information contained in this submission is complete and correct to the best of my knowledge and belief.

☐ I hereby declare that.....(company)
did not, during the period of investigation, export the goods under consideration and therefore have not completed the attached questionnaire.

Name : F. FİLİZ HASESKİ

Signature : 
HABAŞ SİNAİ VE TIBBİ GAZLAR İSTİHSAL ENDÜSTRİSİ A.Ş.

Position in

Company : DEPUTY GENERAL MANAGER

Date : 16.12.2014

PUBLIC RECORD

46

SECTION I CHECKLIST

This section is an aid to ensure that you have completed all sections of this questionnaire.

Section	Please tick if you have responded to all questions
Section A – general information	<input checked="" type="checkbox"/>
Section B – export price	<input checked="" type="checkbox"/>
Section C – like goods	<input checked="" type="checkbox"/>
Section D – domestic price	<input checked="" type="checkbox"/>
Section E – fair comparison	<input checked="" type="checkbox"/>
Section F – exports to third countries	<input checked="" type="checkbox"/>
Section G – costing information	<input checked="" type="checkbox"/>
Section H – declaration	<input checked="" type="checkbox"/>

Electronic Data	Please tick if you have provided spreadsheet
INCOME STATEMENT	<input checked="" type="checkbox"/>
TURNOVER – sales summary	<input checked="" type="checkbox"/>
AUSTRALIAN SALES – list of sales to Australia	<input checked="" type="checkbox"/>
DOMESTIC SALES – list of all domestic sales of like goods	<input checked="" type="checkbox"/>
THIRD COUNTRY – third country sales	<input type="checkbox"/>
PRODUCTION – production figures	<input checked="" type="checkbox"/>
DOMESTIC COSTS – costs of goods sold domestically	<input checked="" type="checkbox"/>
AUSTRALIAN COSTS – costs of goods sold to Australia	<input checked="" type="checkbox"/>

APPENDIX

GLOSSARY OF TERMS

This glossary is intended to provide you with a basic understanding of technical terms that appear in the questionnaire.

Adjustments

To enable a fair comparison between the export price and the normal value Australian legislation provides for the adjustment of the domestic price paid for like goods. Adjustments are made to account for sales occurring at different times, specification differences, and differences in the terms or circumstances of the sales. The adjustment to the normal value may be upward or downward. Areas where you believe an adjustment is necessary should be identified. Section E of the questionnaire refers.

Examples of adjustments that may be made include: *sales occurring at different times* (it is sometimes necessary to compare domestic and export sales made at different times - in these circumstances an adjustment may be made to reflect price movements during that time); *specification differences*; *packaging*; *taxes*; *level of trade*; *advertising*; *servicing/warranty*; *inland freight*; *warehousing*; *export charges*; *credit terms*; *duty drawback*; *commissions*.

Adjustments may also be required where the normal value is based upon costs to make and sell.

Arms length

Sales are not considered to be at "arms length" on your domestic market if there is any consideration payable for the goods other than their price, or there is an association between the buyer and the seller which affects the price, or there will be a reimbursement, compensation or benefit for, or in respect of, the price.

Constructed value

In cases where domestic prices paid for the goods under consideration in the country of export cannot be used for the determination of normal value, ie. when there are no or insufficient sales or where such sales were not made in the ordinary course of trade, normal value may be based on a constructed value. Constructed value is calculated on the basis of the cost of production of the goods under consideration plus a reasonable amount for selling, general and administration costs, and for profits, that are associated with sales on the domestic market of the country of export.

Cost of production/manufacturing

The cost of production or manufacture consists of all manufacturing costs associated with the goods. It is the sum of direct materials, direct labour and factory overheads.

Cost to make and sell

The cost to make and sell is the sum of the cost of production or manufacture, and the selling, general and administration costs associated with the sale of those goods.

Country of origin

The country in which the last significant process in the manufacture or production of the goods was performed.

Date of sale

The Commission will normally use the invoice date as recorded in the exporter or producer's records. Another date may be used if this better reflects the material terms of sale. The questionnaire directs attention to matching data sets of domestic and export sales where some other date is used, as well as matching cost information.

Direct labour cost

Direct labour is categorised as a variable cost, ie. the value varies with the level of production.

Dumping

Dumping occurs when the products of one country are exported to another country at a price less than their normal value.

Dumping margin

Where the export price is less than the normal value the dumping margin is the amount of the difference. It can be expressed as a value or as a percentage of the export price.

Export price

The export price of the goods is usually the price paid or payable to the exporter in arms length transactions, in most instances calculated at the Free on Board (FOB) level.

Exporting country

The country of export is normally the country of origin from which the goods are shipped. The country of export may be an intermediate country, except where the products are merely transhipped through that country, or the products concerned are not produced in that country, and there is no comparable price in that country.

Factory overheads

Factory overheads consist of variable costs eg. power, supplies, indirect labour and fixed costs eg. factory rent, factory insurance, factory depreciation etc.

Goods under consideration (the goods)

The goods to which the application for anti-dumping action relates. That is, the goods that you have exported to Australia allegedly at dumped prices.

Incoterms

The following abbreviations are commonly used (comment is provided concerning costs that are normally borne by the seller):

EXW	ex works (the seller's minimum obligation as costs relate to goods being made available at the sellers premises)
FCA	free carrier (main carriage not paid by seller. Pay costs until such time that the goods have been delivered at the named point into custody of a carrier named by the seller. Customs formalities, taxes etc paid if required)
FAS	free alongside ship (main carriage not paid by seller. Deliver the goods alongside the ship)
FOB	free on board (main carriage not paid by seller. Deliver the goods on board, provide export clearance if required, pay loading costs to the point the goods have passed the ship's rail, pay customs formalities, taxes etc payable upon exportation)
CFR	cost and freight (main carriage paid by seller. Pay all costs until delivered as well as freight, loading and unloading, pay customs formalities, taxes etc payable upon exportation)
CIF	cost, insurance and freight (main carriage paid by seller. Pay all costs as under CFR as well as marine insurance) the terms CFR and CIF are only used where goods are carried by sea or waterway transport
CPT	carriage paid to
CIP	carriage and insurance paid to the terms CPT and CIP are used as alternatives to CFR and CIF where the goods are carried by air, road, rail etc
DAF	delivered at frontier (goods carried by rail or road and cleared for export at the named place at the frontier. Pay costs until delivered at the frontier plus any discharge costs incurred to place the goods at the customers disposal)
DES	delivered ex ship (goods made available to the buyer on board the ship uncleared for import at the named port of destination. Pay all costs incurred in placed at the disposal of the buyer, pay customs formalities, taxes etc payable upon exportation, and where necessary for transit through another country)
DDU	delivered duty unpaid (Pay all costs for carriage to the agreed point, pay customs formalities, taxes etc payable upon exportation, and where necessary for transit through another country)
DDP	delivered duty paid (goods made available at the named place in the country of importation – all risks and costs being incurred by the seller including duties, taxes etc incurred upon importation)

Investigation period

A period defined by the Commission over which importations of the goods are examined.

Like goods

Like goods are goods sold on the domestic market of the country of export (or to a third country) that are identical in all respects to the goods under consideration or that, although not alike in all respects have characteristics closely resembling those of the goods under consideration. The term 'like goods' also refers to the goods produced by the Australian industry allegedly being injured by dumped imports.

Normal value

Australian legislation sets out several ways to assess "normal value".

The preferred method is to use the price paid for like goods sold for domestic consumption in the country of export. Usually, these sales are made by you, but there may be circumstances where it is appropriate to use sales made by other sellers on the domestic market.

Sale prices must be at arms length and in the ordinary course of trade. In the absence of relevant or suitable domestic sales, the normal value may be determined by constructing a price based upon all costs to make and sell the goods. Profit may also be included if the sales on the domestic market are profitable. Alternatively the normal value may be ascertained using the price paid for like goods sold in the ordinary course of trade at arms length to customers in a country other than Australia, however this option is rarely used.

Finally, when a normal value cannot be ascertained by any of the above methods, or if no information is provided, the Commission will determine the normal value by considering all the relevant information, including the applicant's information. This allows the applicant's information to be used where sufficient information has not been furnished or is not available.

Where domestic price generally, and the trade of the exporting country are determined or substantially influenced by the government of the exporting country, an alternative/surrogate market economy is selected by the Commission and the normal value is determined as if the surrogate country were the export source.

Ordinary course of trade

Testing for "ordinary course of trade" includes a comparison of the selling price and the unit cost to make and sell for the same period. If sales in respect of a substantial quantity of goods over an extended period of time, usually 12 months, do not recover all costs and these losses are not likely to be recovered within a reasonable period of time, (again usually 12 months) then the sales are regarded as being not in the ordinary course of trade.

PUBLIC RECORD

51

There may be circumstances where it is appropriate to use a period other than 12 months in assessing whether sales are in the ordinary course of trade.

Unprofitable sales are to be taken to have occurred in substantial quantities during an extended period where the unprofitable sales amount to 20% or more of the total volume of sales of the goods by the exporter over the period. An extended period of time is usually taken to be a period not less than 12 months. Where unprofitable sales are rejected, normal value is based upon remaining profitable sales provided they occur in sufficient number. Where all sales have been made at a loss, or profitable sales are insufficient, the normal value may be constructed from costs to make and sell.

Selling, general and administration expenses (SG&A)

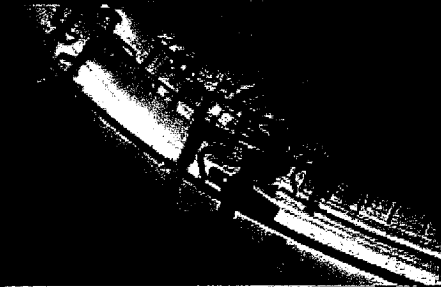
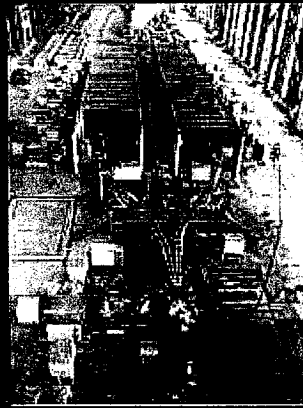
The selling, general and administration expenses includes all selling, distribution, general and administration expenses including finance costs that would be incurred if the goods were sold for domestic consumption in the country of export. The amounts are determined in each case using all the available information and may include expenses incurred in:

- . domestic sales of like goods;
- . sale of goods of the same general category by the exporter; or
- . sales in the industry in the country of export.

The expenses must, however, reflect the selling, general and administration costs of the goods. Administrative and selling expenses include: director's fees, management salaries and benefits, office salaries and benefits, office supplies, insurance, promotion, entertainment, depreciation and corporate overheads.



Service • Quality • Reliability



www.habas.com.tr

Habaş was founded by Mr. Hamdi Başaran in 1956 with the name " Hamdi Başaran Topkapı Oxygen Plant " to implement industrial gas production in a modern way and received its current name in 1964.

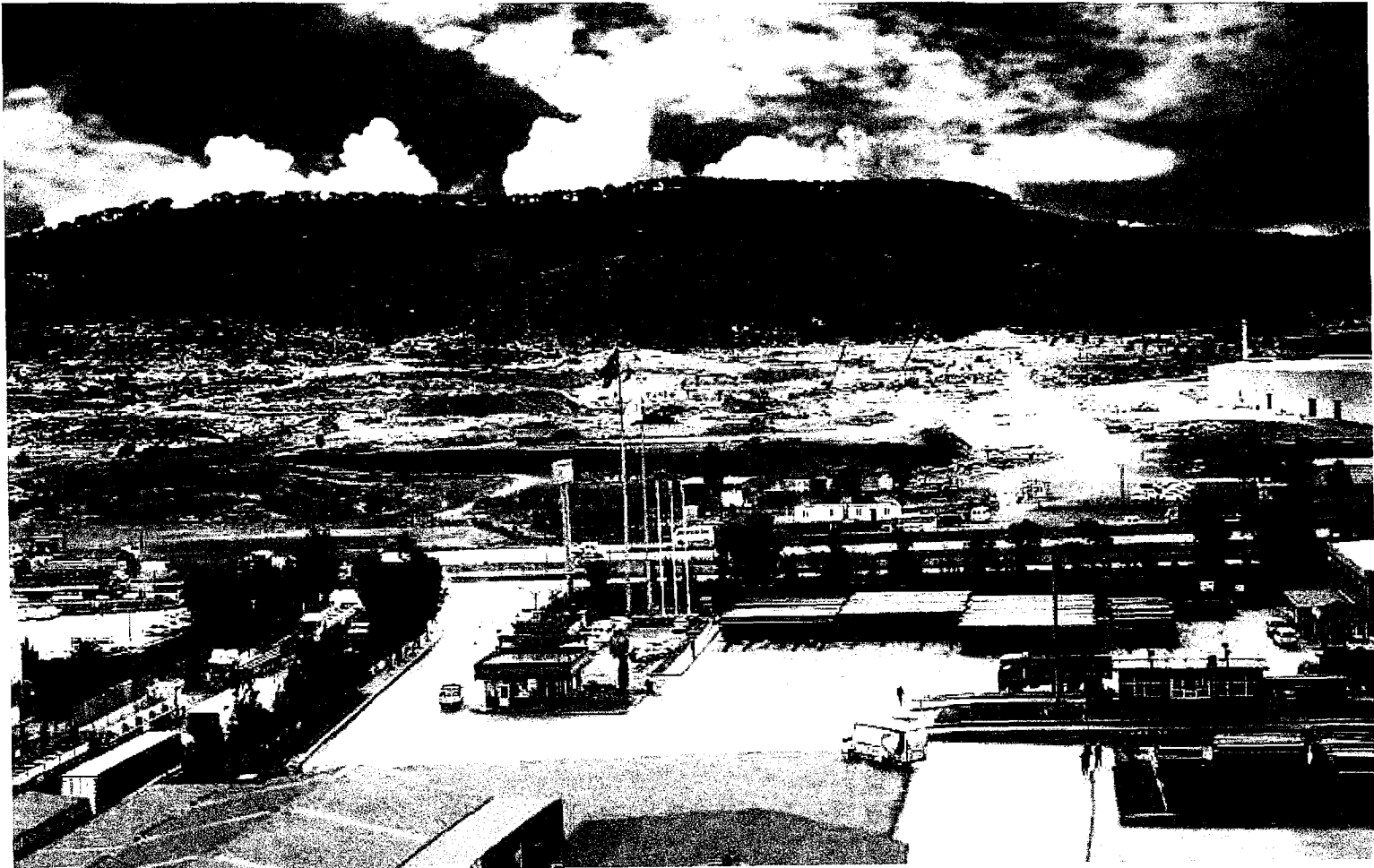
The march to growth has started in 1967 with the production of oxygen, nitrogen and argon gases in liquid form for the first time in Turkey at Topkapı / Istanbul plant.

Today, **Habaş** with high sales volume and outstanding export performance is one of the major companies of Turkey, producing industrial and medical gases, steel, electrical energy, manufacturing heavy machinery, distributing Liquified Petroleum Gas (LPG), Liquified Natural Gas (LNG) and Compressed Natural Gas (CNG), offering sea transportation services for LPG and operating sea ports. Having total 300 Mw power generating capacity, Habaş is one of the outstanding electricity provider for the domestic market.

Anadolubank Inc., based in Istanbul is in the structure of **Habaş Group** and one of the young, dynamic and high-growth promising banks of Turkish financial market. Aiming to specialize in business banking and retail banking areas, AnadoluBank Inc., has a special interest in risk management products, asset based lending, international project and structured trade finance transactions. , the abroad subsidiary based in Holland started its activities by the beginning of 2008, under full banking license and supervision of Dutch Central Bank.

Habaş having annual 3.200.000 mtons liquid steel production capacity, is one of the leading Turkish steel producers and has reputation on high export performance, recognized by the customers as an innovative, cost effective and high quality supplier.

Habaş Group is determined to maintain and enhance his competition superiority by continuous investment to new production lines and continuous improvement of his human resources.



Melt Shop

Habaş Melt Shop, taken into operation in 1987 has an annual capacity of 3.200.000 mtons of continuous cast steel billets.

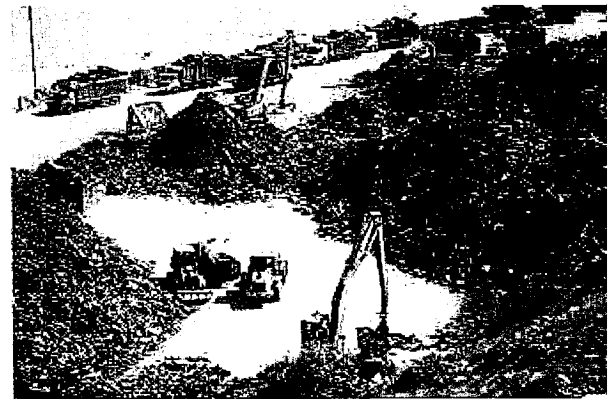
Habaş melt shop has;

- Scrapyard with a capacity of 300.000 tons which is equipped with scrap handling and loading cranes and scrap transfer cars.
- 2 electric arc furnaces with a capacity of 120 mtons each
- 4.500.000 capacity dust collection plant
- 2 ladle furnaces
- 2 continuous casting machine with 7-strands each
- Hot shear cut (Mechanical) or oxy flame cutting
- Turn over cooling beds.
- Open and covered stock yards.

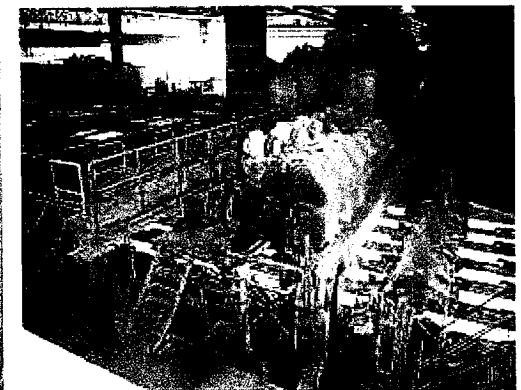
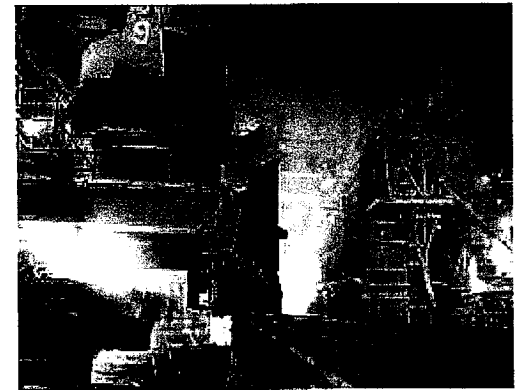
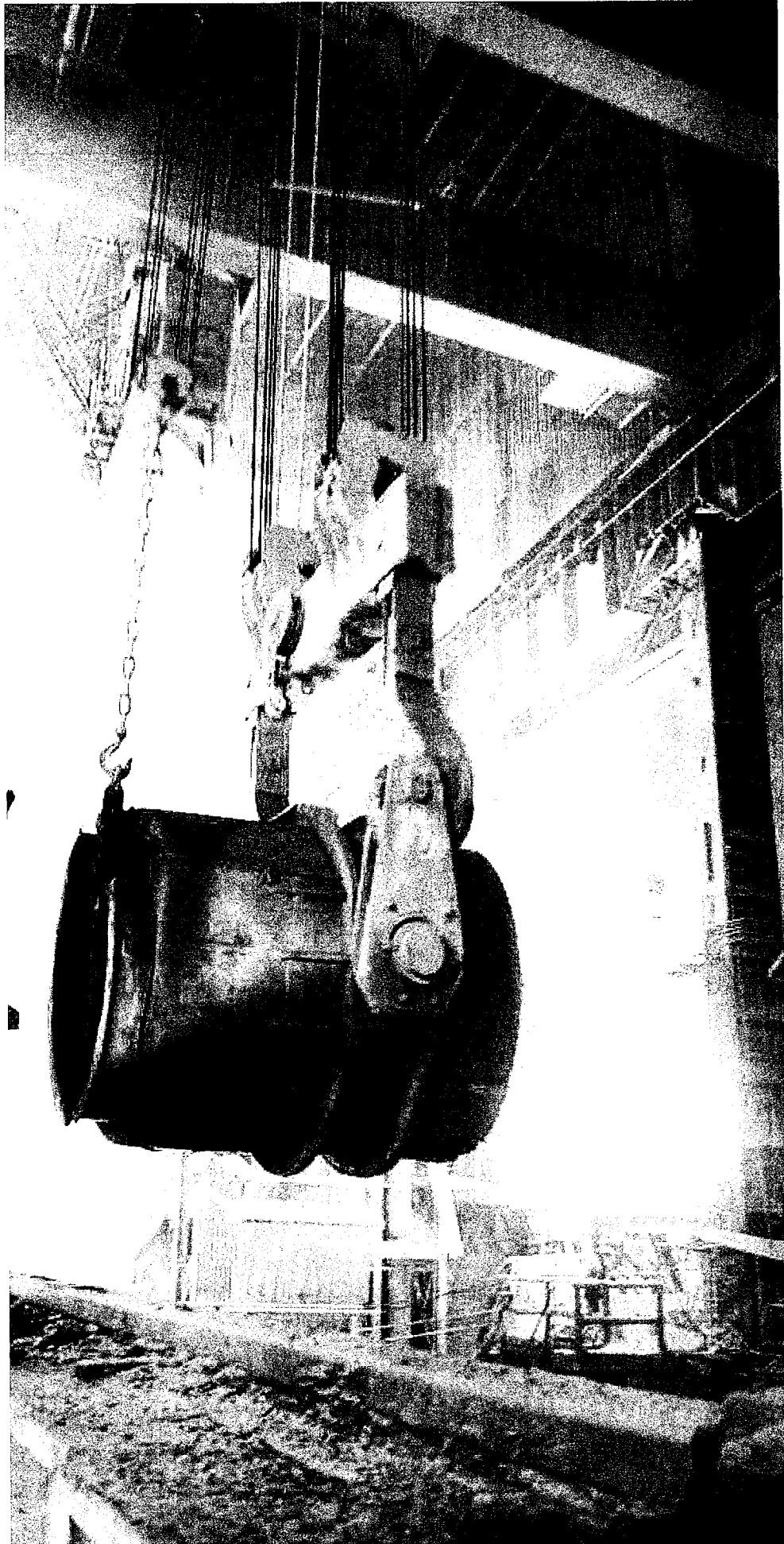
Production range;

- Billets sizes range from 130 x 130 mm, 140 x 140 mm, 150 x 150 mm, 160 x 160 mm
- Billet lengths vary between 6 m to 12 m
- Custom packing is available.

Habaş Melt Shop can produce low, medium and high carbon steel billets and low alloy steel as per your request.



Melt Shop



Rolling Mills

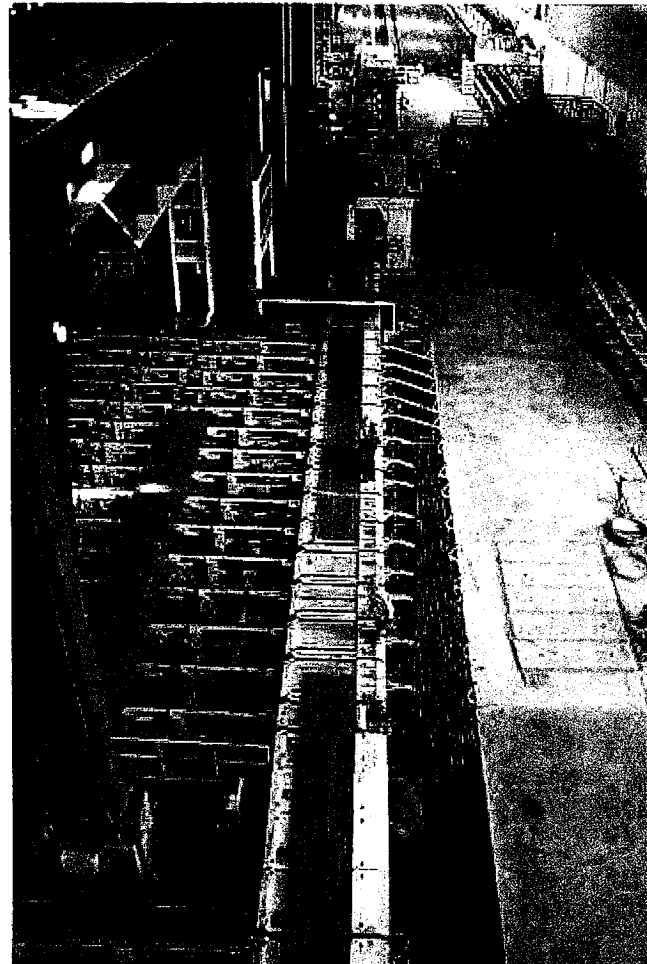
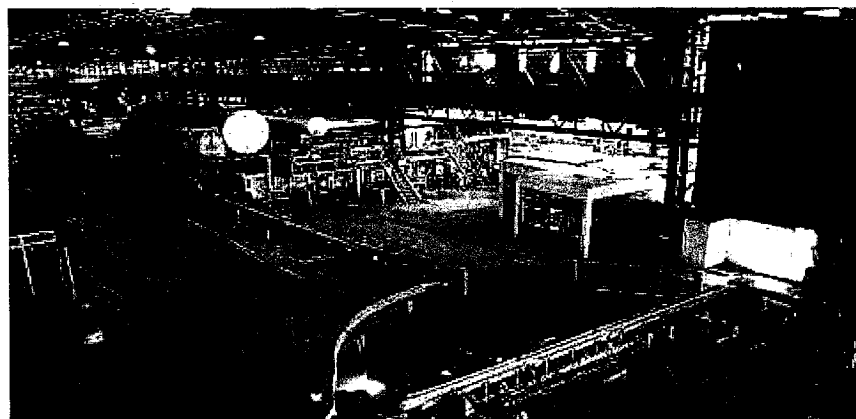
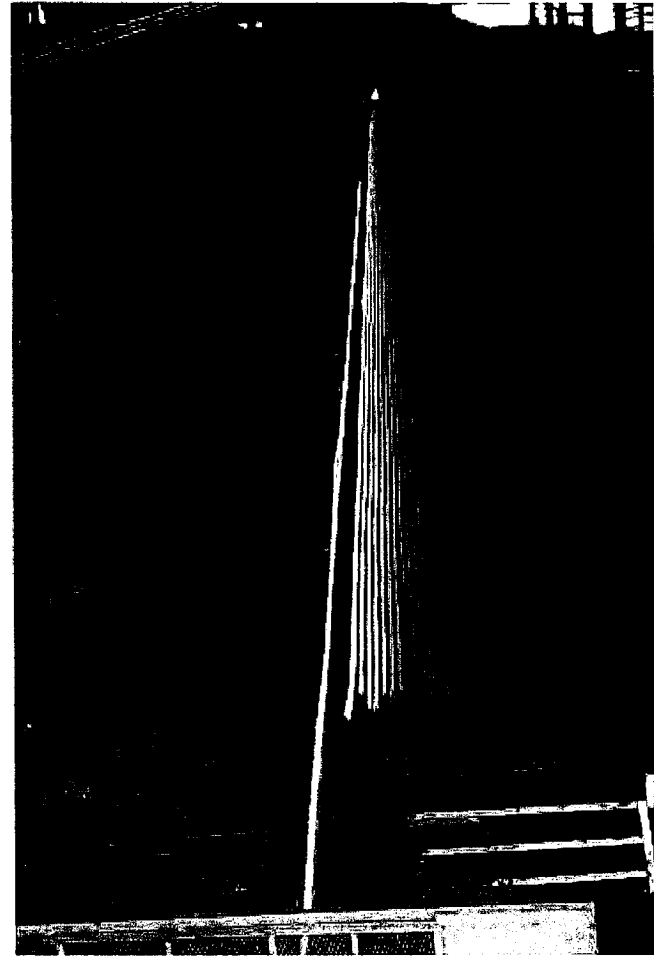
I. Debar Mill

Habaş rolling mill for round and deformed bars with an annual capacity of 800.000 tons has;

- 120 t/h capacity walking beam reheating furnace
- 18 continuous stands with a finishing speed of 22 m/sec.
- Cooling bed (78 meters of length)
- Cold shear
- Bar counting, bundling and transportation units
- Master computer system to control every stage of production

Production Range:

- Bars with a diameter of 8 mm to 12 mm are rolled with the slitting process
- Round and deformed bars with a diameter of 14 mm to 50 mm.
- Bar lengths between 6 m-12 m
- Pacing Bundles up to 3 mtons are available as per customer's request.
- Bundles are kept in covered stock yards. Habaş can produce round and deformed bars according to international standards such as TSE, ASTM, BS, DIN, JIS etc.



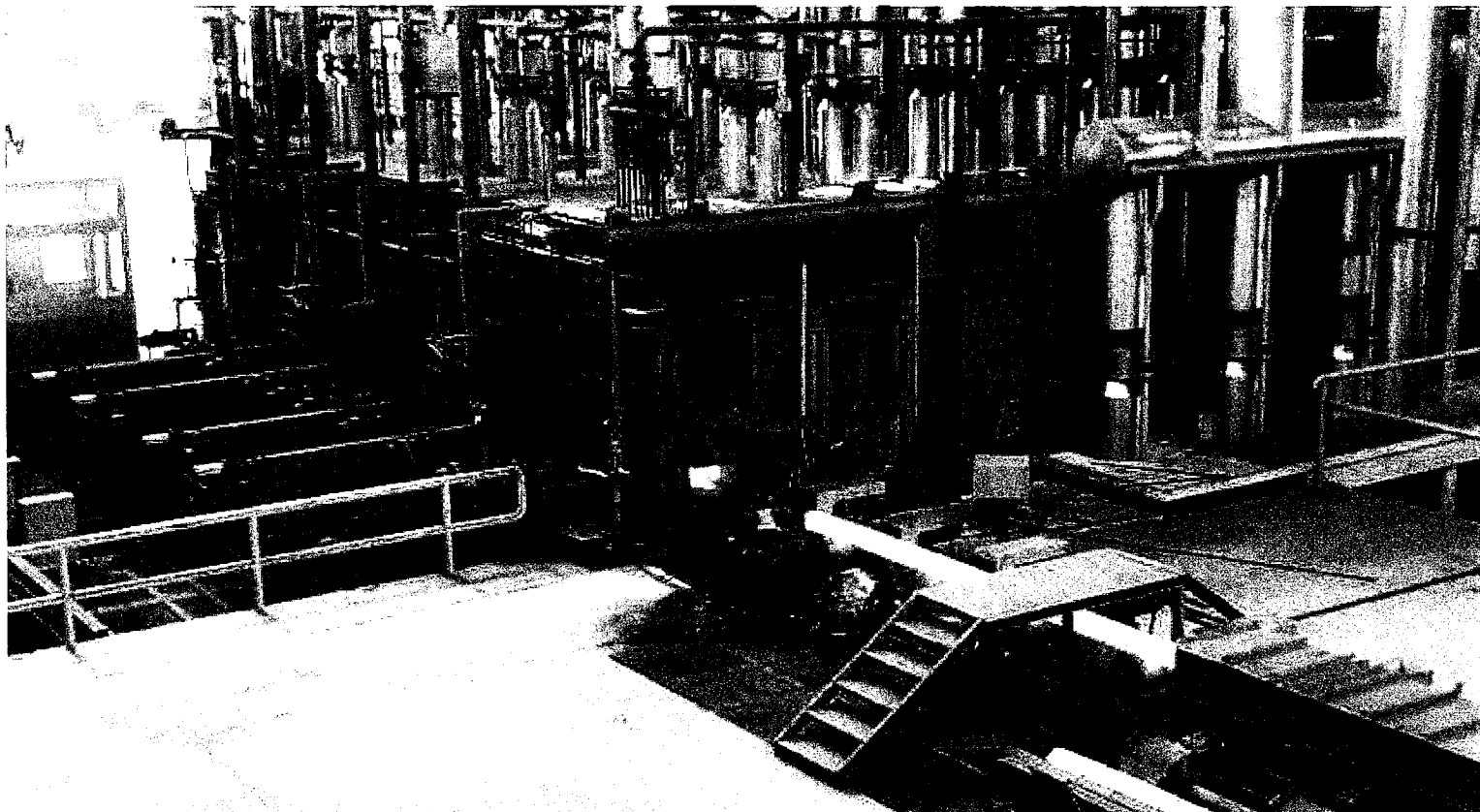
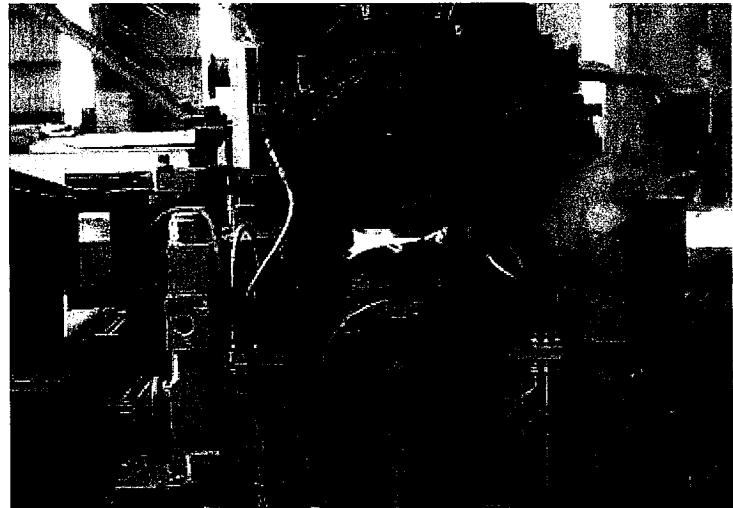
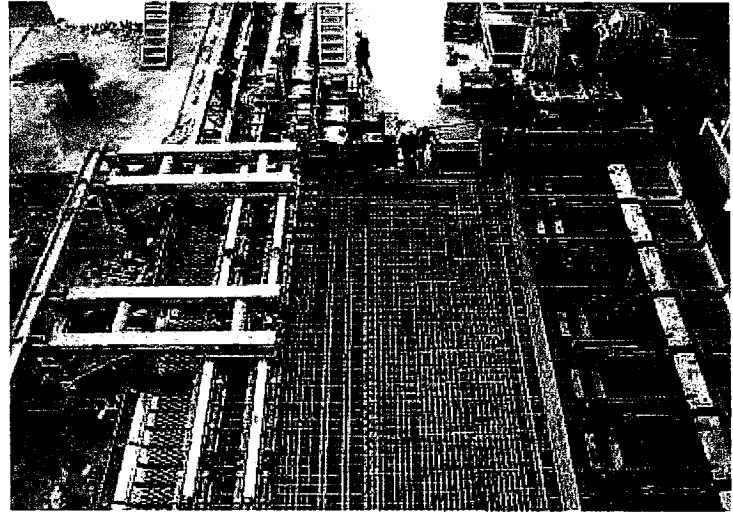
2. Debar Mill

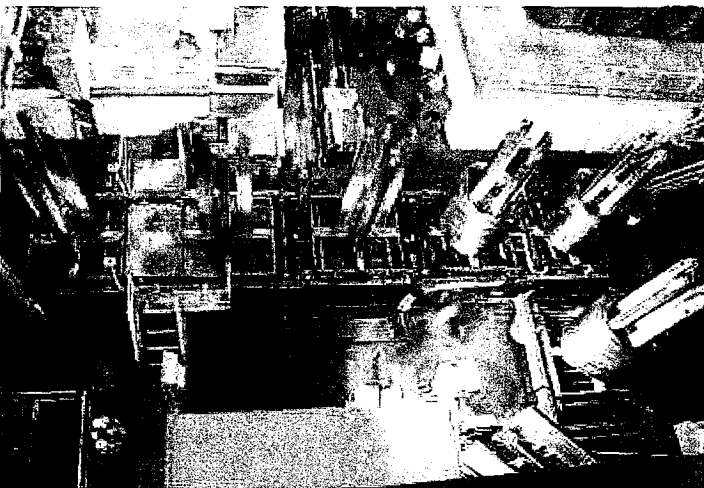
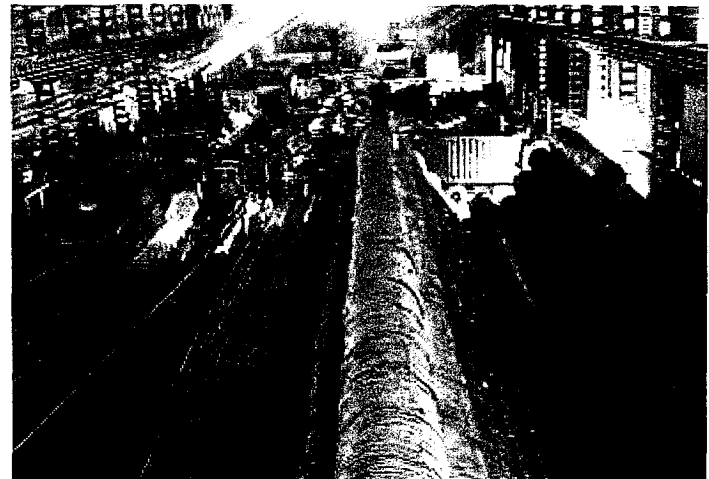
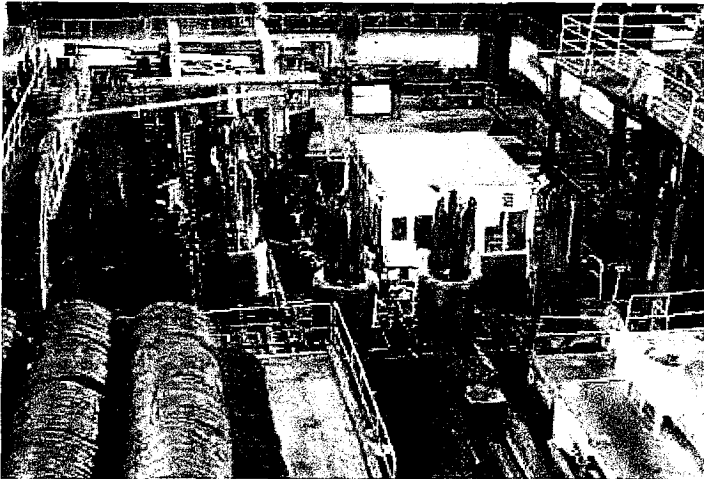
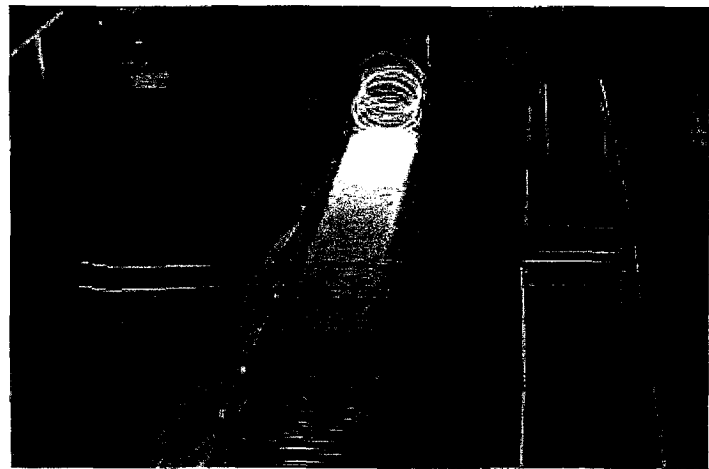
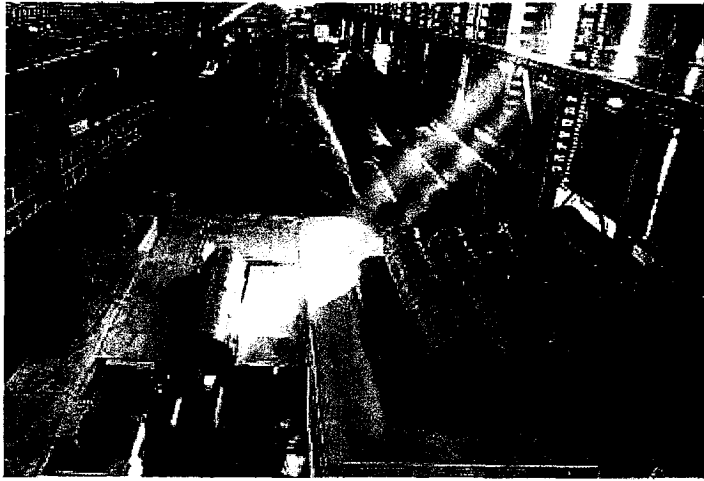
Habaş rolling mill for round and deformed bars with an annual capacity of 1.185.000 tons has;

- 180 t/h capacity walking beam reheating furnace
- 25 continuous stands with a finishing speed of 20 m/sec.
- Cooling bed (120 meters of length)
- Cold shear
- Bar counting, bundling and transportation units
- Master computer system to control every stage of production

Production Range:

- Bars with a diameter of 8 mm to 12 mm are rolled with the slitting process.
- Round and deformed bars with a diameter of 14 mm to 50 mm
- Bar lengths between 6 m 12 m
- Bundles up to 3 mtons are available as per customer's request
- Bundles are kept in covered stock yard. Habaş can produce round and deformed bars according to international standards such as TSE, ASTM, BS, DIN, JIS etc.





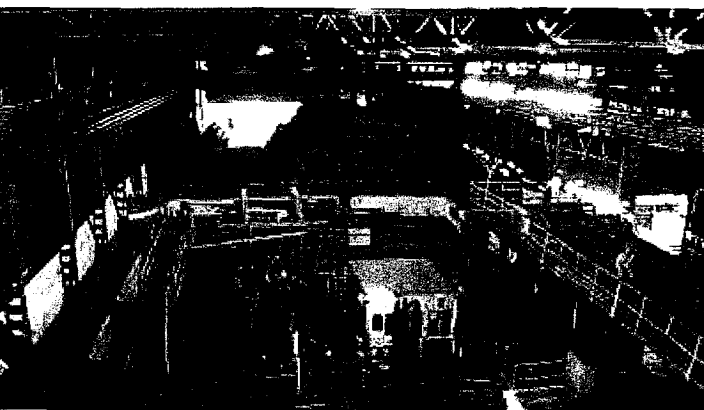
Wire Rod Mill

Habaş wire rod mill with an annual capacity of 500,000 tons has,

- 90 t/h capacity walking beam reheating furnace
- 16 continuous rolling stands
 - 10 monoblock stands with a finishing speed of 100 m/sec
- Controlled cooling system (Stelmor)
- Coil packing system capable of compacting and binding in 4 different places
- Master computer system to control every stage of production.

Production Range.

- Wire rods with a diameter of 4,5 to 16 mm in round and deformed.
- Coil weight up to 1500 kgs.
- The internal diameter of the coil is 850 mm and the external diameter is 1250 mm
- Coils are stocked in covered warehouses. Habaş can produce round and deformed wire rods according to international standards such as ASTM, SAE, DIN, JIS etc.



Wire Rod Mill

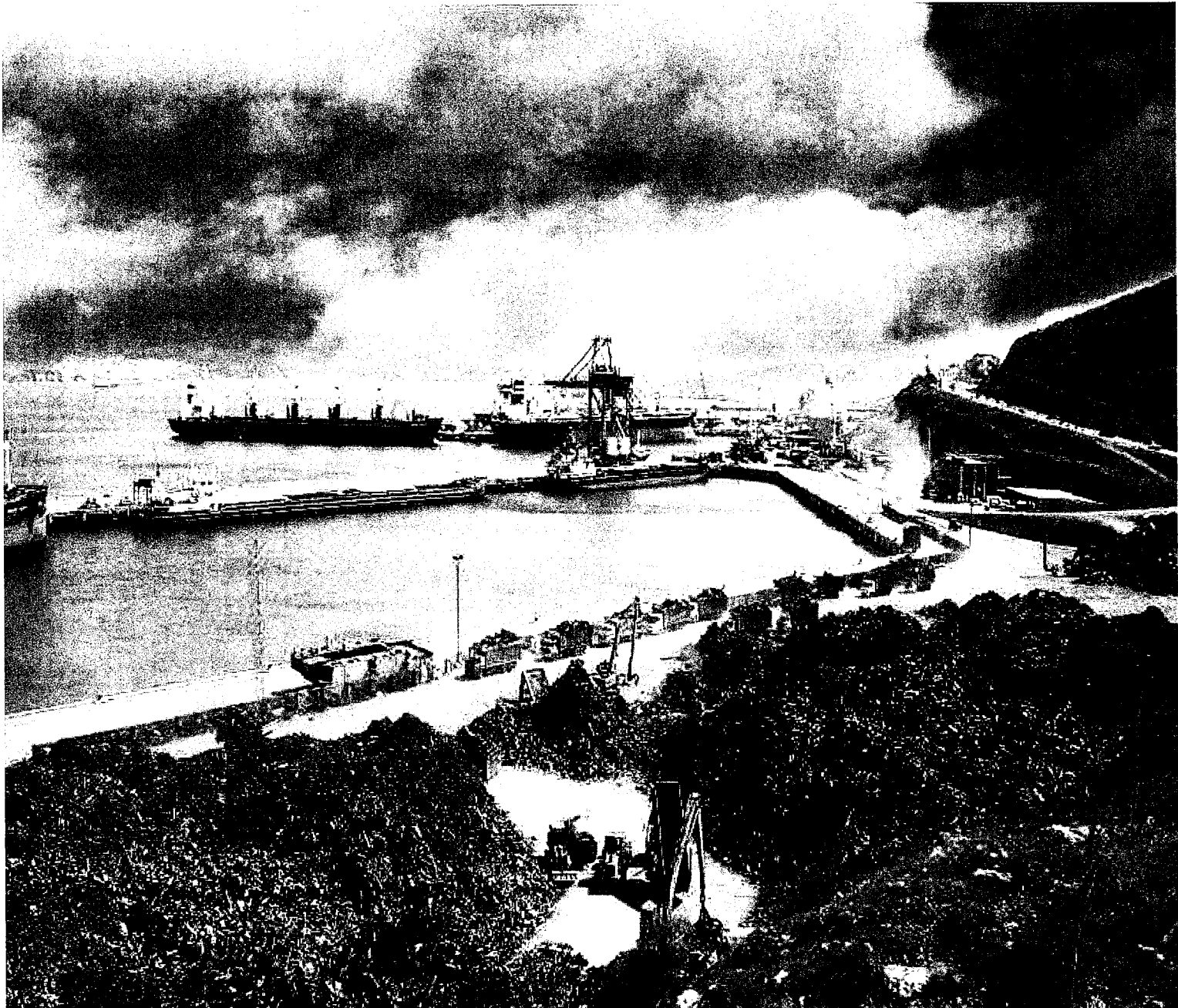
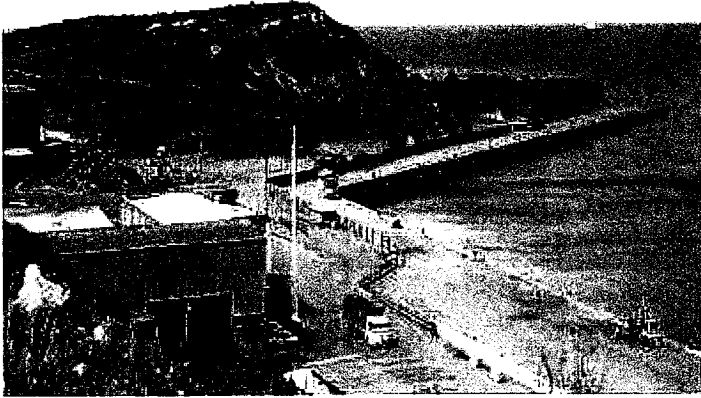


HABAŞ

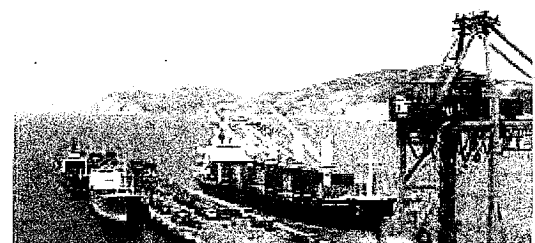
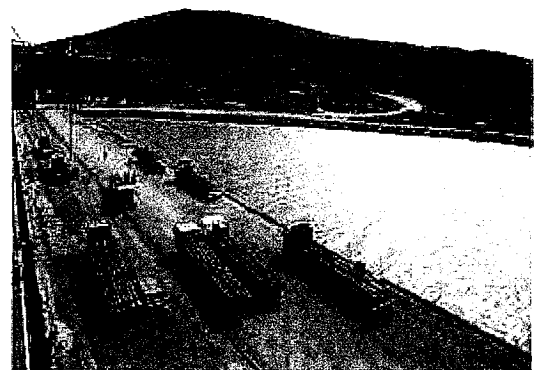
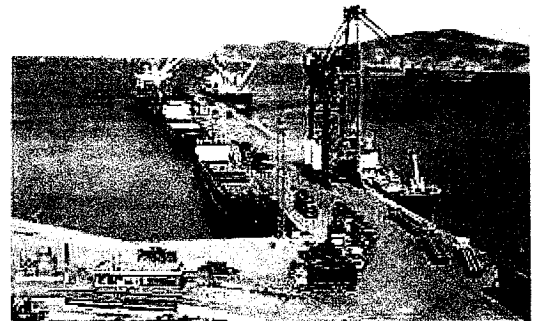
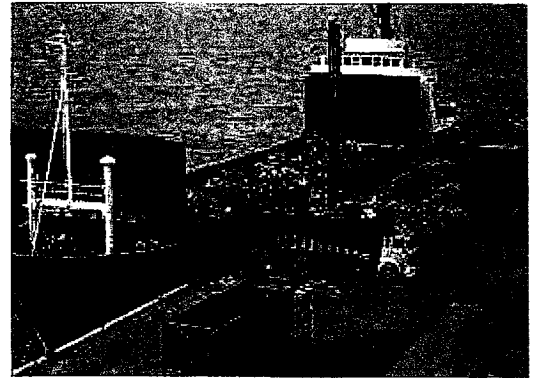
Habaş Pier

Habaş pier as the first pier lies on the south part mouth of Nemrut Bay, and is located at:

- Lat: 38° 46' 03" North and long: 026° 55' 03" East
- Length: 500 meters of which can be used both sides can be used
- Width: 22 meters
- Elevation: 4 meters above the sea level
- Depth: Westward side, 8 m to 20 m, Eastward side 9 m to 30 m



Habaş Pier



Quality

**HABAŞ Quality Assurance and Quality System is certificated by
CARES, TSE and SGS**



TSE
Quality Management System
Certification
TS EN ISO 9001:2000



CARES
Quality Management System
Certification
BS EN ISO 9001:2000



SGS
Quality Management System
Certification
ISO 9001:2000

Besides the ISO 9001:2000 Quality System Certificate, HABAŞ A.Ş. is honored with
"Product Conformity Certification" which proves the quality of it's products.



DCL - Certificate of Product Conformity
ASTM A 615-08, BS 4449:1997, BS 4449:2005



CARES - Product Conformity Certification
BS 4449 2005 Grade B 500B, BS 4449 1997 Grade 460B,
Plain round coil feedstock for Bs 4449 and 4482



Baustoffüberwachung BÜW - Certificate of Conformity
Concrete reinforcing steel accordance with DIN 488,
BSt 500 S (B)



CERTIF - Product Conformity Certification A 500 NR.



CSIC - Product Conformity Certification B500SD, B 500S



POLITECNICO DI TORINO - Product Conformity Certification Fe B 44k



BULGAR KONTROLA

Certificate of Conformity 010 class A III, bars and coil

Certificate of Conformity 14 class B 420B, in bars and coils

Certificate of Conformity 014 class B 235, in coils



QUALITAS

Certificate of Conformity - Hot rolled steel

coils and bars for the reinforcement of concrete.

Type OB 37, Type PC 52



SIMPTTEST - Certificate of Conformity - Steel bars for reinforcing, steel grade Bst500S, Produced acc. to DIN 488



Service·Quality·Reliability

HABAS SINAİ ve TIBBİ GAZLAR İSTİHSAL ENDÜSTRİSİ A.Ş.

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Iron & Steel Factory

Yeni Foça Yolu üzeri, Aliaga/Izmir-Turkey

Tel : +90 (232) 625 11 65 (10 Hat)

Fax: +90 (232) 635 11 84

www.habas.com.tr

Resolution No.: 2005/8391
Date of Resolution: 17 January 2005

Official Gazette No: 25709
Date of Official Gazette: 27 January 2005

The Council of Ministers decided on 17 January 2005 that the attached "*Resolution Concerning Domestic Processing Regime*" be put into force pursuant to Report No. 2004/114 dated 30 December 2004 of High Planning Board, and in accordance with the amended Article 1 of Law No. 261 dated 27 June 1963, Article 3/C of Law No. 933 dated 28 July 1967, amended Article 1 of Law No. 1567 dated 20 February 1930, amended Article 2 of Law No. 474 dated 14 May 1964, Articles 80, 111, 115 and 121 of Law No. 4458 dated 27 October 1999 and the provisions of Law No.2976 dated February 2 1984.

Recep Tayyip ERDOĞAN
Prime Minister

Ahmet Necdet SEZER
President

RESOLUTION CONCERNING DOMESTIC PROCESSING REGIME

SECTION I

PURPOSE, SCOPE AND DEFINITIONS

Purpose

Article 1 — This Resolution has been prepared in order to increase exports by way of procuring raw materials at world market prices, to give competition power to export products in international markets, to promote export markets and to diversify the export products.

Scope

Article 2 — This Resolution covers the regulation and enforcement of measures related to the defining, guiding and promotion of exportation of finished products with imported inputs used in their production as well as the sales and deliveries of the same considered as exportation.

Definitions

Article 3 — The meanings of terms used in this Resolution are as follows:

Undersecretariat: The Undersecretariat of Foreign Trade.

Community: The European Community.

Third Country: Countries other than the Member States of the European Community.

Free Zones: The free zones located within Turkey's Customs Area.

Goods in Free Movement: Pursuant to Article 18 of Customs Law No. 4458, the goods obtained wholly within Turkey's Customs Area and not containing any inputs imported from the countries or territories outside Turkey's Customs Area or obtained from goods subject to conditional exemption and considered not to bear any special economic importance according to the provisions of regime they are subject to or imported from the countries or territories outside Turkey's Customs Area under the regime concerning entry into free movement or obtained or produced separately or together within Turkey's Customs Area from the goods specified above.

Processing Activity: Working and processing of goods including mounting, assembly and combining with other goods and their repair including renewal and putting into order, as well as the using of certain pre-

determined goods which, even if they are wholly or partly consumed during processing, have not been incorporated into the goods but ensure or facilitate the production of such goods.

To obtain: Subjecting the goods to processing activity.

Processed Products: The primary or auxiliary processed products obtained as a result of a processing activity.

Primary Processed Products: Products aimed to be obtained under the Domestic Processing Regime.

Auxiliary Processed Products: Products other than the primary processed products, obtained as a result of a processing activity.

Import Goods: The raw materials, auxiliary materials and semi-finished and finished products used in obtaining the processed products, as well as the materials (including fuels and oils) which, although are not into the processed products, ensure the operation of processed products or ensure the continuity of services incorporated (spare parts, etc.), and the packing materials and operating supplies.

Operating Supplies: Materials (excluding energy sources and fuels) which are not in the nature of investment machinery and equipment, and are employed in obtaining the processed products whose exportation has been committed, and although not incorporated into the processed products, ensure the operation of stationary facilities.

Unaltered Goods: Imported goods not subjected to any processing.

Agricultural Products: The vegetable products grown on soils, or in soilless medium using new production techniques and technologies, the animal products, fishery products and other fresh-water products as included in the relevant lists of Import Regime Resolution, as well as their forms obtained after they are subjected to primary processing.

Processed Agricultural Products: Products containing the basic agricultural products (cereals, sugar, and milk), as included in the relevant List of Import Regime Resolution.

Industrial Products: All products other than the agricultural products and processed agricultural products.

Wastage: The parts of goods which are lost or destroyed particularly due to drying, evaporation, leaking or gas leakage during processing activities, as well as wastes which have no economic value.

Productivity Rate: Quantity or percentage of processed products obtained as a result of processing a defined quantity of goods.

Foreign-exchange Utilization Rate: The percentage ratio of CIF import value (excluding domestic purchases) to FOB export value, for transactions realized under a Domestic Processing Authorization Certificate/Domestic Processing Authorization.

Importation in Advance: Importation of goods to be used in obtaining the processed products prior to their exportation.

Exportation in Advance: Exportation of processed products obtained from equivalent goods prior to the importation of import goods under the Conditional Tax Immunity System.

Equivalent Goods: Goods in free movement which are used instead of imports in the obtaining of processed products, and which have the same Customs Tariff Position with at least (eight)-bases as import goods and bear the same commercial qualities and technical characteristics.

Trade Policy Measures: The measures taken in accordance with the regulations stipulated in Article 4 of Import Regime Resolution.

Tax: All financial obligations such as taxes, duties, fees, fund payments etc. which are stipulated for collection during import and export goods.

Subjecting the Goods to a Process or Use Approved by the Customs Authorities: Subjecting the goods to a Customs regime, their re-export to a place outside Turkey's Customs Area or to free zones or their annihilation or leaving at the Customs.

Customs Regime: Any one of the Free Movement Entry Regime, Transit Regime, Customs Warehouse Regime, Domestic Processing Regime, Temporary Importation Regime, Overseas Processing Regime or Export Regime.

Domestic Processing Authorization Certificate: A certificate to be issued by the Undersecretariat to enable importation with Customs duty immunity and/or realization of domestic purchases, in exports or in the sales and deliveries considered as exports.

Certificate: The Domestic Authorization Certificate.

Term of Certificate: The period shown in the Domestic Processing Authorization Certificate during which all import and/or export transactions committed under that certificate will be effected and all relevant exemptions will be applicable.

End of Term of Certificate: The last day of the month in which the term of certificate expires.

Domestic Processing Authorization: An authorization granted by relevant Customs Administration to enable importation with Customs duty exemption with the purpose of exportation.

Authorization: The Domestic Processing Authorization.

Term of Authorization: The period shown in the Domestic Processing Authorization during which all import and/or export transactions committed under that Authorization will be effected and all relevant exemptions will be applicable.

End of Term of Authorization: The last day of the month in which the term of Authorization expires.

Approved Person Status Certificate: A certificate granted by the Undersecretariat of Customs in accordance with the Customs Legislation.

A.TR Movement Certificate: A certificate to be issued by the exporting country's authorized institutions and endorsed by relevant Customs Administration, in order to enable the goods subject to free movement in Turkey or in the Community to take advantage of the Preferential Regime stipulated in the Additional Protocol.

Origin-evidencing Certificates: The EUR-1 Movement Certificate or Invoice Declaration evidencing the origin of goods, as issued by the authorized institutions of exporting country and endorsed by relevant Customs Administration in order to take advantage of Preferential Regime within the framework of agreements which Turkey is a party to.

Pan-European Cumulation of Origin: The trading system formed in Europe among the countries tied to each other by Free Trade Agreements based on same rules concerning origin of goods, and enabling the importation, under the Preferential Regime, of a processed product obtained using goods whose origin is a country party to said agreements, into another country subject to this Cumulation.

Supplier's Declaration: The certificate used along with the A.TR Movement Certificate or EUR-1 Movement Certificate, and showing the origin of goods which are included under the Pan-European Cumulation of Origin and constitute the subject matter of trade between Turkey and the Community.

Manufacturer-Exporter: A firm holding a Domestic Processing Authorization Certificate Domestic Processing Authorization and producing the whole or a part of the processed product and effecting its exportation on its own and/or through an intermediary exporter.

Exporter: A firm holding a Domestic Processing Authorization Certificate/Domestic Processing Authorization, which is not a manufacturer but causes a side manufacturer to produce the processed products from the import goods, and then exports them either by itself and/or through an intermediary exports.

Side Manufacturer: A firm producing either the whole, or a part of the export product committed under a Domestic Processing Authorization Certificate, Domestic Processing Authorization, and although registered in said Certificate Authorization, not being its actual owner.

Intermediary Exporter: An exporting firm not holding a Certificate Authorization but effecting the exportation of products committed under a Domestic Processing Authorization Certificate, Domestic Processing Authorization exactly in the same form as supplied by the firm holding that Certificate/Authorization.

SECTION II DOMESTIC PROCESSING MEASURES

Domestic Processing Measures

Article 4 — These measures shall comprise the following:
System of Conditional Immunity, and
System of Refund.

Conditional Immunity System

Article 5 — The firms residing in Turkey's Customs Area (excluding free zones) shall be granted authorization to import, the raw materials, auxiliary materials, semi-finished products, finished products, unaltered goods, packing materials and operating supplies which are required in obtaining the processed products committed to be exported on the basis of Domestic Processing Authorization Certificate, Domestic Processing Authorization, but are not in free movement, without being subject to the Trade Policy Measures, against posting of a guarantee equal to the amount of taxes arising from such importation, and returning said guarantee after the export commitment is realized.

Instead of the imported goods used in obtaining the processed products, under a Domestic Processing Authorization Certificate, those goods in free movement which have the same Customs Tariff Position based on at least 8 (eight) digits as the import goods and bear the same commercial qualities and technical characteristics may be used as equivalent goods. This system enables to realize exportation in advance and importation afterwards under a Domestic Processing Certificate, as well as to use the import goods together with the goods in free movement. The Undersecretariat (General Directorate of Exports) may introduce prohibitions or restrictions to the use of equivalent goods, either with no time limit or for a defined period of time. If the processed products obtained using equivalent goods have been exported prior to the importation of import goods, then the importation of goods corresponding to this transaction may be effected until the end of the term of the Certificate. During importation to be effected under this scheme, all taxes including the value added tax (provided that the provisions of Special Consumption Tax Law No. 4760 are reserved) shall be covered under a guarantee, and the trade policy measures shall not be applicable. Any goods imported following the realization of exportation in advance, in a proportion corresponding to such exportation, may be freely used by the firm holding the Certificate.

In cases where the processed product is obtained from equivalent goods, the import goods shall be treated as equivalent goods while the equivalent goods as import goods in carrying out the Customs transactions. Where the processed product subject to exportation in advance is obtained from the equivalent goods subject to export tax, an amount of guarantee equivalent to the export tax shall be collected, which shall be returned after the realization of import corresponding to such goods.

Furthermore the raw materials, auxiliary materials, semi-finished products, finished products, unaltered goods, and packing materials required in obtaining of processed products may be imported in accordance with the provision of first Paragraph, but they may also be procured from the domestic market within the framework of arrangements to be made to that end. The goods procured from domestic market with the purpose of exportation under a Domestic Processing Authorization Certificate shall be treated as import goods with regard to the implementation of this Resolution, (providing the provisions of Value Added Tax Law No.3065 and Special Consumption Tax Law. No. 4760 are reserved).

For the goods procured from domestic market, however, the provisions of this Resolution concerning the auxiliary processed products and the foreign-exchange utilization rate shall not be applicable. In case of failure to realize the exportation of domestically procured goods, in the form of processed products within the term of the Certificate, the 2 (two)-fold fine stipulated in Article 22 of this Resolution shall not be applicable, either.

The domestic purchase of goods under a Domestic Processing Authorization Certificate must be realized within the term of the Certificate. However, provided that the realization of export of the processed product in accordance with the provisions of Communiqué to be published on the basis of this Resolution is evidenced, domestic purchase of goods may be effected under a Domestic Processing Authorization Certificate even if its term has expired, without requiring the collection of a guarantee. Furthermore, if the domestic purchase of goods is found not to be possible under Certificate, the term of Certificate may be extended as to allow the import of such goods.

Collection of Guarantee and Reduced Rate of Guarantee

Article 6- The tax to arise from importation to be made under the conditional immunity system shall be subject to collection of a guarantee in accordance with the principles stipulated in the Law No. 6183 Concerning the Procedure of Collection of Public Claims.

However, the relevant Customs Administration shall authorize the realization of the importation concerned if the following percentage amounts of tax are posted as a guarantee:

- a) For imports to be made by the firms holding a Class A approved person status certificate under a domestic processing authorization certificate/domestic processing authorization, 1% of the tax arising from such imports.
- b) For imports to be made by the firms holding a Class B approved person status certificate under a domestic processing authorization certificate/domestic processing authorization, 5% of the tax arising from such imports.
- c) For imports to be made by the firms holding a Class C approved person status certificate under a domestic processing authorization certificate/domestic processing authorization, 10% of the tax arising from such imports.
- d) For imports to be made under a domestic processing authorization certificate/domestic processing authorization by the foreign trade share-capital companies and sectoral foreign trade companies not holding an approved person status certificate in an amount equal to the exports effected by them during the calendar year prior to the application date of the certificate/authorization, 10% of the tax arising from such imports.
- e) For imports to be made under a domestic processing authorization certificate/domestic processing authorization by the manufacturer-exporters in an amount equal to the exports realized by them under a domestic processing authorization certificate issued within four years prior to the application date of the certificate/authorization and whose export commitment has been closed, or under a domestic processing authorization issued after the publication date of this Resolution, which amount to minimum 1 (one) million US Dollars in total in the case of industrial products and minimum 500 (five hundred) thousand US Dollars in total in the case of agricultural and processed agricultural products; 10% of the tax arising from such imports.
- f) For imports to be made under a domestic processing authorization certificate/domestic processing authorization by the exporters whose exports during the last three calendar years exceed 5 (five) million US Dollars for each year or during the last five calendar years exceed 1 (one) million US Dollars for each year, in an amount equal to the exports realized by them under a domestic processing authorization certificate issued within four years prior to the application date of the certificate/authorization and whose export commitment has been closed, or under a domestic processing authorization issued after the publication date of this Resolution, which amount to minimum 1 (one) million US Dollars in total in the case of industrial products and minimum 500 (five hundred) thousand US Dollars in total in the case of agricultural and processed agricultural products; 10% of the tax arising from such imports.

The procedures and principles concerning the calculation of reduced guarantee shall be set forth in a Communiqué to be published on the basis of this Resolution.

Following the submission of documents evidencing the exportation of the product domestically processed under the domestic processing authorization certificate in accordance with the provisions of the

Communiqué to be published on the basis of this Resolution, the relevant Customs Administration shall authorize the importation upon posting of a guarantee in an amount equal to 10% of the tax related to the goods used in obtaining said product.

Any public claims that might arise due the application of reduced guarantee (including the amounts to the public institutions and establishments effecting the domestic deliveries) shall be collected from the firms concerned in accordance with the provisions of Law No. 6183 Concerning the Procedure of Collection of Public Claims. Furthermore, any amounts due to the firms from said public entities shall be treated as a guarantee.

The rate of guarantee applicable to the imports to be made under the conditional tax immunity system may be increased by the Undersecretariat (General Directorate of Exports) up to 2 (two) times of the tax arising from such imports.

Processing of Products Outside Turkey's Customs Area or in the Free Zones

Article 7 — Authorization may be granted for temporary exportation, of the whole or a part of the processed product or unaltered goods covered under the Conditional Tax Immunity System to outside Turkey's Customs Area or to the Free Zones, for processing at a more advanced level in accordance with the provisions of External Processing Regime. Authorization shall be granted for re-importation of products so processed, against posting of a guarantee in an amount equal to the amount of tax required to be collected according to the provisions of External Processing Regime.

System of Tax Refund

Article 8 — The tax refund system involves the refunding of the tax (excluding the value added tax and special consumption tax related to the operating supplies) collected during importation when the processed product obtained by using the raw materials, auxiliary materials, semi-finished products, finished products, unaltered goods, packing materials and operating supplies entered into free movement under the domestic processing authorization certificate/domestic processing authorization is exported.

But, the importation of raw materials, auxiliary materials, semi-finished products, finished products and unaltered goods to be used in obtaining the processed products to be exported to the member countries of European Community along with an A.TR Movement Certificate may be authorized only if the Customs duty, and mass housing fund payment, if any, applicable to said commodities are collected and any other applicable taxes are covered by posting a guarantee.

Furthermore, the importation of raw materials, auxiliary materials, semi-finished products, finished products and unaltered goods to be used in obtaining the processed products to be exported to the member countries of European Community, to the countries that are party to the Pan-European Community, to the countries that are party to the Pan-European Cumulation of Origin, or to a country that have signed a Free Trade Agreement, along with applicable origin Evidencing Certificates, may be imported if the Customs duty and the mass housing fund, if any, applicable to such commodities are collected and any other applicable taxes are covered by posting a guarantee.

In order that the firms may take advantage of this system, they must obtain a Domestic Processing Authorization Certificate/Domestic Processing Authorization and the Customs Administration must enter a statement in the Customs Declaration related to the Certificate/Authorization during importation indicating that the goods involved fall under the scope of Tax Refund System. Besides this, the information pertaining to the Domestic Authorization Certificate shall be entered in the Customs Declaration, and a copy of the Certificate shall be attached to the Customs Declaration.

Except the importation of agricultural products whose country of origin is a member of the Community, the following goods may not take advantage of the Tax Refund System:

- a) Those whose importation is subject to quantity restrictions,
- b) Those that can take advantage of arrangements involving preferential tariffs or special conditional immunity measures,
- c) Those that are subject to import taxes in accordance with current agricultural policy or special arrangements concerning agricultural products, and

- d) Those processed products that are subject to monetary export refund at the time of acceptance of declaration of entry into free movement for imported goods.

Furthermore, in the following cases, the exports made may not take advantage of Tax Refund System:

- a) Provided that the provision of second Paragraph of this Article is reserved, the exportation of processed products manufactured using goods of third country origin along with an A. TR-Movement Certificate,
- b) Provided that the provision of third Paragraph of this Article is reserved, the exportation of processed products manufactured using goods of third country origin to the member countries of Community along with the Origin-evidencing Certificates,
- c) Provided that the provision of third Paragraph of this Article is reserved, the exportation of processed products manufactured using goods whose country of origin is not the signatory country of a Free Trade Agreement made with Turkey, to that signatory country along with the Origin-evidencing Certificates,
- d) Provided that the provision of third Paragraph of this Article is reserved, the Exportation of processed products included under the Cumulation and manufactured using goods whose country of origin is not a country which is party to the Pan-European Cumulation of origin, to the countries party to the Cumulation along with the Origin-evidencing Certificates, and
- e) The exportation of processed products manufactured using goods in free movement to the free zones (except the sales made from free zones to a country other than those specified in Subparagraphs (a) through (d) within 3 (three) months following the date of expiry of the Certificate/Authorization).

SECTION III

GENERAL PROVISIONS

Evaluation of Applications and Issuance of Certificate/Authorization

Article 9 — In order to take advantage of Domestic Processing Regime, the firms residing in Turkey's Customs Area (excluding the Free Zones) must obtain a Domestic Processing Certificate/Authorization in accordance with the provisions of Communiqué to be published pursuant to this Resolution. The information and documents to be submitted within this framework shall be deemed to be correct unless otherwise proven.

Applications made to obtain a Domestic Processing Authorization Certificate/Authorization shall be evaluated on the basis of following criteria:

- a) If should be possible to determine that the imports were used in the manufacture of processed products,
- b) The basic economic interests of manufacturers in Turkey's Customs Area (excluding the Free Zones) and the image of Turkish products should not be adversely affected,
- c) The processing operation should not only create added value and enhance capacity utilization but should also create conditions conducive to enhancing the competitive power and export potential, of processed product, and
- d) The performance of firms under the Domestic Processing Authorization Certificate/Authorization.

As a result of evaluation to be made according to the criteria stated in the second Paragraph above, the Customs Tariff Position based on at least 8 (eight) digits of import goods and processed product (primary and auxiliary processed products), its name, its quantity to be determined according to the rate of productivity, its value, the term of Certificate/Authorization, the foreign-exchange utilization rate and the side manufacturer, if any, shall be determined, and then either a Domestic Processing Authorization Certificate/Domestic Processing Authorization on project basis shall be furnished or the request shall be rejected.

By taking into consideration whether or not the goods concerned can be procured from domestic market from the standpoint of price, market availability and quality, restrictions with no time limit or of

periodic nature may be imposed on partial or total importation of goods under a Domestic Processing Certificate (excluding domestic purchases).

The cases which may not take advantage of Domestic Processing Regime shall be set forth in a Communiqué to be published pursuant to this Resolution.

The requirement related to foreign-exchange utilization rate shall not apply to transactions to be carried out under a Domestic Processing Authorization or under the Domestic Processing Authorization Certificates related to the imports with waiver to be defined in a Communiqué to be published pursuant to this Resolution.

The foreign-exchange utilization rate under a Domestic Processing Authorization Certificate shall be maximum 80%. Nevertheless, in the case of certificates involving auxiliary processed agricultural products, this rate may be determined as maximum 100%.

The import of unaltered goods may be authorized up to maximum 1% of export commitment made under a Domestic Processing Authorization Certificate/Domestic Processing Authorization. The value of operating supplies to be authorized for importation under a Certificate/Authorization may not exceed 2% of the export commitment. However, for Certificates/Authorizations involving export commitment related to natural stones or to precious minerals and stones, this rate may be determined as a figure up to 10 %.

Duration of Domestic Processing Authorization Certificates/Authorizations, and Extensions

Article 10 — The term of a Domestic Processing Authorization Certificate/Domestic Processing Authorization may be maximum 12 (twelve) months depending on the sector involved.

However, the term of Certificates/Authorizations issued for export of services and/or products of specific nature as to be defined in a Communiqué to be issued pursuant to this Resolution may be as long as the duration of the project.

The date of a Domestic Processing Authorization Certificate/Domestic Processing Authorization shall be taken as the beginning of the term of that Certificate/Authorization, while the end of the term shall be the last day of the month in which the term of Certificate/Authorization (including any extensions and additional periods granted pursuant to justified reasons, force major events and extraordinary circumstances) expires.

The term of a Domestic Authorization Certificate may be extended for a maximum period of 3 (three) months by taking the date on which the first importation under the Certificate was made as a basis.

Justified Reasons, Force Majeure Events and Extraordinary Circumstances

Article 11 – If the cases of justified reasons, force major events and extraordinary circumstances to be specified in the Communiqué to be published pursuant to this Resolution occur within the term of the Certificate/Authorization, then an extension may be granted to the Domestic Processing Authorization Certificate/Domestic Processing Authorization concerned. The length of extension to be granted to the Certificate/Authorization on the basis of justified reasons, force major events and extraordinary circumstances shall be determined according to the length of cases of justified reason, force major event or extraordinary circumstance.

The procedures and principles concerning the cases where, on account of force major events or extraordinary circumstances, an export commitment would not be required under a Domestic Processing Authorization Certificate/Domestic Processing Authorization or where a new importation would be authorized under such conditions as well as concerning the transfer of imported goods to a Certificate/Authorization issued in the name of another firm meeting the conditions to take advantage of Domestic Processing Regime shall be set forth in a Communiqué to be issued pursuant to this resolution.

The amount of guarantee to be collected under the Certificate/Authorization within the extension to be granted on account of a justified reason under Conditional Immunity System may be increased up to two (2) fold.

Revision of Certificate/Authorization

Article 12 – The Domestic Processing Authorization Certificate/Domestic Processing Authorization may be revised in accordance with the provisions of Communiqué to be issued pursuant to this Resolution, upon application of relevant firm together with submission of required information and documents.

Realization of Exports

Article 13 — The realization of exports shall mean the export of processed product whose exportation has been committed under a Domestic Processing Authorization/Certificate/Domestic Processing Authorization to outside the Customs Area or to the free zones, in accordance with the provisions of this Resolution and Customs Legislation.

However, provided that evidence is presented to indicate that the product exported to free zones within the term of the Certificate/Authorization in accordance with the conditional immunity system pursuant to the provision of first Paragraph above was sold from the free zones to another country within 3 (three) months following the expiry of the term of Certificate/Authorization or was imported into Turkey's Customs Area under another Certificate/Authorization, then the export commitment of relevant Certificate/Authorization shall be closed.

Furthermore, provided that evidence is presented to indicate that the product exported to the free zones within the term of Certificate/Authorization in accordance with the tax refund system pursuant to the provision of first Paragraph above was sold from the free zones to another country within 3 (three) months following the expiry of the term of Certificate/Authorization, then the export commitment of relevant Certificate/Authorization shall be closed.

The principles concerning the bringing of export payment into Turkey shall be subject to the provisions of Exchange Legislation. The export payments may be brought either as foreign exchange or in terms of goods. If, however, the export payments are brought in terms of goods, such goods shall be subject to the provisions of Foreign Trade Legislation.

Transaction to be Performed by Customs Administration

Article 14 – The transactions to be performed by the Customs Administration under a Domestic Processing Authorization Certificate/Domestic Processing Authorization shall be realized in accordance with the provisions of this Resolution, the Communiqués, Circulars and Instructions to be published pursuant to this Resolution as well as in accordance with the matters specified in the special conditions of the Certificate and the provisions of Export Regime and Customs Legislation.

Goods Subject to Measures of Supervision and Protection

Article 15 – In order that goods whose importation under a Domestic Processing Authorization Certificate/Domestic Processing Authorization is subject to the measures of supervision and protection may enter into free movement, the measures of supervision and protection in force on the date of importation must be followed.

In the contrary case, the processed product manufactured using said goods must either be exported to third countries or exterminated under the supervision of the Customs Administration.

But, if the goods used in the manufacture of processed product exported to the member countries of European Community under a Domestic Processing Authorization Certificate/Domestic Processing Authorization along with an A.TR-Movement Certificate are not subject to the measures of supervision and protection in such countries, then no measures of supervision and protection shall be applicable to such goods.

Payment of Levies

Article 16 – In the export of industrial products covered under the Conditional Immunity System to the member countries of European Community along with an A.Tr-Movement Certificate, the taxes pertaining to the raw materials, auxiliary materials, semi-finished products, finished products and unaltered goods of third country origin used in obtaining the processed product shall be paid provided that the favorable provisions of agreements made with the countries of origin are reserved. However, if the tax is higher than the tax applicable to same import goods in the Community, then the tax applicable in the Community shall be paid.

In the export of processed agricultural products included under the Conditional Immunity System to the member countries of European Community along with an A.TR-Movement Certificate, if any industrial product of third country origin was used in obtaining such products, then the tax pertaining to that product, while if any processed agricultural product was used, the tax corresponding to the share of industry in that product shall be paid.

Provided that the rule of origin defined in the agreement is met and an Origin-evidencing Certificate is issued in the exports of agricultural products made under the conditional immunity system to a member country of European Community except the export of live animals born and raised in Turkey and the products obtained through hunting and fishing activities, including the products, obtained from them, the tax pertaining to the raw materials, auxiliary materials, semi-finished products finished products and unaltered goods of third country origin which were used in the manufacture of such products shall be paid. If, however, the amount of said tax is higher than the amount of tax applicable in the Community for the same import goods, then the tax applicable in the Community shall be paid.

Provided that the rule of origin defined in the Agreement is met and an Origin-evidencing Certificate is issued, in exports made under the conditional immunity system to a country which has signed a Free Trade Agreement with Turkey, except the export of live animals born and raised in Turkey and the products obtained through hunting and fishing activities, including the products obtained from them, the tax pertaining to the raw materials, auxiliary materials, semi-finished products, finished products and unaltered goods used in the manufacture of processed products and whose origin does not belong to such country shall be paid, provided that the favorable provisions of applicable Agreement are reserved. But in cases where the processed product included under the Cumulation and obtained using the goods imported from the countries that are party to the Pan-European Cumulation of Origin along with the Origin-evidencing Certificates or supplier's declaration is reexported to a country party to the Cumulation along with Origin-evidencing Certificates or supplier's declaration, then the relevant Customs Administration shall authorize the exportation without requiring the payment of tax at the rate specified in the Export Regime.

If the products exported to free zones under the conditional immunity system are sold, within three (3) months following the expiry of duration of the certificate/authorization, from the free zones to the member countries of European Community along with an A.TR movement certificate, or to the member countries of European Community, to the countries party to Pan-European Cumulation or to a country which has signed a Free Trade Agreement with Turkey, then the payment of levies in accordance with the provisions of first, second, third and fourth paragraphs shall be required.

The taxes required to be paid pursuant to the provisions of this Article, including those pertaining to the sales realized from the free zones, shall be calculated on the basis of foreign exchange selling rate announced by the Central Bank of Turkey on the date of registration of Customs Declaration related to the exports made and the rate of Customs duty on that date as stipulated in the Import Regime, and the mass housing fund payment, if any, and shall be paid during exportation. However, in cases where a pre-exportation realized under the Certificate is followed by importation, said taxes shall be calculated on the basis of foreign exchange selling rate announced by the Central Bank of Turkey on the date of registration of Customs Declaration related to the pre-exportation and the rate of Customs duty on that date as stipulated in the Import Regime and the mass housing fund payment, if any, and shall be paid during the importation related to the pre-exportation. The levies so calculated shall be posted as a revenue for the budget.

The determination of goods subject to taxation and which were used in the manufacture of processed products shall be based on the firm's declaration. If anything contrary to said declaration is later established, any levies unpaid or paid in short shall be collected as of the date of payment specified in the sixth Paragraph, Collection of Public Claims in accordance with the provisions of Law No.6183 Concerning the Procedure of Collection of Public Claims.

All kinds of war vehicles, tools, equipment, machinery, devices and systems as well the spare parts used in their manufacture, maintenance and repair, which were produced using the goods of a third country origin and exported to the member countries of European Community, shall be exempt from the payment of levies stipulated in this Article.

Refunding of Taxes

Article 17 – Any taxes paid but should not have been paid under a Domestic Processing Authorization Certificate/Domestic Processing Authorization shall be refunded in cash in accordance with provisions of Customs Law no. 114458 and Value Added No. 3065 Tax Law upon application of the firm concerned.

Partial Return of Guarantees

Article 18 – In cases where the processed products obtained from the goods imported under the Conditional Immunity System are exported, the guarantees posted by the firms during importation shall be returned in proportion to the exports realized, upon application of the firm concerned within the term of validity of the Certificate/Authorization. In no case, however, the amount of guarantees returned may exceed 90% of the total amount of taxes required to be collected under the Certificate/Authorization.

Closing of Export Commitment

Article 19 – The firms holding a Domestic Processing Authorization Certificate/Domestic Processing Authorization must make an application in accordance with the provisions of the Communiqué to be published pursuant to this Resolution, for closing the export commitment of the Certificate/Authorization. Otherwise, the Certificate/Authorization shall be closed ex officio by application of relevant sanction.

The export commitment of a Domestic Processing Authorization Certificate/Domestic Processing Authorization shall be closed in accordance with the provisions of Domestic Processing Regime by taking also the requirements specified in the Certificate/Authorization, provided that the evidence is presented to show that the processed products obtained from the equivalent and/or import goods and the unaltered goods were exported.

The export commitment of the Domestic Processing Authorization Certificate/Domestic Processing Authorization shall be closed by the exportation realized by the firm holding the Certificate/Authorization and/or the intermediary exporting firm. The Undersecretariat, however, may introduce some restrictions regarding the employment of an intermediary exporter.

The goods imported under the Conditional/Immunity System may enter into free movement in accordance with the provisions of first Paragraph of Article 114 and Article 207 of Customs Law No. 4458, provided that relevant trade policy measures are exercised, the goods are seen and examined in their places by the Customs Administration, all other procedures concerning the importation of the goods involved, including the legislation concerning the technical regulatory arrangements and standardization in foreign trade, are completed and all the legally required taxes are collected within the term of validity of the Certificate/Authorization. In this case, the requirement regarding the realization of exportation corresponding to the goods that have entered into free movement shall not apply.

In cases where the goods imported or processed under a Domestic Processing Authorization Certificate/Domestic Processing Authorization were exterminated under the supervision of Customs Administration, left at the Customs or returned to their origin, then the realization of exportation corresponding to such goods shall not be required.

Where the auxiliary processed products obtained from the goods imported under a Domestic Processing Authorization Certificate/Domestic Processing Authorization were exterminated under the supervision of Customs Administrations pursuant to Customs legislation, left at the Customs, delivered to the Customs with the effect of exit or imported according to the provisions of Entry into Free Movement Regime, prior to the closing of export commitment of the Certificate/Authorization, then the realization of export of such products shall not be required. The procedures and principles concerning the import of

auxiliary processed products according to the Entry into Free Movement Regime shall be set forth in a Communiqué to be published pursuant to this Resolution.

The procedures and principles concerning the actions to be taken in cases where the processed products committed to be exported under a Domestic Processing Authorization Certificate are delivered in Turkey to the firms holding that Certificate or where the goods exported under the Certificate/Authorization are returned by their consignee shall be set forth in a Communiqué to be published pursuant to this Resolution.

Following the closing of export commitment, the guarantee or taxes collected under the Domestic Processing Authorization Certificate/Domestic Processing Authorization shall be returned to the firm concerned, in accordance with the procedures and principles to be set forth in a Communiqué to be published pursuant to this Resolution.

Failure to Realize Exportation

Article 20- Provided that the provisions of Article 15 of this Resolution are reserved, the taxes not collected for the goods which were imported under the Conditional Immunity System but whose exportation as processed products was not realized in accordance with the requirements of the Certificate/Authorization to outside the Turkish Customs Area or to the free zones within the term of validity of Certificate/Authorization (where they were not sold from the free zones to a another country within three (3) months following the expiry of the term of the Certificate/Authorization) shall be collected in accordance with the provisions of Article 22. The provisions of Article 22, however, shall not apply if the goods exported to the free zones as provided above were then imported to the Turkish Customs Area under another Certificate/Authorization within three (3) months following the expiry of the term of the previous Certificate/Authorization.

The tax collected from the goods imported under the refund system but whose exportation in the form as processed products was not realized to outside the Turkish Customs Area or to the free zones within the term of the Certificate/Authorization (if not sold from the free zones to another country within three (3) months following the expiry of the term of Certificate/Authorization) in accordance with the requirements set out in the Certificate/Authorization, shall not be returned.

Provided that the provision of the sixth Paragraph of Article 19 of this Resolution is reserved, if the exportation of auxiliary processed goods was not realized, a document evidencing the payment to relevant Tax Administration the tax to be calculated on the basis of the exchange rate and the rate of tax valid on the date of registration of the Customs Declaration related to the import goods concerned or the exchange rate and the rate of tax valid on the date of registration of Customs declaration related to the auxiliary processed products entered into free movement in the proportion of the exported part of the primary processed products shall be required. Otherwise, necessary action pursuant to the provisions of Article 22 shall be taken.

The tax not previously collected from the goods imported with the purpose of exportation as processed products to the member countries of European Community along with an A.Tr. – Movement Certificate or to the member countries of European Community, to the countries party to the Pan-European Origin Cumulation or to a country that has signed a Free Trade Agreement with Turkey along with an Origin-evidencing Certificate, under a Domestic Processing Authorization Certificate/Domestic Processing Authorization issued in accordance with the Refund System, shall be collected according to the provisions of Article 22.

Cancellation of Certificate

Article 21 – An Unutilized Domestic Processing Authorization Certificate shall be canceled by the Undersecretariat upon application of relevant firm.

A Domestic Processing Authorization Certificate shall be canceled by the Undersecretariat also in cases where it is established that the provisions of this Resolution as well as the Communiqués and Circulars to be issued pursuant to this Resolution have not been observed, that the information and documents submitted for the insurance or revision of the Domestic Processing Authorization Certificate/Domestic Processing Authorization and the transactions carried out under the Certificate/Authorization were not true or not reflecting the facts or that take Certificates/Authorizations were issued or alterations were made on the

Certificate/Authorization, followed by legal action to be started against those concerned. Furthermore, no guarantee with reduced amount shall not be applicable to the domestic Processing Authorization Certificates/Domestic Processing Authorizations of the firms concerned (including the firms named as side manufacturer on the Certificate of another firm) for a period of one year.

Necessary action shall be taken pursuant to the provisions of Article 22 with regard to any Certificate/Authorization so canceled.

Failure to Observe the Domestic Processing Measures

Article 22 – The following taxes shall be collected as of the date of importation, pursuant to the provisions of Customs Law No. 4458 and the Law No. 6183 Concerning the Procedure for Collection of Public Claims from those not complying with the Domestic Processing Measures in accordance with the principles and conditions specified in the Domestic Processing Regime and in the Certificate/Authorization. In addition for the goods imported but whose importation was not realized within the prescribed term, a fine amounting to two (2) - fold of the Customs duties involved shall be collected, in accordance with the provision of Article 238 of Law No. 4458,

- a) The tax not collected during the import of goods which were imported under the Conditional Immunity System and whose export to outside the Turkish Customs Area, or to the free zones on condition that they would be sold to another country within three (3) months following the expiry of the term of the Certificate/Authorization, within the term of the Certificate/Authorization, as well as the goods which were not brought to the Turkish Customs Area and which exported to the free zones within the term of the Certificate/Authorization on condition that they would be imported under another Certificate/Authorization within three (3) months following the expiry of the term of the Certificate/Authorization,
- b) In the case of any importation made in excess of the amount allowed under the Certificate/Authorization, the tax arising in connection with such excess amount,
- c) If the foreign-exchange utilization rate exceeds 80% (100% for the Certificates involving the commitment of auxiliary processed agricultural products) even if the goods imported under the Certificate were totally used in obtaining the exported processed products, the tax not collected in connection with the importation made in excess of that rate,
- d) If the CIF import price of operating supplies imported under the Certificate/Authorization is 2% (10% for the Certificates involving a commitment of exportation of natural stones and precious minerals and stones) more than the FOB export price realized, the tax not collected in connection with the importation made in excess of that rate,
- e) If the CIF import price of unaltered goods imported under the Certificate/Authorization is more than 1% of the FOB export price realized, the tax not collected in connection with the importation made in excess of that rate,
- f) The tax not collected in connection with the goods that were imported with the purpose of exportation as processed products to the member countries of European Community along with an A.Tr-Movement Certificate or to the member countries of European Community, to the countries party to the Pan-European Origin Cumulation or to a country that has signed a Free Trade Agreement with Turkey along with an Origin-evidencing Certificate, under a Domestic Processing Authorization Certificate/Domestic Processing Authorization issued in accordance with the Refund System, but whose exportation was not realized within the prescribed term,
- g) In the case of cancellation of the Domestic Processing Authorization Certificate/Domestic Processing Authorization, the tax, if any, not collected, under the Certificate/Authorization, and
- h) In the case of closing, ex officio, of the Domestic Processing Authorization Certificate/Domestic Processing Authorization, the tax, if any, not collected under the Certificate/Authorization.

If it is requested that the goods whose taxes and fines were paid in accordance with the provisions of first Paragraph be subjected to the Free Movement Entry Regime, the requirements concerning the exercising of trade policy measures and the completion of all other procedures including the legislation covering the technical arrangement and standardization contemplated for foreign trade must be fulfilled. Otherwise, such goods must be subjected to a process or use approved by the Customs, other than the Free Movement Entry Regime.

Misuse of Rights Granted in Connection with Domestic Processing Regime

Article 23 – If the results of examinations and investigations carried out by the supervising units of the Undersecretariat and other public institutions and organizations and by the Undersecretariat of Customs reveal that a Customs Declaration and the documents attached to it are false or fraudulently altered or not genuine or do not reflect the truth:

- a) That Customs Declaration may not be used in the closing of the export commitment of the Domestic Processing Authorization Certificate/Domestic Processing Authorization involved.
- b) If it was used or presented for use in the closing of the export commitment, then the tax related to the importation corresponding to the exportation made under that declaration shall be collected in accordance with the provisions of Article 22 of this Resolution, and legal action shall be started on those concerned.
- c) No reduced guarantee shall be granted for a period of one (1) year to the Domestic Processing Authorization Certificates/Domestic Processing Authorizations belonging to the firm and/or intermediary exporter holding the Certificate/Authorization registered under that Customs Declaration (including the firms shown as a side manufacturer in the Certificate of another firm). The intermediary exporter involved in this event shall be jointly and severally responsible, together with the firm holding the Certificate/Authorization, for the tax not collected during the importation of the goods used in obtaining the processed products registered in the Customs Declaration concerned.

However, provided that the fraudulent alteration on the Customs Declaration and on the documents attached to it is established not to be made, as based on a final Court decision, by the firm holding the Certificate/Authorization, and that such alteration did not provide any benefit to the firm within the frame of Domestic Processing Regime and that the exportation was actually made, then the provision of first Paragraph shall not apply.

Inspection

Article 24 — All public institutions and organizations and all banks shall effect the implementation of the Domestic Processing Measures in accordance with the principles and conditions specified in the Domestic Processing Regime and in the Certificate/Authorization. The Undersecretariat may carry out any and all inspections and devise all arrangements concerning the implementation of the measures specified in this Resolution, may request information and documents from the public institutions and organizations and the banks concerned, and may take all necessary measures.

SECTION IV**MISCELLANEOUS PROVISIONS****Implementation**

Article 25 – The Domestic Processing Authorization Certificates/Domestic Processing Authorizations issued pursuant to the Resolution in force prior to the date of publication of this Resolution shall be governed by the provisions of their respective legislation. The favorable provisions of this Resolution shall be applicable to the Domestic Processing Authorization Certificates/Domestic Processing Authorizations whose export commitment has not been closed yet.

Authorization

Article 26 – Based on the provisions of this Resolution, the Undersecretariat shall be authorized to issue communiqués and circulars concerning the principles and procedures relevant to the Domestic Processing Regime, to grant authorizations, to give instructions, to examine and finalize any special and urging cases, and to settle any disputes to arise in the implementation by means of administrative procedures and actions.

All procedures to be performed pursuant to the provisions of this resolution may be effected in accordance with the provisions of the Communiqué to be published pursuant to this Resolution, using the computer and data processing techniques.

The Undersecretariat (Director of Foreign Trade) shall be further authorized to revoke the procedures related to the closing of export commitment of a Domestic Processing Authorization Certificate, its cancellation or its closing ex officio (provided that the collection of relevant sanction is found not to have been realized). Whereas, the Undersecretariat of Customs shall be authorized to revoke the procedures related to the closing of export commitment of a Domestic Processing Authorization, its cancellation or its closing ex officio (provided that the collection of relevant sanction is found not to have been realized).

The Undersecretariat shall be authorized to issue Communiqués, circulars and make arrangements with the purpose of facilitating the implementation of the provisions of Domestic Processing Regime with regard to the persons holding an Approved Person Status Certificate, in accordance with the provisions of Customs Legislation.

The duties and powers related to the revision of Domestic Processing Authorization Certificates and the closing of the commitment accounts may be exercised by the Undersecretariat, but the Undersecretariat may transfer them, partly or wholly, to the General Secretariats of other public institution and/or Exporters Associations through a Communiqué to be published pursuant to this Resolution.

Interim Article 1 – The export commitments of Domestic Processing Authorization Certificates issued prior to the date of publication of this Resolution (including the Certificates to which a sanction was applied but whose taxes were not collected) shall be closed provided that the taxes related to the goods procured from domestic market under said Certificates but whose exportation was not realized within the prescribed term are collected in accordance with the provisions of Law No. 6183 Concerning the Procedure of Collection of Public Claims.

Interim Article 2 – The export commitments of Domestic Processing Authorization Certificates/Export Incentives Certificates issued prior to the date of publication of this resolution and whose terms have expired may be closed with the Customs Declarations containing the trade name of a side manufacturer.

Furthermore, such Customs Declarations may be counted for export commitments provided that the delivery of the processed products concerned whose exportation was committed under a Domestic Processing Authorization Certificate/Export Incentives Certificate issued prior to the date of publication of this Resolution and whose term has expired, to another firm by the firm and/or side manufacturer holding the Certificate is evidenced by the report of a certified financial consultant and that their exportation by that firm and/or intermediary exporter is also established.

Interim Article 3 – The export commitments of Domestic Processing Authorization Certificates/Domestic Processing Authorizations issued prior to the date of publication of this Resolution and whose terms have expired, which belong to the firms that have exported the processed products obtained from the goods imported under Domestic Processing Regime and subject to the measures of supervision and protection to the member countries of European Community along with an A.TR- Movement Certificate but do not hold an import license and/or supervision certificate related to such goods (including those issued in the name of side manufacturer or intermediary exporter), shall be closed in accordance with the provisions of applicable legislation without requiring the import licenses and/or supervision certificates related to said goods, provided that all other conditions are fulfilled.

Interim Article 4 – The export commitment of Domestic Processing Authorization Certificates Belonging to the same firm, which were issued prior to the date of publication of this Resolution and whose terms expired latest on 31 December 2004, may be closed together provided that the terms of certificates overlap each other.

Interim Article 5 – An extension of 18 months starting from the date of publication of this Resolution shall be granted to the Domestic Processing Authorization Certificates/Domestic Processing Authorizations (including the Certificates/Authorizations to which a sanction was applied but whose taxes were not collected) issued prior to the date of publication of this resolution in the name of debtors whose debts have been restructured and put under a new redemption plan according to the financial restructuring agreements prepared within the frame of Law No. 4743 dated 30 January 2002 and the agreements made with the Savings Deposit Account Insurance Fund. An additional extension may also be granted in accordance with the provisions of the Communiqué to be published on the basis of this Resolution, by taking into consideration the export performance shown under the Certificate/Authorization concerned.

The export commitments of Domestic Processing Authorization Certificates/Domestic Processing Authorizations granted an extension as stated above may be closed by the exports to be made by the debtors or codebtor and joint guarantors named in the agreement made with the firm or group firms holding the Certificate/Authorization or with the Savings Deposit Account Insurance Fund.

Interim Article 6 – The favorable provisions of this Resolution shall apply to the Domestic Processing Authorization Certificates/Domestic Processing Authorizations whose export commitments have not been closed yet, disregarding the dates of application specified in the respective legislations of the Certificate/Authorization concerned and in this Resolution.

Interim Article 7 – The extensions granted to the Domestic Processing Authorization Certificates in accordance with the Resolution attached to Decree No. 2003/5548 dated 25 April 2003, published in Official Gazette No. 25107 dated 13 May 2003, with the purpose of realization of export commitment, shall be taken and accepted as the term of the Certificate concerned.

Interim Article 8 – In cases where the rate of 10 % (90 % foreign-exchange utilization rate) specified in Article 9 of this Resolution is exceeded for the raw materials and semi-finished and finished products which could not be procured domestically under the Domestic Processing Authorization Certificates issued prior to the date of publication of this Resolution, the export commitment may be closed provided that the imported goods are established to have been exported as processed products and it is approved by the Undersecretariat.

Interim Article 9 – The export commitments of Domestic Processing Authorization Certificates related to special invoices (including the Certificates to which a sanction was applied but whose taxes were not collected), which were registered prior to the date of publication of this Resolution, by the Customs Administrations not authorized to issue special invoices, but could not be counted for export commitment because no confirmation could be obtained from said Administrations, shall be closed with exports to be made within six (6) months following the date of publication of this Resolution. Any exports to be realized between the end of the term of the Certificate and the date of publication of this Resolution shall also be counted for the export commitment of the Certificate involved.

Interim Article 10 – Provided that evidence is presented to show that the processed products exported to a country that has signed a Free Trade Agreement with Turkey, along with Origin-evidencing Certificates, and under a Domestic Processing Authorization Certificate issued prior to the date of publication of this Resolution and whose term has expired were subsequently exported to another country without taking advantage of the Preferential Tariff application, then the payment of levies applicable to the raw materials, semi-finished products, finished products and unaltered goods used in obtaining such processed products shall not be required.

Interim Article 11 – Provided that the Customs Administration concerned establishes that the goods imported under Export Incentives Certificates having Code Numbers 1 and 2 and whose commitment accounts have not been closed were exported as processed products within the term of the Certificate and this information is communicated to the General Secretariat of relevant Exporters Association, the export commitments of said Certificates shall be closed ex officio by the General Secretariat of the Exporters Association, without application of any sanction to the imported goods corresponding to that exportation.

If the Customs Administration concerned established that the goods imported under the Export Incentives Certificates having Code Number 3 and whose commitment accounts have not been closed were exported as processed products within the term of the Certificate, then the export commitments of said Certificates shall be closed ex officio by that Customs Administration, without application of any sanction to the imported goods corresponding to that exportation.

Supplementary Article 1 – The “Guarantee Insurance” account kept at Türkiye İhracat Kredi Bankası (Türk Eximbank) shall be liquidated by relevant Customs Administrations by transferring the amount available in that account to the claims approved by the Undersecretariat of Customs, in order to cover the State loss claimed by making a reference to said account. Furthermore, following this liquidation process, the relevant Customs Administrations shall continue prosecution against relevant firms in accordance with the provisions of Law No. 6183 dated 21 July 1953 in order to cover the State loss involved, without having any applications directed to Türkiye İhracat Kredi Bankası A.Ş. for collecting of said public claims by making a reference to said account.

Provisions Rescinded

Article 27 – The Resolution attached to Decree No. 99/13819 dated 23 December 1999 is hereby rescinded together with its appendices and amendments.

Entry into Force

Article 28 – This Resolution shall enter into force on the date of its publication.

Enforcement

Article 29 – This Resolution shall be enforced by the Minister to whom the Undersecretariat of Foreign Trade reports.

DAHİLDE İŞLEME REJİMİ KARARI

BİRİNCİ BÖLÜM

27/01/2005 Tarih ve 25709 Sayılı Resmi Gazete

AMAÇ, KAPSAM VE TANIMLAR

Amaç

Madde 1- Bu Karar; Dünya piyasa fiyatlarından hammadde temin etmek suretiyle ihracatı artırmak, ihracat ürünlerine uluslararası piyasalarda rekabet gücü kazandırmak, ihracat pazarlarını geliştirmek ve ihracat ürünlerini çeşitlendirmek amacıyla hazırlanmıştır.

Kapsam

Madde 2- Bu Karar; elde edilmesinde ithal girdi kullanılan işlem görmüş ürünün ihracatı ile ihracat sayılan satış ve teslimlerin belirlenmesi, yönlendirilmesi ve geliştirilmesine ilişkin tedbirlerin düzenlenmesi ve yürütülmesini kapsar.

Tanımlar

Madde 3- Bu Kararda geçen;

Müsteşarlık: Dış Ticaret Müsteşarlığını,

Topluluk: Avrupa Topluluğunu,

Üçüncü Ülke: Avrupa Topluluğuna üye ülkeler dışındaki ülkeleri,

Serbest Bölgeler: Türkiye Gümrük Bölgesi üzerindeki serbest bölgeleri,

Serbest Dolaşımda Bulunan Eşya: 4458 sayılı Gümrük Kanununun 18 inci maddesi hükmüne göre tümüyle Türkiye Gümrük Bölgesinde elde edilen ve bünyesinde Türkiye Gümrük Bölgesi dışındaki ülke veya topraklardan ithal edilen girdileri bulundurmayan veya şartlı muafiyet düzenlemelerine tabi tutulan eşyadan elde edilen ve tabi olduğu rejim hükümleri uyarınca özel ekonomik önem taşımadığı tespit edilen veya Türkiye Gümrük Bölgesi dışındaki ülke veya topraklardan serbest dolaşıma giriş rejimine tabi tutularak ithal edilen veya Türkiye Gümrük Bölgesinde yukarıda belirtilen eşyadan ayrı ayrı veya birlikte elde edilen veya üretilen eşyayı,

İşleme Faaliyeti: Eşyanın montajı, kurulması ve diğer eşya ile birleştirilmesi dahil olmak üzere işçiliğe tabi tutulması, işlenmesi, yenilenmesi, düzenli hale getirilmesi dahil olmak üzere tamir edilmesi ile işleme sırasında tamamen veya kısmen tüketilse dahi işlem görmüş ürünün bünyesinde bulunmayan ancak, bu ürünün üretilmesini sağlayan veya kolaylaştıran önceden belirlenmiş bazı eşyanın kullanılmasını,

Elde Etmek: Eşyanın işleme faaliyetine tabi tutulmasını,

İşlem Görmüş Ürün: İşleme faaliyetleri sonucunda elde edilen asıl veya ikincil işlem görmüş ürünü,

Asıl İşlem Görmüş Ürün: Dahilde işleme rejimi kapsamında elde edilmesi amaçlanan ürünü,

İkincil İşlem Görmüş Ürün: İşleme faaliyetleri sonucunda elde edilen asıl işlem görmüş ürün dışındaki ürünü,

İthal Eşyası: İşlem görmüş ürünün elde edilmesinde kullanılan hammadde, yardımcı madde, yarı mamul, mamul ile işlem görmüş ürünün bünyesinde yer almamakla birlikte çalışmasını sağlayan madde (yakıt ve yağ dahil) ya da hizmetin devamını sağlayan madde (yedek parça, vb.), ambalaj ve işletme malzemesini,

İşletme Malzemesi: İhracı taahhüt edilen işlem görmüş ürünün elde edilmesinde kullanılan ancak ürünün bünyesinde yer almayan ve sabit tesislerin çalışabilir durumda olmasını temin eden (enerji ve yakıt hariç), yatırım malı makine ve teçhizat niteliğinde olmayan malzemeyi,

Değişmemiş Eşya: İşlem görmemiş ithal eşyasını,

Tarım Ürünleri: İthalat Rejimi Kararının ilgili listelerinde yer alan ve toprakta veya yeni üretim teknikleri ve teknolojileri kullanarak topraksız ortamda yetiştirilen bitkisel ürünler, hayvancılık, balıkçılık ile diğer su ürünleri ve bunların ilk işleme tabi tutulmuş şekillerini,

İşlenmiş Tarım Ürünleri: İthalat Rejimi Kararının ilgili listesinde yer alan ve bünyesinde temel tarım ürünlerini (hububat, şeker ve süt) bulunduran ürünleri,

Sanayi Ürünleri: Tarım ürünleri ve işlenmiş tarım ürünleri dışındaki tüm ürünleri,

Fire: İşleme faaliyetleri sırasında özellikle kuruma, buharlaşma, sızma veya gaz kaçağı şeklinde yitirilen ve imha olan kısım ile ekonomik değeri olmayan atıkları,

Verimlilik Oranı: Belirli miktardaki eşyanın işlenmesi sonucunda elde edilen işlem görmüş ürünün miktarı veya yüzde oranını,

Döviz Kullanım Oranı: Dahilde işleme izin belgesi/dahilde işleme izni kapsamındaki CIF ithal (yurt içi alımlar hariç) tutarının FOB ihrac tutarına olan yüzde oranını,

Önceden İthalat: İşlem görmüş ürünün ihracından önce bu ürünün elde edilmesinde kullanılacak eşyanın ithalini,

Önceden İhracat: İthal eşyasının şartlı muafiyet sisteminde ithal edilmesinden önce, eşdeğer eşyadan elde edilmiş işlem görmüş ürünün ihrac edilmesini,

Eşdeğer Eşya: İşlem görmüş ürünün elde edilmesinde ithal eşyasının yerine kullanılan ve ithal eşyası ile asgari 8 (sekiz)'li bazda gümrük tarife istatistik pozisyonu, ticari kalite ve teknik özellikleri itibarıyla aynı kalite ve nitelikleri taşıyan serbest dolaşımda bulunan eşyayı,

Ticaret Politikası Önlemleri: İthalat Rejimi Kararının 4 üncü maddesinde belirtilen mevzuat çerçevesinde alınan önlemleri,

Vergi: Eşyanın ithali ve ihracında tahsili öngörülen vergi, resim, harç, fon ve benzeri bütün mali yükleri,

Eşyanın Gümrükçe Onaylanmış Bir İşlem veya Kullanıma Tabi Tutulması: Eşyanın bir gümrük rejimine tabi tutulması, Türkiye Gümrük Bölgesi dışına yeniden ihracı veya serbest bölgelere ihracı, imhası veya gümrüğe terk edilmesini,

Gümrük Rejimi: Serbest dolaşıma giriş rejimi, transit rejimi, gümrük antrepo rejimi, dahilde işleme rejimi, gümrük kontrolü altında işleme rejimi, geçici ithalat rejimi, hariçte işleme rejimi veya ihracat rejimini,

Dahilde İşleme İzin Belgesi: İhracat ile ihracat sayılan satış ve teslimlerde gümrük muafiyetli ithalat ve/veya yurt içi alımlara imkan sağlayan Müsteşarlıkça düzenlenen belgeyi,

Belge: Dahilde işleme izin belgesini,

Belge Süresi: Dahilde işleme izin belgesi üzerinde kayıtlı bulunan ve belge kapsamında ithalat ve/veya ihracat işlemlerinin gerçekleştirileceği ve tüm istisnaların uygulanacağı dönemi,

Belge Süresi Sonu: Belge süresi bitiminin rastladığı ayın son gününü,

Dahilde İşleme İzni: İhraç amacıyla gümrük muafiyetli ithalata imkan sağlayan ve gümrük idaresince verilen izni,

İzin: Dahilde işleme iznini,

İzin Süresi: Dahilde işleme izni üzerinde kayıtlı bulunan ve izin kapsamında ithalat ve/veya ihracat işlemlerinin gerçekleştirilerek tüm istisnaların uygulanacağı dönemi,

İzin Süresi Sonu: İzin süresi bitiminin rastladığı ayın son gününü,

Onaylanmış Kişi Statü Belgesi: Gümrük mevzuatı çerçevesinde Gümrük Müsteşarlığınca verilen belgeyi,

A.TR Dolaşım Belgesi: Türkiye veya Toplulukta serbest dolaşımda bulunan eşyanın Katma Protokolde öngörülen tercihli rejimden yararlanabilmesini sağlamak üzere, ihracatçı ülke yetkili kuruluşlarınca düzenlenip gümrük idaresince vize edilen belgeyi,

Menşe İspat Belgeleri: Türkiye'nin taraf olduğu anlaşmalar çerçevesinde tercihli rejimden yararlanmak üzere ihracatçı ülke yetkili kuruluşlarınca düzenlenip gümrük idaresince vize edilen ve malın menşeyini belirleyen EUR.1 dolaşım sertifikası veya fatura beyanını,

Pan-Avrupa Menşe Kümülasyonu: Avrupa'da, aynı menşe kurallarını havi Serbest Ticaret Anlaşmaları ile birbirlerine bağlanmış ülkeler arasında oluşturulan ve taraf ülkeler menşeli eşya kullanılarak elde edilen işlem görmüş ürünün Kümülasyona tabi bir diğer ülkeye tercihli rejim kapsamında ithaline imkan sağlayan ticaret sistemini,

Tedarikçi Beyanı: A.TR dolaşım belgesi veya EUR.1 dolaşım sertifikası ile birlikte kullanılan ve Türkiye ile Topluluk arasında ticarete konu Pan-Avrupa Menşe Kümülasyonu kapsamı eşyanın menşeyini gösteren belgeyi,

İmalatçı-İhracatçı: İşlem görmüş ürünün tamamını veya bir kısmını üreten ve bu ürünün ihracatını kendisi ve/veya aracı ihracatçı vasıtasıyla gerçekleştiren dahilde işleme izin belgesi/dahilde işleme izni sahibi firmayı,

İhracatçı: Yan sanayici firmaya ithal eşyasından işlem görmüş ürün ürettiren ve bu ürünün ihracatını kendisi ve/veya aracı ihracatçı vasıtasıyla gerçekleştiren imalatçı olmayan dahilde işleme izin belgesi/dahilde işleme izni sahibi firmayı,

Yan Sanayici: Dahilde işleme izin belgesinde/dahilde işleme izninde taahhüt edilen ihracat ürününün tamamını ya da bir kısmını üreten, belgede/izinde kayıtlı ancak belge/izin sahibi olmayan firmayı,

Aracı İhracatçı: Dahilde işleme izin belgesinde/dahilde işleme izninde taahhüt edilen ihracatı, belge/izin sahibi firmadan tedarik ettiği şekliyle gerçekleştiren belge/izin sahibi olmayan firmayı,

ifade eder.

DAHİLDE İŞLEME TEDBİRLERİ

Dahilde İşleme Tedbirleri

Madde 4- Bu tedbirler:

- Şartlı Muafiyet Sistemi,
- Geri Ödeme Sistemi'nden oluşur.

Şartlı Muafiyet Sistemi

Madde 5- Şartlı muafiyet sistemi; dahilde işleme izin belgesi/dahilde işleme izni kapsamında ihracı taahhüt edilen işlem görmüş ürünün elde edilmesinde kullanılan ve serbest dolaşımda bulunmayan hammadde, yardımcı madde, yarı mamul, mamul ile değişmemiş eşya, ambalaj ve işletme malzemesinin, Türkiye Gümrük Bölgesinde (serbest bölgeler hariç) yerleşik firmalarca, ticaret politikası önlemlerine tabi tutulmaksızın, vergisi teminata bağlanmak suretiyle ithal edilmesi ve ihracat taahhüdünün gerçekleşmesini müteakip, alınan teminatın iade edilmesidir. Bu kapsamda yapılacak işletme malzemesi ithalatında, katma değer vergisi ve özel tüketim vergisi tahsil edilir ve ticaret politikası önlemleri uygulanır.

Dahilde işleme izin belgesi kapsamında işlem görmüş ürünün elde edilmesi için ithal eşyasının yerine eşdeğer eşya olarak, asgari 8 (sekiz)'li bazda gümrük tarife istatistik pozisyonu, ticari kalite ve teknik özellikleri itibarıyla aynı kalite ve nitelikleri taşıyan serbest dolaşımdaki eşya kullanılabilir. Bu sistem çerçevesinde, dahilde işleme izin belgesi kapsamında önceden ihracat işleminden sonra ithalat yapılabileceği gibi, ithal eşyası ile serbest dolaşımdaki eşya birlikte de kullanılabilir. Müsteşarlıkça (İhracat Genel Müdürlüğü), eşdeğer eşyanın kullanımına süresiz veya dönemsel olarak yasaklama veya kısıtlama getirilebilir. İthal eşyasının ithalinden önce eşdeğer eşyadan elde edilen işlem görmüş ürünün ihracı halinde, buna tekabül eden ithalat belge süresi sonuna kadar yapılabilir. Bu kapsamda yapılacak ithalat esnasında katma değer vergisi dahil tüm vergiler (4760 sayılı Özel Tüketim Vergisi Kanunu hükümleri saklı kalmak kaydıyla) teminata bağlanır ve ticaret politikası önlemleri uygulanmaz. Önceden ihracat işleminden sonra buna tekabül eden oranda ithal edilen eşya, belge sahibi firma tarafından serbestçe kullanılabilir.

İşlem görmüş ürünün eşdeğer eşyadan elde edildiği durumlarda, gümrük işlemlerinde ithal eşyası eşdeğer eşya, eşdeğer eşya ise ithal eşyası olarak değerlendirilir. Önceden ihracat konusu işlem görmüş ürünün ihracat vergisine tabi eşdeğer eşyadan elde edilmesi halinde ise, bu eşyaya tekabül eden ithalatın yapılmasından sonra iade edilmek üzere ihracat vergisi kadar teminat alınır.

Ayrıca, dahilde işleme izin belgesi kapsamında ihracı taahhüt edilen işlem görmüş ürünün elde edilmesinde kullanılan hammadde, yardımcı madde, yarı mamul, mamul, değişmemiş eşya ve ambalaj malzemeleri birinci fıkra hükmüne göre ithal edilebileceği gibi, bu konuda yapılan düzenlemeler çerçevesinde yurt içinden de temin edilebilir. Dahilde işleme izin belgesi kapsamında ihraç edilmek üzere yurt içinden temin edilen eşya, bu Kararın uygulanması bakımından (3065 sayılı Katma Değer Vergisi Kanunu ve 4760 sayılı Özel Tüketim Vergisi Kanunu hükümleri saklı kalmak kaydıyla) ithal eşyası gibi değerlendirilir.

Ancak, yurt içinden temin edilen eşya için, bu Kararın ikincil işlem görmüş ürüne ve döviz kullanım oranına ilişkin hükümleri uygulanmaz. Ayrıca, yurt içinden temin edilen eşyanın belge süresi içerisinde işlem görmüş ürün olarak ihracının gerçekleştirilmemesi halinde, bu Kararın 22 nci maddesinde belirtilen 2 (iki) kat para cezası uygulanmaz.

Dahilde işleme izin belgesi kapsamındaki yurt içi alımın, belge süresi içerisinde gerçekleştirilmesi gerekir. Ancak, bu Karara istinaden yayımlanacak tebliğ hükümleri çerçevesinde işlem görmüş ürünün ihracının gerçekleştiğinin belgelenmesi kaydıyla, süresi sona erse dahi dahilde işleme izin belgesi kapsamında yurt içi alım yapılabilir ve bu alımlarda teminat aranmayabilir. Ayrıca, belge kapsamında yurt içi alımın yapılmasına imkan bulunmaması halinde, belgeye ek süre verilmek suretiyle ithalat yapılmasına izin verilebilir.

Teminat ve İndirimli Teminat Uygulaması

Madde 6- Şartlı muafiyet sistemi kapsamında yapılacak ithalattan doğan vergi, 6183 sayılı Amme Alacaklarının Tahsil Usulü Hakkında Kanunda belirtilen esaslar çerçevesinde teminata tabidir.

Ancak;

a) A sınıfı onaylanmış kişi statü belgesi sahibi firmaların dahilde işleme izin belgesi/dahilde işleme izni kapsamında yapacakları ithalatla, bu ithalattan doğan verginin %1'inin,

b) B sınıfı onaylanmış kişi statü belgesi sahibi firmaların dahilde işleme izin belgesi/dahilde işleme izni kapsamında yapacakları ithalatla, bu ithalattan doğan verginin %5'inin,

c) C sınıfı onaylanmış kişi statü belgesi sahibi firmaların dahilde işleme izin belgesi/dahilde işleme izni kapsamında yapacakları ithalatla, bu ithalattan doğan verginin %10'unun,

d) Onaylanmış kişi statü belgesi sahibi olmayan dış ticaret sermaye şirketleri ile sektörel dış ticaret şirketlerinin belge/izin müracaat tarihinden önceki takvim yılı içerisinde gerçekleştirdikleri ihracat kadar dahilde işleme izin belgesi/dahilde işleme izni kapsamında yapacakları ithalatla, bu ithalattan doğan verginin %10'unun,

e) İmalatçı-ihracatçıların, belge/izin müracaat tarihinden önceki dört yıl içerisinde düzenlenmiş, ihracat taahhüdü kapatılmış, dahilde işleme izin belgeleri ve bu Kararın yayımı tarihinden sonra düzenlenen dahilde işleme izinleri kapsamında sanayi ürünleri için toplam 1 (bir) Milyon ABD Dolarından, tarım ve işlenmiş tarım ürünleri için toplam 500 (beşyüz) Bin ABD Dolarından az olmamak kaydıyla gerçekleştirdikleri ihracat kadar dahilde işleme izin belgesi/dahilde işleme izni kapsamında yapacakları ithalatla, bu ithalattan doğan verginin %10'unun,

f) Son üç takvim yılı itibarıyla ihracatı her bir yıl için 5 (beş) Milyon ABD Dolarını geçen veya son beş takvim yılı itibarıyla ihracatı her bir yıl için 1 (bir) Milyon ABD Dolarını geçen ihracatçıların, belge/izin müracaat tarihinden önce dört yıl içerisinde düzenlenmiş, ihracat taahhüdü kapatılmış, dahilde işleme izin belgeleri ve bu Kararın yayımı tarihinden sonra düzenlenen dahilde işleme izinleri kapsamında sanayi ürünleri için toplam 1 (bir) Milyon ABD Dolarından, tarım ve işlenmiş tarım ürünleri için toplam 500 (beşyüz) Bin ABD Dolarından az olmamak kaydıyla gerçekleştirdikleri ihracat kadar dahilde işleme izin belgesi/dahilde işleme izni kapsamında yapacakları ithalatı, bu ithalattan doğan verginin %10'unun,

teminat olarak yatırılması kaydıyla, gümrük idaresince ithalatın gerçekleştirilmesine izin verilir.

İndirimli teminat uygulamasının hesaplanmasına ilişkin usul ve esaslar, bu Karara istinaden yayımlanacak tebliğ ile belirlenir.

Bu Karara istinaden yayımlanacak tebliğ hükümleri çerçevesinde dahilde işleme izin belgesi kapsamında işlem görmüş ürünün ihracının belgelenmesini müteakip bu ürünün elde edilmesinde kullanılan eşyaya ilişkin verginin %10'unun teminat olarak yatırılması kaydıyla, ithalatın gerçekleştirilmesine gümrük idaresince izin verilir.

İndirimli teminat uygulamasından doğabilecek amme alacağı (yurt içi teslimleri yapan kamu kurum ve kuruluşlarının alacakları dahil) ilgili firmalardan 6183 sayılı Amme Alacaklarının Tahsil Usulü Hakkında Kanun hükümleri çerçevesinde tahsil edilir. Ayrıca, bu firmaların kamudan olan alacakları da teminat hükmündedir.

Şartlı muafiyet sistemi kapsamında yapılan ithalatı uygulanan teminat oranı Müsteşarlıkça (İhracat Genel Müdürlüğü), bu ithalattan doğan vergi tutarının 2 (iki) katına kadar artırılabilir.

Türkiye Gümrük Bölgesi Dışında veya Serbest Bölgelerde Yapılacak İşleme Faaliyeti

Madde 7- Şartlı muafiyet sistemi kapsamında, işlem görmüş ürünün veya değişmemiş eşyanın tamamı ya da bir kısmı, hariçte işleme rejimi hükümleri çerçevesinde daha ileri düzeyde işlenmek üzere Türkiye Gümrük Bölgesi dışına veya serbest bölgelere geçici olarak ihraç edilebilir. Bu kapsamda işlem görmüş ürünün ithaline, hariçte işleme rejimi hükümlerine göre tahsili gereken vergi kadar teminat alınarak izin verilir.

Geri Ödeme Sistemi

Madde 8- Geri ödeme sistemi; dahilde işleme izin belgesi/dahilde işleme izni kapsamında serbest dolaşıma giren hammadde, yardımcı madde, yarı mamul, mamul ile değişmemiş eşya, ambalaj ve işletme malzemesinden elde edilen işlem görmüş ürünün ihracı halinde, ithalat esnasında alınan verginin (işletme malzemesine ilişkin katma değer vergisi ve özel tüketim vergisi hariç) geri ödenmesidir.

Ancak, A.TR dolaşım belgesi eşliğinde Avrupa Topluluğuna üye ülkelere ihraç edilecek işlem görmüş ürünün elde edilmesinde kullanılacak hammadde, yardımcı madde, yarı mamul, mamul ile değişmemiş eşyanın gümrük vergisi ile varsa toplu konut fonunun tahsil edilmesi ve diğer vergilerin teminata bağlanması suretiyle ithalatına izin verilebilir.

Ayrıca, menşe ispat belgeleri eşliğinde Avrupa Topluluğuna üye ülkelere, Pan-Avrupa Menşe Kümülyasyonuna taraf ülkelere veya Serbest Ticaret Anlaşması imzalanmış bir ülkeye ihraç edilecek işlem görmüş ürünün elde edilmesinde kullanılacak hammadde, yardımcı madde, yarı mamul, mamul ile değişmemiş eşyanın gümrük vergisi ile varsa toplu konut fonunun tahsil edilmesi ve diğer vergilerin teminata bağlanması suretiyle ithalatına izin verilebilir.

Geri ödeme sisteminden yararlanmak için, dahilde işleme izin belgesi/dahilde işleme izni alınması ve eşyanın geri ödeme sistemi kapsamında olduğunun gümrük idaresince ithalat esnasında belgeye/izne ilişkin gümrük beyannamesine kaydedilmesi zorunludur. Ayrıca, dahilde işleme izin belgesi ile ilgili bilgiler gümrük beyannamesi üzerinde belirtilir ve belgenin bir örneği gümrük beyannamesine eklenir.

Geri ödeme sisteminden, Avrupa Topluluğu'na üye ülkeler menşeli tarım ürünleri ithalatı hariç olmak üzere;

- a) İthal miktar kısıtlamalarına tabi olan,
 - b) Tercihli tarife ya da özel bir şartlı muafiyet düzenlemesinden kotalar dahilinde yararlanabilen,
 - c) Tarım politikası veya işlenmiş tarım ürünleriyle ilgili özel düzenlemeler çerçevesinde ithalat vergilerine tabi olan,
 - d) İthal eşyasının serbest dolaşıma giriş beyanının kabulü esnasında, işlem görmüş ürünlerden parasal ihracat iadesine tabi olan,
- eşya yararlandırılmaz.

Ayrıca;

- a) Bu maddenin ikinci fıkrası hükmü saklı kalmak kaydıyla, üçüncü ülke menşeli eşya kullanılarak elde edilen işlem görmüş ürünün A.TR dolaşım belgesi eşliğinde Avrupa Topluluğuna üye ülkelere,
- b) Bu maddenin üçüncü fıkrası hükmü saklı kalmak kaydıyla, üçüncü ülke menşeli eşyadan elde edilen işlem görmüş ürünün menşe ispat belgeleri eşliğinde Avrupa Topluluğuna üye ülkelere,
- c) Bu maddenin üçüncü fıkrası hükmü saklı kalmak kaydıyla, Serbest Ticaret Anlaşması imzalanmış ülke menşeli olmayan eşyadan elde edilen işlem görmüş ürünün menşe ispat belgeleri eşliğinde anlaşma imzalanmış ülkeye,
- d) Bu maddenin üçüncü fıkrası hükmü saklı kalmak kaydıyla, Pan-Avrupa Menşe Kümülasyonuna taraf ülkeler menşeli olmayan eşyadan elde edilen Kümülasyona dahil işlem görmüş ürünün menşe ispat belgeleri eşliğinde Kümülasyona taraf ülkelere,
- e) Serbest dolaşımda bulunan eşyadan üretilen işlem görmüş ürünün serbest bölgelere (serbest bölgelerden belge/izin süresi bitiminden itibaren 3 (üç) ay içerisinde (a) ila (d) bentlerinde belirtilen ülkeler haricinde bir ülkeye yapılan satışlar hariç),

ihraç edilmesi halinde bu ihracat, geri ödeme sisteminden yararlandırılmaz.

ÜÇÜNCÜ BÖLÜM

GENEL HÜKÜMLER

Müracaatların Değerlendirilmesi ve Belge/İzin Düzenlenmesi

Madde 9- Türkiye Gümrük Bölgesinde (serbest bölgeler hariç) yerleşik firmaların, dahilde işleme rejiminden yararlanmak için bu Karara istinaden yayımlanacak tebliğ hükümleri çerçevesinde dahilde işleme izin belgesi/dahilde işleme izni almaları gerekir. Bu çerçevede ibraz edilen bilgi ve belgeler, aksi sabit oluncaya kadar doğru kabul edilir.

Dahilde işleme izin belgesine/dahilde işleme iznine ilişkin müracaat;

a) İthal eşyasının işlem görmüş ürünün elde edilmesinde kullanıldığının tespitinin mümkün olması,

b) Türkiye Gümrük Bölgesindeki (serbest bölgeler hariç) üreticilerin temel ekonomik çıkarları ile Türk malı imajının olumsuz etkilenmemesi,

c) İşleme faaliyetinin, katma değer yaratan ve kapasite kullanımını artıran bir faaliyet olması yanında, işlem görmüş ürünün rekabet gücünü ve ihrac potansiyelini artıran koşullar yaratıyor olması,

d) Firmaların dahilde işleme izin belgeleri/dahilde işleme izinleri kapsamındaki performansları,

kriterleri çerçevesinde değerlendirilir.

İkinci fıkrada belirtilen kriterlere göre yapılacak değerlendirme sonucunda; ithal eşyası ve işlem görmüş ürünün (asıl ve ikincil işlem görmüş ürünler) asgari 8 (sekiz)'li bazda gümrük tarife istatistik pozisyonu, adı, verimlilik oranına göre belirlenen miktarı, değeri, belge/izin süresi, döviz kullanım oranı ve varsa yan sanayici belirlenerek, proje bazında dahilde işleme izin belgesi/dahilde işleme izni düzenlenir veya talep reddedilir.

Eşyanın fiyat, bulunabilirlik ve kalite yönünden yurt içinden temin edilmesinin mümkün olup olmaması dikkate alınarak, dahilde işleme izin belgesi kapsamındaki eşyanın kısmen veya tamamen ithalatına (yurt içi alımlar hariç) süresiz veya dönemsel olarak kısıtlama getirilebilir.

Dahilde işleme rejiminden yararlandırılmayacak haller, bu Karara istinaden yayımlanacak tebliğ ile belirlenir.

Dahilde işleme izni ve bu Karara istinaden yayımlanacak tebliğ ile belirlenen bedelsiz ithalata ilişkin dahilde işleme izin belgeleri kapsamında döviz kullanım oranı aranmaz.

Dahilde işleme izin belgesi kapsamında döviz kullanım oranı azami %80'dir. Ancak, ikincil işlem görmüş tarım ürünleri taahhüdü içeren belgelerde bu oran azami %100 olarak tespit edilebilir.

Dahilde işleme izin belgesi/dahilde işleme izni kapsamında ihracat taahhüdünün azami %1'i oranında değişmemiş eşya ithalatına izin verilebilir. Ayrıca, belge/izin kapsamında ithaline izin verilecek işletme malzemesi değeri, ihracat taahhüdünün %2'sini geçemez. Ancak, doğal taşlar ile kıymetli maden ve taş ihrac taahhüdü içeren belgede/izinde, bu oran %10'a kadar tespit edilebilir.

Belge/İzin Süreleri ve Ek Süreler

Madde 10- Dahilde işleme izin belgesinin/dahilde işleme izninin süresi sektörüne göre azami 12 (oniki) aya kadar tespit edilebilir.

Ancak, bu Karara istinaden yayımlanacak tebliğ ile belirlenen faaliyet ve/veya ürünlerin ihracına ilişkin düzenlenen belgelerin/izinlerin süresi, proje süresi kadar tespit edilebilir.

Sürenin başlangıcı, dahilde işleme izin belgesinin/dahilde işleme izninin tarihidir. Süre sonu ise, belge/izin süresi (ek süre, haklı ve mücbir sebep ile fevkalade hallere ilişkin süreler dahil) bitiminin rastladığı ayın son günüdür.

Dahilde işleme izin belgesi kapsamında ilk ithalatın yapıldığı tarih esas alınmak suretiyle belge süresi azami 3 (üç) ay uzatılır. Ayrıca, firmanın belgeli performansı dikkate alınarak dahilde işleme izin belgesine verilecek ek süreler, bu Karara istinaden yayımlanacak tebliğ ile belirlenir.

Haklı ve Mücbir Sebep ile Fevkalade Haller

Madde 11- Bu Karara istinaden yayımlanacak tebliğle belirlenen haklı ve mücbir sebep ile fevkalade hallerin belge/izin süresi içerisinde meydana gelmesi halinde, dahilde işleme izin belgesine/dahilde işleme iznine ilave süre verilebilir. Haklı ve mücbir sebep ve fevkalade hallere istinaden belgeye/izne verilecek ilave süre, haklı ve mücbir sebep ile fevkalade hal süresi dikkate alınarak belirlenir.

Mücbir sebep ile fevkalade haller nedeniyle; dahilde işleme izin belgesi/dahilde işleme izni kapsamında ihracat taahhüdü aranmayacak veya bu durumda yeni ithalata izin verilecek haller ile ithal edilen eşyanın dahilde işleme rejiminden yararlanma koşullarına sahip başka bir firma adına düzenlenen belgeye/izne devredilmesine ilişkin usul ve esaslar, bu Karara istinaden yayımlanacak tebliğ ile belirlenir.

Şartlı muafiyet sistemi kapsamında haklı sebebe ilişkin verilecek ek süre içerisinde, belge/izin kapsamında alınacak teminat tutarı 2 (iki) katına kadar artırılabilir.

Belge/İzin Revizesi

Madde 12- Dahilde işleme izin belgesi/dahilde işleme izni, ilgili firma tarafından gerekli bilgi ve belgelerle müracaat edilmesi kaydıyla, bu Karara istinaden yayımlanacak tebliğ hükümleri çerçevesinde revize edilebilir.

İhracatın Gerçekleştirilmesi

Madde 13- İhracatın gerçekleştirilmesi, dahilde işleme izin belgesinde/dahilde işleme izninde ihracı taahhüt edilen işlem görmüş ürünün, bu Karar ile ihracat rejimi ve gümrük mevzuatı hükümleri çerçevesinde Türkiye Gümrük Bölgesi dışına veya serbest bölgelere ihraç edilmesidir.

Ancak, birinci fıkra hükmüne istinaden şartlı muafiyet sistemi çerçevesinde belge/izin süresi içerisinde serbest bölgelere yapılan ihracatın, belge/izin süresi bitiminden itibaren 3 (üç) ay içerisinde serbest bölgelerden başka bir ülkeye satışının veya bir başka belge/izin kapsamında Türkiye Gümrük Bölgesine ithalatının yapıldığının tevsiki kaydıyla, belge/izin ihracat taahhüdü kapatılır.

Ayrıca, birinci fıkra hükmüne istinaden geri ödeme sistemi çerçevesinde belge/izin süresi içerisinde serbest bölgelere yapılan ihracatın, belge/izin süresi bitiminden itibaren 3 (üç) ay içerisinde serbest bölgelerden başka bir ülkeye satışının yapıldığının tevsiki kaydıyla, belge/izin ihracat taahhüdü kapatılır.

İhraç bedellerinin yurda getirilmesine ilişkin esaslar kambiyo mevzuatı hükümlerine tabidir. İhraç bedelleri, döviz olarak veya mal olarak getirilebilir. Ancak, ihraç bedelinin mal olarak getirilmesi halinde, bu mallar dış ticaret mevzuatı hükümlerine tabidir.

Gümrük İdaresince Yapılacak İşlemler

Madde 14- Gümrük idaresince, dahilde işleme izin belgesi/dahilde işleme izni kapsamındaki işlemler; bu Karar, bu Karara istinaden yayımlanacak tebliğler, genelgeler, talimatlar ve belgenin özel şartlar bölümünde belirtilen hususlar ile ihracat rejimi ve gümrük mevzuatı hükümleri çerçevesinde gerçekleştirilir.

Gözetim ve Korunma Önlemlerine Tabi Eşya

Madde 15- Dahilde işleme izin belgesi/dahilde işleme izni kapsamında ithali gözetim ve korunma önlemlerine tabi eşyanın serbest dolaşıma girebilmesi için, ithal tarihi itibarıyla yürürlükte bulunan gözetim ve korunma önlemlerinin uygulanması zorunludur.

Aksi takdirde, bu eşyadan elde edilen işlem görmüş ürünün, üçüncü ülkelere ihracı ya da gümrük idaresi gözetiminde imhası gerekir.

Ancak, dahilde işleme izin belgesi/dahilde işleme izni kapsamında A.TR dolaşım belgesi eşliğinde Avrupa Topluluğuna üye ülkelere ihracat edilen işlem görmüş ürünün elde edilmesinde kullanılan eşyanın bu ülkelerde gözetim ve korunma önlemlerine tabi olmaması halinde, bu eşya ile ilgili olarak gözetim ve korunma önlemleri uygulanmaz.

Telaflı Edici Verginin Ödenmesi

Madde 16- Şartlı muafiyet sistemi kapsamındaki sanayi ürünlerinin A.TR dolaşım belgesi eşliğinde Avrupa Topluluğuna üye ülkelere ihracatında; işlem görmüş ürünün elde edilmesinde kullanılan üçüncü ülke menşeli hammadde, yardımcı madde, yarı mamul, mamul ile değişmemiş eşyaya ilişkin vergi, kaynak ülkelerle varolan anlaşmalardaki lehte hükümler saklı kalmak kaydıyla ödenir. Ancak, Türkiye ile Avrupa Kömür ve Çelik Topluluğu arasında imzalanan Avrupa Kömür ve Çelik Topluluğu ürünleri ticaretine ilişkin anlaşma kapsamı eşya hariç olmak üzere, bu verginin aynı ithal eşyası için Toplulukta uygulanan vergiden yüksek olması halinde, Toplulukta uygulanan vergi ödenir.

Şartlı muafiyet sistemi kapsamındaki işlenmiş tarım ürünlerinin A.TR dolaşım belgesi eşliğinde Avrupa Topluluğuna üye ülkelere ihracatında, bu ürünlerin elde edilmesinde üçüncü ülke menşeli sanayi ürünü kullanılmışsa buna ilişkin vergi, işlenmiş tarım ürünü kullanılmış ise bu üründeki sanayi payına ilişkin vergi ödenir.

Anlaşma ile belirlenen menşe kuralının sağlanması ve bir menşe ispat belgesinin düzenlenmesi kaydıyla, şartlı muafiyet sistemi kapsamında ülkemizde doğmuş ve büyütülmüş canlı hayvanlar ile avlanma ve balıkçılık faaliyetlerinden elde edilen ürünler ve bunlardan elde edilen ürünler hariç olmak üzere, tarım ürünlerinin Avrupa Topluluğuna üye ülkelere ihracatında; bu ürünlerin elde edilmesinde kullanılan üçüncü ülke menşeli hammadde, yardımcı madde, yarı mamul, mamul ile değişmemiş eşyaya ilişkin vergi tahsil edilir. Ancak, bu verginin aynı ithal eşyası için Toplulukta uygulanan vergiden yüksek olması halinde, Toplulukta uygulanan vergi ödenir.

Anlaşma ile belirlenen menşe kuralının sağlanması ve bir menşe ispat belgesinin düzenlenmesi kaydıyla, şartlı muafiyet sistemi kapsamında, ülkemizde doğmuş ve büyütülmüş canlı hayvanlar ile avlanma ve balıkçılık faaliyetlerinden elde edilen ürünler ve bunlardan elde edilen ürünler hariç olmak üzere, Serbest Ticaret Anlaşması imzalanmış bir ülkeye yapılan ihracatta; işlem görmüş ürünün elde edilmesinde kullanılan ve bu ülke menşeli olmayan hammadde, yardımcı madde, yarı mamul, mamul ile değişmemiş eşyaya ilişkin vergi, ilgili anlaşmanın lehte hükümleri saklı kalmak kaydıyla ödenir. Ancak, Pan-Avrupa Menşe Kümülyasyonuna taraf ülkelerden menşe ispat belgeleri veya tedarikçi beyanı eşliğinde ithal edilen eşya kullanılarak elde edilen Kümülyasyona dahil işlem görmüş ürünün, menşe ispat belgeleri veya tedarikçi beyanı eşliğinde tekrar Kümülyasyona taraf ülkelerden birine ihracat edilmesi durumunda, ithalat rejiminde belirtilen oranda verginin tahsili aranmaksızın ilgili gümrük idaresince ihracata izin verilir.

Şartlı muafiyet sistemi kapsamında serbest bölgelere yapılan ihracatın, belge/izin süresi bitiminden itibaren 3 (üç) ay içerisinde serbest bölgelerden A.TR dolaşım belgesi eşliğinde Avrupa Topluluğuna üye ülkelere veya menşe ispat belgeleri eşliğinde, Avrupa Topluluğu'na üye ülkelere, Pan-Avrupa Menşe Kümülasyonuna taraf ülkelere veya Serbest Ticaret Anlaşması imzalanmış bir ülkeye satışı halinde, birinci, ikinci, üçüncü ve dördüncü fıkralardaki hükümler çerçevesinde telafi edici verginin tahsili aranır.

Bu madde hükmü çerçevesinde ödenmesi gereken vergi, serbest bölgelerden yapılan satışlar dahil ihracata ilişkin gümrük beyannamesinin tescil tarihindeki Türkiye Cumhuriyet Merkez Bankası döviz satış kuru ve bu tarihte ithalat rejiminde belirtilen gümrük vergisi ve varsa toplu konut fonu üzerinden hesaplanarak ihracat esnasında ödenir. Ancak, belge kapsamında önceden ihracat işleminden sonra ithalat yapılması durumunda, bu vergi serbest bölgelerden yapılan satışlar dahil önceden ihracata ilişkin gümrük beyannamesinin tescil tarihindeki Türkiye Cumhuriyet Merkez Bankası döviz satış kuru ve bu tarihte ithalat rejiminde belirtilen gümrük vergisi ve varsa toplu konut fonu üzerinden hesaplanarak, önceden ihracata tekabül eden ithalatın yapılması esnasında ödenir. Tahsil edilen telafi edici vergi bütçeye irat kaydedilir.

İşlem görmüş ürünün elde edilmesinde kullanılan vergiye konu eşyanın tespitinde firma beyanı esas alınır. Aksine bir durumun tespiti halinde, ödenmeyen ya da eksik ödenen telafi edici vergi, altıncı fıkra da belirtilen ödemenin yapılması gereken tarih itibarıyla 6183 sayılı Amme Alacaklarının Tahsil Usulü Hakkında Kanun hükümlerine göre tahsil edilir.

Elde edilmesinde üçüncü ülke menşeli eşya kullanılan ve Avrupa Topluluğuna üye ülkelere ihraç edilen her türlü harp araç, gereç, teçhizat, makine, cihaz ve sistemleri ile bunların yapım, bakım ve onarımlarında kullanılacak yedek parçalar için telafi edici vergi aranmaz.

Verginin Geri Verilmesi

Madde 17- Dahilde işleme izin belgesi/dahilde işleme izni kapsamında ödenmemesi gerektiği halde ödenmiş olduğu belirlenen vergi, ilgili firmanın talebi üzerine 4458 sayılı Gümrük Kanunu ve 3065 sayılı Katma Değer Vergisi Kanunu hükümleri çerçevesinde nakden geri verilir.

Kısmi Teminat İadesi

Madde 18- Şartlı muafiyet sistemi kapsamında ithal edilen eşyadan elde edilen işlem görmüş ürünün ihraç edilmesi halinde, ilgili firmanın belge/izin süresi içerisindeki talebi üzerine, ithalat esnasında alınan teminatlar gerçekleşen ihracata tekabül eden oranda iade edilir. Ancak, iade edilen teminat tutarı, belge/izin kapsamında alınması gereken toplam verginin %90'ını geçemez.

İhracat Taahhüdünün Kapatılması

Madde 19- Dahilde işleme izin belgesi/dahilde işleme izni sahibi firmaların, belge/izin ihracat taahhüdünü kapatmak için, bu Karara istinaden yayımlanacak tebliğ hükümleri çerçevesinde müracaat etmeleri gerekir. Aksi takdirde, bu belge/izin müeyyide uygulanarak resen kapatılır.

Dahilde işleme izin belgesi/dahilde işleme izni ihracat taahhüdü, belgede/izinde belirtilen şartlar da dikkate alınmak suretiyle, dahilde işleme rejimi hükümleri çerçevesinde eşdeğer eşya ve/veya ithal eşyasından elde edilen işlem görmüş ürün ile değişmemiş eşyanın ihraç edildiğinin tespiti kaydıyla kapatılır.

Dahilde işleme izin belgesi/dahilde işleme izni ihracat taahhüdü, belge/izin sahibi firma ve/veya aracı ihracatçı firma tarafından gerçekleştirilen ihracat ile kapatılır. Ancak, Müsteşarlıkça (İhracat Genel Müdürlüğü) aracı ihracatçı kullanımına kısıtlama getirilebilir.

Şartlı muafiyet sistemi kapsamında ithal edilen eşya, belge/izin süresi içerisinde, ticaret politikası önlemlerinin uygulanması, eşyanın gümrük idaresince yerinde tespiti, eşyanın ithali için öngörülen dış ticarete teknik düzenlemeler ve standardizasyon mevzuatı dahil diğer işlemlerin tamamlanması ve kanunen ödenmesi gereken vergilerin tahsili kaydıyla 4458 sayılı Gümrük Kanununun 114 üncü maddesinin birinci fıkrası ile 207 nci maddesi hükmüne göre serbest dolaşıma girebilir. Bu durumda serbest dolaşıma giren eşyaya tekabül eden ihracatın gerçekleşmesi aranmaz.

Dahilde işleme izin belgesi/dahilde işleme izni kapsamında ithal edilen eşyanın veya işlem görmüş ürünün, gümrük mevzuatı çerçevesinde gümrük idaresi gözetiminde imhası, gümrüğe terk edilmesi veya mahrecine iadesi hallerinde, bu eşyaya tekabül eden ihracatın gerçekleştirilmesi aranmaz.

Dahilde işleme izin belgesi/dahilde işleme izni kapsamında ithal edilen eşyadan elde edilen ikincil işlem görmüş ürünün, belge/izin ihracat taahhüdünün kapatılmasından önce gümrük mevzuatı çerçevesinde gümrük idaresi gözetiminde imhası, gümrüğe terk edilmesi, çıkış hükmünde gümrüğe teslimi veya serbest dolaşıma giriş rejimi hükümlerine göre ithali hallerinde, bu ürünün ihracatının gerçekleştirilmesi aranmaz. İkincil işlem görmüş ürünün serbest dolaşıma giriş rejimine göre ithaline ilişkin usul ve esaslar, bu Karara istinaden yayımlanacak tebliğle belirlenir.

Dahilde işleme izin belgesi kapsamında ihracı taahhüt edilen işlem görmüş ürünün belge sahibi firmalara yurt içinde teslimi ile belge/izin kapsamında ihraç edilen eşyaların alıcısı tarafından kabul edilmemesi halinde yapılacak işlemlere ilişkin usul ve esaslar, bu Karara istinaden yayımlanacak tebliğle belirlenir.

İhracat taahhüdünün kapatılmasını müteakip, dahilde işleme izin belgesi/dahilde işleme izni kapsamında alınan teminat veya vergi (4760 sayılı Özel Tüketim Vergisi Kanunu hükümleri saklı kalmak kaydıyla), bu Karara istinaden yayımlanacak tebliğle belirlenen usul ve esaslar çerçevesinde ilgili firmaya geri verilir.

İhracatın Gerçekleştirilmemesi

Madde 20- Bu Kararın 15 inci maddesi hükümleri saklı kalmak kaydıyla, şartlı muafiyet sistemi kapsamında ithal edilen ancak belge/izin süresi içerisinde işlem görmüş ürün olarak belge/izin şartlarına uygun şekilde Türkiye Gümrük Bölgesi dışına veya serbest bölgelere (belge/izin süresi bitiminden itibaren 3 (üç) ay içerisinde serbest bölgelerden başka bir ülkeye satışının yapılmaması halinde) ihracatı gerçekleştirilemeyen ithal eşyasına ilişkin alınmayan vergi, 22 nci madde hükümlerine göre tahsil edilir. Ancak, bu kapsamda serbest bölgelere yapılan ihracatın belge/izin süresi bitiminden itibaren 3 (üç) ay içerisinde bir başka belge/izin kapsamında Türkiye Gümrük Bölgesine ithal edilmesi halinde, 22 nci madde hükümleri uygulanmaz.

Geri ödeme sistemi kapsamında ithal edilen ancak belge/izin süresi içerisinde işlem görmüş ürün olarak belge/izin şartlarına uygun şekilde Türkiye Gümrük Bölgesi dışına veya serbest bölgelere (belge/izin süresi bitiminden itibaren 3 (üç) ay içerisinde serbest bölgelerden başka bir ülkeye satışının yapılmaması durumunda) ihracatın yapılmaması halinde, bu ithal eşyasına ilişkin alınan vergi iade edilmez.

Bu Kararın 19 uncu maddesinin altıncı fıkrası hükmü saklı kalmak kaydıyla, ikincil işlem görmüş ürünün ihraç edilmemesi halinde, ithal eşyasına ilişkin beyannamenin tescil tarihindeki kur ve vergi oranı veya asıl işlem görmüş ürünün ihraç edilen kısmı oranında ikincil işlem görmüş ürünün serbest dolaşıma girişine ilişkin beyannamenin tescil tarihindeki kur ve vergi oranı esas alınarak hesaplanan verginin, ilgili gümrük idaresine yatırıldığıнын tevsiki aranır. Aksi takdirde, 22 nci madde hükümlerine göre işlem yapılır.

Geri ödeme sistemi çerçevesinde düzenlenen dahilde işleme izin belgesi/dahilde işleme izni kapsamında A.TR dolaşım belgesi eşliğinde Avrupa Topluluğu'na üye ülkelere veya menşe ispat belgeleri eşliğinde, Avrupa Topluluğuna üye ülkelere, Pan-Avrupa Menşe Kümülayonuna taraf ülkelere veya Serbest Ticaret Anlaşması imzalanmış bir ülkeye işlem görmüş ürün olarak ihrac edilmek üzere ithal edilen ancak süresi içerisinde ihracı gerçekleştirilmeyen eşyaya ilişkin daha önce alınmayan vergi, 22 nci madde hükümlerine göre tahsil edilir.

Belgenin/İzinin İptali

Madde 21- Firmanın talep etmesi halinde, kullanılmayan dahilde işleme izin belgesi iptal edilir.

Bu Karar ve bu Karara istinaden yayımlanacak tebliğ ve genelge hükümlerine uyulmadığının, dahilde işleme izin belgesinin/dahilde işleme izninin düzenlenmesi veya revizesi için ibraz edilen bilgi ve belgeler ile belge/izin kapsamında yapılan işlemlerin gerçek dışı olduğunun veya gerçeği yansıtmadığının yahut belgenin/izin sahtesinin düzenlendiğinin veya üzerinde tahrifat yapıldığının tespiti halinde; ilgili belge/izin iptal edilir ve ilgililer hakkında kanuni işlem yapılır. Ayrıca, bu belge/izin sahibi firmaya ait dahilde işleme izin belgelerine/dahilde işleme izinlerine (bu firmaların bir başka firmanın belgesinde yan sanayici olması da dahil) 1 (bir) yıl süreyle indirimli teminat uygulanmaz.

İptal edilen belge/izin ile ilgili olarak, 22 nci madde hükümlerine göre işlem yapılır.

Dahilde İşleme Tedbirlerine Uyulmaması

Madde 22- Dahilde işleme tedbirlerini, dahilde işleme rejimi ve belgede/izinde belirtilen esas ve şartlara uygun olarak yerine getirmeyenlerden;

a) Şartlı muafiyet sistemi kapsamında ithal edilen ve Türkiye Gümrük Bölgesi dışına veya belge/izin süresi bitiminden itibaren 3 (üç) ay içerisinde başka bir ülkeye satışının yapılması kaydıyla belge/izin süresi içerisinde serbest bölgelere ihracı gerçekleştirilmeyen eşya ile belge/izin süresi içerisinde serbest bölgelere ihrac edilen eşyanın belge/izin süresi bitiminden itibaren 3 (üç) ay içerisinde bir başka belge/izin kapsamında ithalatı şartıyla Türkiye Gümrük Bölgesine getirilmeyen eşyanın ithali esnasında alınmayan vergi,

b) Belge/izin kapsamında izin verilen miktarın üzerinde ithalat yapılması halinde, bu kısma tekabül eden ithalattan doğan vergi,

c) Belge kapsamında ithal edilen eşyanın tamamı ihrac edilen işlem görmüş ürünün elde edilmesinde kullanılmış olsa dahi döviz kullanım oranının %80'i (İkincil işlem görmüş tarım ürünü taahhüdü içeren belgeler için %100'ü) geçmesi halinde, bu oranı aşan kısma tekabül eden ithalatla ilgili alınmayan vergi,

d) Belge/izin kapsamında ithal edilen işletme malzemesinin CIF ithal tutarının, gerçekleşen FOB ihrac tutarının %2 (doğal taşlar ile kıymetli maden ve taş ihrac taahhüdü içeren belgelerde %10)'sinden fazla olması halinde, bu oranı aşan kısma tekabül eden ithalatla ilgili alınmayan vergi,

e) Belge/izin kapsamında ithal edilen değişmemiş eşyanın CIF ithal tutarının, gerçekleşen FOB ihrac tutarının %1'inden fazla olması halinde, bu oranı aşan kısma tekabül eden ithalatla ilgili alınmayan vergi,

f) Geri ödeme sistemi çerçevesinde düzenlenen belge/izin kapsamında A.TR dolaşım belgesi eşliğinde Avrupa Topluluğuna üye ülkelere veya menşe ispat belgeleri eşliğinde, Avrupa Topluluğuna üye ülkelere, Pan-Avrupa Menşe Kümülayonuna taraf ülkelere veya Serbest Ticaret Anlaşması

imzalanmış bir ülkeye işlem görmüş ürün olarak ihraç edilmek üzere ithal edilen ancak süresi içerisinde ihracı gerçekleştirilmeyen eşyaya ilişkin alınmayan vergi,

g) Dahilde işleme izin belgesinin/dahilde işleme izninin iptal edilmesi halinde, belge/izin kapsamında varsa alınmayan vergi,

h) Dahilde işleme izin belgesinin/dahilde işleme izninin resen kapatılması halinde, belge/izin kapsamında varsa alınmayan vergi,

ithal tarihi itibarıyla 4458 sayılı Gümrük Kanunu ile 6183 sayılı Amme Alacaklarının Tahsil Usulü Hakkında Kanun hükümlerine göre tahsil edilir. Ayrıca, ithal edilen ve süresi içerisinde ihracı gerçekleştirilmeyen eşya için 4458 sayılı Kanunun 238 inci maddesi hükmü çerçevesinde gümrük vergilerinin 2 (iki) katı para cezası alınır.

Birinci fıkra hükmü çerçevesinde vergisi ve cezaları ödenen eşyanın serbest dolaşıma giriş rejimine tabi tutulmasının talep edilmesi halinde, ticaret politikası önlemlerinin uygulanması ve eşyanın ithali için öngörülen dış ticarette teknik düzenlemeler ve standardizasyon mevzuatı dahil diğer işlemlerin tamamlanması şartı aranır. Aksi takdirde, bu eşyanın serbest dolaşıma giriş rejimi dışındaki gümrükçe onaylanmış bir işlem veya kullanıma tabi tutulması gerekir.

Dahilde İşleme Rejiminde Sağlanan Hakların Kötüye Kullanımı

Madde 23- Müsteşarlık veya diğer kamu kurum ve kuruluşlarının denetim birimleri ile Gümrük Müsteşarlığınca yapılan inceleme ve soruşturma sonucunda, gümrük beyannamesi ve eki belgelerin sahte olduğunun veya üzerinde tahrifat yapıldığının ya da gerçek dışı olduğunun veya gerçeği yansıtmadığının tespiti halinde;

a) Bu gümrük beyannamesi dahilde işleme izin belgesi/dahilde işleme izni ihracat taahhüdünün kapatılmasında kullanılamaz.

b) İhracat taahhüdünün kapatılmasında kullanılmış olması veya kullanılmak üzere ibraz edilmesi halinde, bu beyanname kapsamı ihracata tekabül eden ithalata ilişkin vergi, bu Kararın 22 nci maddesi hükümleri çerçevesinde tahsil edilir ve ilgililer hakkında kanuni işlem yapılır.

c) Bu gümrük beyannamesinde kayıtlı belge/izin sahibi firma ve/veya aracı ihracatçıya ait dahilde işleme izin belgelerine/dahilde işleme izinlerine (bu firmaların bir başka firmanın belgesinde yan sanayici olması da dahil) 1 (bir) yıl süreyle indirimli teminat uygulanmaz. Bu durumdaki aracı ihracatçı, beyanname konusu işlem görmüş ürünün elde edilmesinde kullanılan eşyanın ithalatı esnasında alınmayan vergiden, belge/izin sahibi firma ile birlikte müştereken ve müteselsilen sorumludur.

Ancak, gümrük beyannamesi ve eki belgeler üzerindeki tahrifatın belge/izin sahibi firma tarafından yapılmadığının kesinleşmiş mahkeme kararı ile tespiti kaydıyla, bu işlemin dahilde işleme rejimi çerçevesinde firmaya herhangi bir menfaat sağlamadığı ve yapılan ihracatın gerçek olduğunun tespiti halinde, birinci fıkra hükmü uygulanmaz.

Denetim

Madde 24- Tüm kamu kurum ve kuruluşları ile bankalar, dahilde işleme tedbirlerini, dahilde işleme rejimi ve belgede/izinde belirtilen esas ve şartlara uygun olarak tatbik ederler. Müsteşarlık, bu Kararda belirtilen tedbirlerin uygulanmasına ilişkin her türlü denetimi ve düzenlemeyi yapabilir, ilgili firma, kamu kurum ve kuruluşları ile bankalardan bilgi ve belge isteyebilir ve gerekli önlemleri alabilir.

DÖRDÜNCÜ BÖLÜM

ÇEŞİTLİ HÜKÜMLER

Uygulama

Madde 25- Bu Kararın yayımlandığı tarihten önceki Kararlara istinaden düzenlenen dahilde işleme izin belgeleri/dahilde işleme izinleri kendi mevzuatı hükümlerine tabidir. Henüz ihracat taahhüdü kapatılmamış olan dahilde işleme izin belgelerine/dahilde işleme izinlerine, bu Kararın lehe olan hükümleri uygulanır.

Yetki

Madde 26 – Müsteşarlık bu Karar hükümlerine istinaden, dahilde işleme rejimi ile ilgili usul ve esaslara ilişkin tebliğ ve genelgeler çıkarmaya, izin ve talimat vermeye, özel ve zorunlu durumları inceleyip sonuçlandırmaya ve uygulamada ortaya çıkacak ihtilafları idari yoldan çözümlemeye yetkilidir.

Bu Karar hükümlerine istinaden yapılacak tüm işlemler, bu Karara istinaden yayımlanacak tebliğ hükümleri çerçevesinde, bilgisayar veri işleme tekniği yoluyla gerçekleştirilebilir.

Ayrıca, Müsteşarlık (İhracat Genel Müdürlüğü) dahilde işleme izin belgesinin taahhüt kapatma, iptal veya resen kapatma işlemlerini (müeyyidenin tahsil edilmediğinin tespiti kaydıyla) geri almaya yetkilidir. Dahilde işleme izninin taahhüt kapatma, iptal veya resen kapatma işlemlerini (müeyyidenin tahsil edilmediğinin tespiti kaydıyla) geri almaya ise, Gümrük Müsteşarlığı yetkilidir.

Müsteşarlık, gümrük mevzuatı hükümleri çerçevesinde onaylanmış kişi statü belgesine sahip kişiler için, dahilde işleme rejimi hükümlerinin kolaylaştırılması amacıyla tebliğ, genelge ve talimat ile düzenleme yapmaya yetkilidir.

Dahilde işleme izin belgelerinin revize edilmesi ve taahhüt hesabının kapatılması ile ilgili görev ve yetkiler Müsteşarlıkça kullanılabileceği gibi, bu Karara istinaden yayımlanacak tebliğ ile, diğer kamu kurumları ve/veya ihracatçı birlikleri genel sekreterliklerine kısmen veya tamamen devredilebilir.

Geçici Madde 1- Bu Kararın yayımı tarihinden önce düzenlenen dahilde işleme izin belgeleri (müeyyide uygulanan ancak vergileri tahsil edilmeyen belgeler dahil) kapsamında yurt içinden alınan ve süresi içerisinde ihracı gerçekleştirilmeyen eşyaya ilişkin verginin, 6183 sayılı Amme Alacaklarının Tahsil Usulü Hakkında Kanun hükümlerine göre tahsili kaydıyla, belge ihracat taahhütleri kapatılır.

Geçici Madde 2- Bu Kararın yayımı tarihinden önce düzenlenen ve süresi sona eren dahilde işleme izin belgesi/ihracatı teşvik belgesi ihracat taahhütleri, yan sanayici unvanı kayıtlı gümrük beyannameleriyle de kapatılabilir.

Ayrıca, bu Kararın yayımı tarihinden önce düzenlenen ve süresi sona eren dahilde işleme izin belgesi/ihracatı teşvik belgesi kapsamında ihracı taahhüt edilen işlem görmüş ürünün, belge sahibi firma ve/veya yan sanayici tarafından bir başka firmaya teslim edildiğinin yeminli mali müşavir raporuyla tevsik edilmesi ve bu firma ve/veya aracı ihracatçı tarafından ihracatın gerçekleştirildiğinin tespiti kaydıyla, bu gümrük beyannamesi ihracat taahhüdüne sayılabilir.

Geçici Madde 3- Dahilde işleme rejimi kapsamında ithal edilen gözetim ve korunma önlemine tabi eşyadan elde edilen işlem görmüş ürünü A.TR dolaşım belgesi eşliğinde Avrupa Topluluğuna üye ülkelere ihraç eden ancak, bu eşya ile ilgili olarak ithal lisansları ve/veya gözetim belgeleri (yan sanayici veya aracı ihracatçı adına olanlar dahil) bulunmayan firmalara ait bu Kararın yayımı tarihinden önce düzenlenen ve süresi sona eren dahilde işleme izin belgelerinin/dahilde işleme izinlerinin ihracat

taahhütleri, ilgili mevzuat hükümleri çerçevesinde diğer şartların yerine getirilmesi kaydıyla, bu eşya ile ilgili olarak ithal lisansları ve/veya gözetim belgeleri aranmaksızın kapatılır.

Geçici Madde 4- Bu Kararın yayımından önce düzenlenen, en geç 31/12/2004 tarihinde süresi sona eren ve aynı firmaya ait dahilde işleme izin belgeleri ihracat taahhütleri, belge sürelerinin birbiri içerisine girmesi kaydıyla birlikte kapatılabilir.

Geçici Madde 5- 30/1/2002 tarihli ve 4743 sayılı Kanun çerçevesindeki finansal yeniden yapılandırma sözleşmelerine ve Tasarruf Mevduatı Sigorta Fonu ile yapılan sözleşmelere göre borçları yeniden yapılandırılan ve yeni bir itfa planına bağlanan borçlular adına, bu Kararın yayımından önce düzenlenen dahilde işleme izin belgelerine/dahilde işleme izinlerine (müeyyide uygulanan ancak vergileri tahsil edilmeyen belgeler/izinler dahil), bu Kararın yayımı tarihinden itibaren 18 ay süre verilir. Ayrıca, bu Karara istinaden yayımlanacak tebliğ hükümleri çerçevesinde ilgili belge/izin kapsamındaki ihracat performansı dikkate alınarak, belgeye/izne ilave süre verilebilir.

Bu kapsamda ek süre verilen dahilde işleme izin belgelerinin/dahilde işleme izinlerinin ihracat taahhütleri, belge/izin sahibi firma ya da grup firmaları veya Tasarruf Mevduatı Sigorta Fonu ile yapılan sözleşmede belirtilen borçlular ve müşterek borçlu müteselsil kefiller tarafından yapılan ihracat ile kapatılabilir.

Geçici Madde 6- Henüz ihracat taahhüdü kapatılmamış olan dahilde işleme izin belgelerine/dahilde işleme izinlerine, belgenin/iznin kendi mevzuatında ve bu Kararda belirtilen müracaat süreleri dikkate alınmaksızın bu Kararın lehe hükümleri uygulanır.

Geçici Madde 7- 13/5/2003 tarihli ve 25107 sayılı Resmi Gazete’de yayımlanan 25/4/2003 tarihli ve 2003/5548 sayılı Kararnamenin eki Karar çerçevesinde ihracat taahhüdünün gerçekleştirilmesi için dahilde işleme izin belgesine verilen süreler, belge süresi olarak kabul edilir.

Geçici Madde 8- Bu Kararın yayımı tarihinden önce düzenlenen dahilde işleme izin belgeleri kapsamında yurt içinden temin edilme imkanı bulunmayan hammadde, yarı mamul ve mamul madde için bu Kararın 9 uncu maddesinde belirtilen döviz kullanım oranının %10 (%90 döviz kullanım oranı) aşılması durumunda, ithal edilen eşyanın işlem görmüş ürün olarak ihraç edildiğinin tespiti ve Müsteşarlığın uygun görmesi şartıyla belge ihracat taahhüdü kapatılabilir.

Geçici Madde 9 - Bu Kararın yayımı tarihinden önce özel fatura düzenleme yetkisi bulunmayan gümrük idarelerince tescil edilen ancak bu idarelerden teyidi alınamadığı için ihracat taahhüdüne saydırılamayan özel fatura ile ilgili dahilde işleme izin belgeleri (müeyyide uygulanan ancak vergileri tahsil edilmeyen belgeler dahil) ihracat taahhütleri, bu Kararın yayımı tarihinden itibaren 6 (altı) ay içerisinde yapılan ihracat ile kapatılır. Belge süresi sonu ile bu Kararın yayımı tarihi arasında gerçekleştirilen ihracat da belge ihracat taahhüdüne sayılır.

Geçici Madde 10 - Bu Kararın yayımı tarihinden önce düzenlenen ve süresi sona eren dahilde işleme izin belgesi kapsamında menşe ispat belgeleri eşliğinde Serbest Ticaret Anlaşması imzalanmış bir ülkeye ihracatı gerçekleştirilen işlem görmüş ürünün, bu ülkelerden tercihli tarife uygulamasından yararlanmaksızın başka bir ülkeye ihraç edildiğinin tevsiki halinde, bu ürünün elde edilmesinde kullanılan hammadde, yardımcı madde, yarı mamul, mamul ile değişmemiş eşyaya ilişkin telafi edici verginin ödenmesi aranmaz.

Geçici Madde 11 - Taahhüt hesapları kapatılmayan 1 ve 2 kodlu ihracatı teşvik belgeleri kapsamında ithal edilen eşyanın işlem görmüş ürün olarak belge süresi içerisinde ihraç edildiğinin gümrük idaresince tespit edilmesi ve ilgili ihracatçı birlikleri genel sekreterliğine bildirilmesi kaydıyla, belge ihracat taahhütleri bu ihracata tekabül eden ithal eşyasına müeyyide uygulanmaksızın, ihracatçı birliği genel sekreterliği tarafından resen kapatılır.

Taahhüt hesapları kapatılmayan 3 kodlu ihracatı teşvik belgeleri kapsamında ithal edilen eşyanın işlem görmüş ürün olarak belge süresi içerisinde ihraç edildiğinin gümrük idaresince tespit edilmesi halinde, belge ihracat taahhütleri bu ihracata tekabül eden ithal eşyasına müeyyide uygulanmaksızın gümrük idaresi tarafından resen kapatılır.

Yürürlükten Kaldırılan Hükümler

Madde 27- 23/12/1999 tarihli ve 99/13819 sayılı Kararname eki Karar, ek ve değişiklikleri ile birlikte yürürlükten kaldırılmıştır.

Yürürlük

Madde 28- Bu Karar yayımı tarihinde yürürlüğe girer.

Yürütme

Madde 29- Bu Kararı Dış Ticaret Müsteşarlığının bağlı bulunduğu Bakan yürütür.