LIBERTY

17 April 2019

Director
Investigations 3
Anti-Dumping Commission
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Canberra ACT 2601

BY EMAIL:
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Dear Director,

Dumping and Subsidisation Investigation No. 495 concerning steel reinforcing bar (Rebar) exported from Turkey

AUSTRALIAN INDUSTRY SUBMISSION - RESPONSES TO EXPORTER & FOREIGN GOVERNMENT QUESTIONNAIRES

Liberty Steel refers to the responses to the *Exporter* and *Government of Turkey (**GOT**) Questionnaires* placed on the public record in this investigation. Liberty Steel's comments on those responses are set out below.

HABAŞ SINAİ VE TIBBİ GAZLAR İSTİHSAL ENDÜSTRİSİ A.Ş (Habas)

Program 1: Provision of Natural Gas for Less Than Adequate Remuneration.
Habas notes in its response that:

- Habaş purchased natural gas from […] during the period. […] a State Economic Enterprise (**SOE**) […] and from private distribution companies;[1]
- a comparison of domestic natural gas prices of private suppliers in Turkey with the SOE's prices shows only a slight difference.[2]

It is apparent that the SOE that Habas purchased natural gas from during the period of investigation was *Boru Hatlari ile Petrol Tasima A.S.* (**BOTAS**). Liberty Steel is not aware of any other SOE in Turkey that sells natural gas to power producers.

It is also apparent that the gas purchased from BOTAS was for use in electricity generation and in the production of rebar.

As noted in the Liberty Steel application, the *United States International Trade Commission* (**USITC**) imposed countervailing measures against Habas in 2017. The USITC found BOTAS to be a government authority providing a financial contribution in the form of goods or services.3.

The comparison of domestic natural gas prices of private suppliers to SOE prices is irrelevant. The USITC in its investigation noted that:

> Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where the Department finds that the government provides the majority or, in certain circumstances, a substantial portion of the market for a good or service, prices for such goods and services in the country will be considered significantly distorted and will not be an appropriate basis of comparison for determining whether or not there is a benefit.

[1] EPR Folio No. 495/008 at p. 62
[2] Ibid
[3] EPR Folio No. 495/001 at pp. 108-109.

> BOTAS's natural gas sales account for a substantial majority of Turkey's natural gas consumption.
>
> The GOT also reported that domestically produced natural gas, half of which is produced by a GOT entity, accounts for only 0.79 percent of Turkey's total natural gas consumption in 2015.
>
> Furthermore, all natural gas consumed in Turkey, regardless of whether it is produced domestically or imported, is transported via pipelines owned and operated by BOTAS. **Due to the GOT's overwhelming involvement in the Turkish natural gas market, the use of Turkish private transaction prices to calculate a benefit would be akin to comparing the benchmark to itself (i.e., such a benchmark would reflect the distortions of the GOT's presence in the market**)[4]. Emphasis added.

Liberty Steel submits that the benefit for Habas be calculated as was done by the USITC by using market prices based on the *Organisation for Economic Cooperation and Development* (**OECD**) Europe natural gas prices, as published by the *International Energy Agency* (**IEA**)[5].

Liberty Steel further submits that a benchmark price be established based, on the above, to assess whether the gas pricing and costs verified for Habas, and other exporters where applicable, reasonably reflect competitive market costs associated with the production or manufacture of like goods.

<u>Program 5 - Deductions from Taxable Income for Export Revenue.</u>
Habas notes that the above program enables a deduction from gross taxable income for <u>undocumented expenses</u> incurred abroad in an amount not to exceed 0.5 percent of the taxpayer's foreign-exchange earning and that Habas benefitted from this program. Habas also notes in its response that the deduction under this program is shown in its tax returns[6].

Liberty Steel notes that the only criterion is the company's receipt of foreign currency revenues from export sales in the fiscal year and submits that this constitutes a financial contribution as it is revenue forgone by the GOT. The program is specific, evidences revenue forgone by the GOT and is a countervailable subsidy.

<u>Program 10 (Import duty rebates/drawbacks and Program 12 (Inward Processing Regime)</u>
Habas notes that the above programs are considered to be the same Program as they are stipulated under the same article (Article 22 of Turkey's Domestic Processing Regime), Resolution 2005/839 and Resolution 2005/8391.

Habas explains that the programs allow upon importation of raw materials, Habaş is exempted from paying import duties, charges and VAT on the condition that the finished products (in this instance Rebar) will be exported.

Habas further explains the online system (that administers the programs) does not permit Habaş to exceed the quantity of imports based on <u>certain pre-set limits (waste/yield ratios)</u> set by the Ministry of Economy within the system.[7]

Liberty Steel submits that the waste /yield ratios set by the Ministry may not reflect the waste/actual waste ratios achieved by Habas and therefore do not truly reflect the nature of a duty drawback program but reflect more that of a subsidy as found by the USITC[8].

Duty drawback adjustment claim
Habas has claimed that the import duty exemptions are a "due allowance" to be taken into account as a downward adjustment to the normal value.

[4] EPR Folio No. 495/001, Attachment C1.1 at pp. 10-11.
[5] EPR Folio No. 495/001 at p. 108.
[6] EPR Folio No. 495/008 at pp. 64-67.
[7] EPR Folio No. 495/008 at p. 69.
[8] EPR Folio No. 495/001 at pp. 112-113.

Liberty Steel notes that the Habas adjustment claim is calculated on the basis of import duties, charges and taxes on the imports of raw materials made under Programs 10 and 12 above. As identified by Habas there were no duties, charges and taxes payable as Habas is exempted from paying such fees. Habas has also not identified whether it has paid such fees on raw materials used for domestic sales and does not appear to have quantified any such amounts.

Liberty Steel submits that the above Habas claim for an adjustment for duty drawback should be rejected.

Program 17 Rediscount Program
Habas noted in regard to the above program:

- loans have a maturity up to 360 days and an export commitment is required;
- The exporter must have an "aval" (a guarantee) of a commercial bank;
- Habaş does not have a loan agreement with respect to guarantees under the rediscount program;
- All such loans are through the *Türkiye İhracat Kredi Bankası* (**Eximbank**), the purpose of such loans is to finance companies which are exporting goods and earning foreign exchange;
- In rediscount loans all interest payable by the exporter to EximBank is deducted from the principal amount of the loan when it is issued. On a face value of $100,000 USD, Habaş would receive $96,000 on the receipt date from the EximBank and on the maturity date of the rediscount loan, Habaş would repay the $100,000 to the EximBank.[9]

Liberty Steel notes that the above arrangement equates to a simple interest of 4.17%, that is $4,000 interest paid on a loan amount of $96,000 over one year.

The above interest rate of 4.17% is at odds with all the observed reports of interest rates applying in Turkey over the investigation period.

Attachment CV 5 to the application noted that Turkey's Central Bank increased its benchmark interest rate to 17.75% in June 2018.

The articles at **Confidential Attachment 1**, note that Turkey's key interest rate increased from 8% to 24% during calendar year 2018, with interest rate increases in May, June and September 2018. The September 2018 rate rise increased interest rates to 24%. Interbank rates are in the range of 14% to 25.6% for calendar year 2018.

Liberty Steel asks the Commission to review documentation for Eximbank loans applying to all exports over the investigation period. Such loans appear to apply based on exportation date, exports early in the investigation period may not show too great a difference when the benchmark rate was at 8% but this difference would become more pronounced as the rates increased from 8% to 24%.

Liberty Steel submits that the prime reason for exporters sourcing loans from Eximbank is the material difference in interest rates between the effective rate of 4.17% applied by Eximbank and the interbank rates of 14% to 25.6%. It is not commercially realistic or feasible that commercial banks would provide loans to exporters below the (risk free or low risk) interbank rates.

Liberty Steel submits that the effective interest rate charged by Eximbank to the exporters constitutes a subsidy as the rate and the value of such subsidy should be calculated on the difference between the Eximbank rate of 4.17% and the commercial interbank rates of 14% to 25.6%.

Program 11: Investment Encouragement Program VAT and Import Duty Exemptions, Investment Incentive Program (Program 25)
Habas noted in its initial response that Habaş had regional investment encouragement certificates in relation to investments on non-subject merchandise, namely its gas section and port investment. Habas further noted that as these certificates did not relate to the production of Rebar it was not providing a response.[10]

[9] EPR Folio No. 495/008 at pp. 74-78.
[10] EPR Folio No. 495/008 at p. 69.

Following a request from the Commission Habas provided a supplementary response in regards to the above programs as they related to Habas' port investments.

Habas noted in the supplementary response that Habas applied to the *Turkish Ministry of Economy* (**MoE**) in order to obtain an investment incentive certificate that was issued on 4 October 2017. Habaş became eligible for and was granted such a regional investment incentive certificate conditional on the investment being made in the particular region and sector specified in the Decree.

The benefits Habas received were Customs duty and VAT exemptions on imported machinery and equipment and tax reductions - where the corporate tax or income tax will be subject to reduction at the determined rates until the estimated investment contribution amount is attained. *In other words, in 2017 Habas paid less corporate tax*.

Habas provided the details of tax reductions related to this program shown in the FY 2017 tax return showing the reduction amount. Habas noted that the applicable customs duty is 0% as the items were imported from the European Union and that as VAT from purchases offsets VAT from sales, there is no benefit from the VAT exemption.[11]

Liberty Steel submits that the above programs constitute a countervailable subsidy. The subsidy is specific, being conditional on the sector and region and evidences a government authority providing a measurable financial benefit, in the revenue forgone by the GOT.

The subsidy provides support to Habas port facilities through which it likely imports the raw material used in the production of Rebar and exports the goods, Rebar, to Australia. The subsidy provides a benefit in lowering the net costs of Habas port facilities through the reductions in corporate tax and VAT. As such the subsidy is applicable to the goods.

Liberty Steel notes that program provides for a reduction in the corporate tax rate of 50%[12].

Liberty Steel further notes that Habas has only provided details on the benefit received for the FY 2017 year, Habas received the investment incentive certificate on 4 October 2017 the full benefit may be understated.

Liberty Steel submits that whilst the benefit from FY 2017 may be applicable in regards to imported raw materials for Rebar during that period details of the benefit received in the investigation period are also relevant. Liberty Steel ask the Commission to request such details from Habas for the investigation period.

Liberty Steel submits that an appropriate quantification of the benefit as it applies to Rebar exported to Australia would be the percentage difference in corporate tax due by the Habas port operations and the actual corporate tax due by Habas port operations taking into account the benefit received. An example of the quantification follows:

Habas net port revenue before tax	100,000,000
Profit before tax, assume 6%	6,000,000
Corporate tax 21.5%, no incentive	1,290,000
Profit after tax	4,710,000
Habas net port revenue before tax	100,000,000
Profit before tax, 6%	6,000,000
Corporate tax 10.75%, 50% reduction	645,000
Profit after tax	**5,355,000**
Increase in Profit after tax	**13.7%** (rounded)

The increase in profit after tax is the net benefit to Habas from the investment incentive.

Without the incentive Habas would need to increase its net port revenue by 13.7% to obtain the same profit after tax with the incentive as shown below.

Habas net port revenue before tax	**100,000,000**
Revenue increased by subsidy 13.7%	**113,694,268**
Profit before tax, 6%	6,821,656
Corporate tax 21.5%, no incentive	1,466,656
Profit after tax	**5,355,000**

[11] EPR Folio No. 495/023 at pp. 2-9.

[12] EPR Folio No. 495/013.1 at p. 174.

The corporate tax rate of 21.5% has been used to reflect the tax rate of 20% applying for the first quarter of the investigation period and the tax rate of 22% applying for the last three quarters of the investigation period.

Liberty Steel submits that the port charges applicable to the Rebar exported to Australia be increased by 13.7% to reflect the increase in revenue required to obtain the **same net benefit** and that this increase be countervailed as a subsidy.

Liberty Steel asks that this increase be applied to all relevant functions that Habas port operations are involved in the exportation of Rebar, including port handling charges, fees, lift on lift off, storage and transport to port.

Liberty Steel further submits that the operation of the incentive likely means that Habas port costs have been distorted by the subsidy such that any charges and costs in relation to the exportation of Rebar may not reasonably reflect competitive market costs associated with the exportation of Rebar.

Liberty Steel further submits that the same method be applied to the importation of raw materials through the port to take account of the subsidy applicable to such imports. Liberty Steel also notes that the distortion of Habas port costs may not reasonably reflect competitive market costs associated with the production of Rebar in that the full costs of the raw materials used in the production of Rebar has been distorted by the applicable subsidy.

Liberty Steel also notes Habas answer in regards to the VAT exemption that as VAT from purchases offsets VAT from sales, there is no benefit from the VAT exemption. Liberty Steel questions why such an exemption would be provided by the GOT of Turkey if there is no such need for the benefit as Habas has noted.

Liberty Steel asks the Commission to request further information from Habas and the GOT into the above anomaly, circumstances which may account for their being a VAT exemption where no such exemption is required is that VAT on certain purchases may not be offset against sales.

Gas section of Habas

As noted by Habas it owns and operates three power plants, two near Izmir and one near Bilecik, the power plants use gas in electricity generation and in the production of Rebar.[13]

Liberty Steel notes that Habas' answer in relation to investment incentive certificates for its gas section was the same as its answer to port investment, "as these certificates did not relate to the production of Rebar it was not providing a response."

Liberty Steel further notes that Habas has not provided a supplementary response for its gas section as it has done so for its port investments.

Liberty Steel submits in view of an inadequate response from Habas regarding the above program that a subsidy benefit be calculated based on the same basis for that for Habas port investments. Liberty Steel proposes that the cost or price of electricity used in the production of Rebar be increased by 13.7% and that this increase be countervailed as a subsidy for Rebar.

Liberty Steel further submits that the operation of any gas incentive likely means that Habas electricity costs have been distorted by the subsidy such that any charges and costs in relation to the production of Rebar may not reasonably reflect competitive market costs associated with the production of Rebar.

Kroman Çelik Sanayii A.Ş. (Kroman)

<u>Program 5 - Deductions from Taxable Income for Export Revenue.</u>
Kroman noted that it receives benefits under this program.

Liberty Steel notes that the only criterion is the company's receipt of foreign currency revenues from export sales in the fiscal year and submits that this constitutes a financial contribution as it is revenue forgone by the GOT. The program is specific, evidences revenue forgone by the GOT and is a countervailable subsidy.

[13] EPR Folio No. 495/008 at p. 16.

<u>Program 10 (Import duty rebates/drawbacks and Program 12 (Inward Processing Regime)</u>
Kroman noted it received benefits under this program.

Liberty Steel submits, as with Habas, that the waste /yield ratios set by the Ministry may not reflect the waste/actual waste ratios achieved by Kroman and therefore do not truly reflect the nature of a duty drawback program but reflect more that of a subsidy as found by the USITC.

Duty drawback adjustment claim
Liberty Steel submits, as with Habas, that this claim should be rejected.

<u>Program 17 Rediscount Program</u>
Kroman noted that it received benefits under this program. Kroman also noted that government-owned banks are applying higher interest rates in comparison to other commercial private banks but it prefers to use Eximbank financing due to the Eximbank procedures for obtaining a loan.

Kroman further noted that it had calculated a weighted average benchmark interest rate that it since the interest is also discounted upfront in the rediscount loans obtained from Eximbank.

Liberty Steel notes that the same circumstances set out above for Habas in relation to this program would apply to Kroman.

Liberty Steel asks the Commission to review documentation for Eximbank loans applying to all exports over the investigation period. Such loans appear to apply based on exportation date, exports early in the investigation period may not show too great a difference when the benchmark rate was at 8% but this difference would become more pronounced as the rates increased from 8% to 24%.

Liberty Steel submits that any benchmark rate calculated by Kroman should not be discounted unless there is evidence that such benchmarks rates were able to be discounted.

Liberty Steel also notes that it does not make commercial sense to use the so called higher interest rates of Eximbank as submitted by Kroman unless there were other commercial reasons for doing so.

Diler Demir Celik Endustri ve Ticaret Anonim Sirketi (DDC)

<u>Program 10 (Import duty rebates/drawbacks and Program 12 (Inward Processing Regime)</u>
DDC noted it received benefits under this program.

Liberty Steel submits, as with Habas, that the waste /yield ratios set by the Ministry may not reflect the waste/actual waste ratios achieved by DDC and therefore do not truly reflect the nature of a duty drawback program but reflect more that of a subsidy as found by the USITC.

Duty drawback adjustment claim
Liberty Steel submits, as with Habas, that this claim should be rejected.

<u>Program 5 - Deductions from Taxable Income for Export Revenue.</u>
DDC noted that it receives benefits under this program.

Liberty Steel notes that the only criterion is the company's receipt of foreign currency revenues from export sales in the fiscal year and submits that this constitutes a financial contribution as it is revenue forgone by the GOT. The program is specific, evidences revenue forgone by the GOT and is a countervailable subsidy.

<u>Program 17 Rediscount Program</u>
DDC noted that it received benefits under this program.

Liberty Steel notes that the same circumstances set out above for Habas in relation to this program would apply to DDC.

Liberty Steel asks the Commission to review documentation for Eximbank loans applying to all exports over the investigation period. Such loans appear to apply based on exportation date, exports early in the investigation period may not show too great a difference when the benchmark rate was at 8% but this difference would become more pronounced as the rates increased from 8% to 24%.

Export Orientated Working Capital Loan
DDC noted that it used a program, the "export oriented working capital loan" from Eximbank which is not listed among Programs 13 to 20. The loan is a long-term loan provided by Eximbank. Under this loan, purchasing of raw materials and intermediate goods are financed based on completed procurement within the framework of invoices. The maturity for this program is 5 years with one-year grace period.[14]

DDC noted that the program applied to short-term and long-term loans and provided a listing of all the loans which have not been fully reimbursed by the end of the investigation period.

Liberty Steel notes that the operation of this program offers similar benefits as those offered under Program 17. Liberty Steel further notes the one-year grace period referred to by DDC may imply a one-year interest free period which further increases the benefit of the program.

Liberty Steel notes that as the program also applies to the purchase of raw materials and intermediate goods, then benefits from the program may have applied before the investigation period when loans were arranged for the importation of such raw materials and intermediate goods.

Liberty Steel also notes that none of the other exporters have disclosed using this program and requests that the Commission clarify this with the other exporters and the GOT.

Program 8 – Exemption from Property Tax
DDC noted that the benefit is in relation with DDC's location in Dilovası Organized Industrial Zone and that DDC was exempted from second instalment of 2017 property tax plus first instalment of 2018 property tax. Since the nature of the program is an exemption, DDC did not record the exemption to its accounting system.

Liberty Steel submits that the program constitutes a financial contribution as it is revenue forgone by the GOT. The program is specific, evidences revenue forgone by the GOT and is a countervailable subsidy.

Program 22 – Assistance to Offset Costs Related to AD/CVD Investigations
DDC noted it received a benefit under this program. DDC further noted that most Turkish steel producers are members of the *Turkish Steel Exporter's Association* (TSEA) and DDT received a negligible amount of money from TSEA to cover some portion of its expenses incurred for getting legal support in anti-dumping and countervailing duty investigations. DDC further noted that there is no limitation in terms of goods for accessing this funding.

Liberty Steel notes that the USITC found that financial assistance received under this program constitutes a financial contribution because the TEA entrusted or directed, via the Directives, Turkish exporters' associations to make financial contributions to their members. Because this program is only available to exporters, the US determined that it is specific and the benefit received is equal to the amount of the financial assistance.[15]

Liberty Steel notes that it appears that Habas and Kroman do not appear to have responded in relation to this program.

Program 11: Investment Encouragement Program VAT and Import Duty Exemptions, Investment Incentive Program (Program 25)

DDC noted that DDC itself is the functional parent company of a group of companies whose operations are concentrated in the fields of iron and steel manufacturing, energy, port operations, banking and tourism.[16]

Liberty Steel notes that DDC in its questionnaire response submitted that DDC did not use this program during the investigation period.

Liberty Steel notes that DDC purchases electricity generated and supplied by the associated entity in order to produce the goods.

Liberty Steel asks that the Commission request further information from DDC in regard to the related party generating electricity and whether the related party received any benefits under Program 11.

Liberty Steel asks that the Commission request further information from DDC in regard to the related party in regard to port operations and whether the related party received any benefits under Program 11.

[14] EPR Folio No. 495/010 at p. 65.
[15] Application, p.111
[16] EPR Folio No. 495/010 at p. 12.

Liberty Steel submits that should DDC companies providing energy and port services be in receipt of such benefits then costs and prices for port operations and energy costs should be uplifted by 12.5% to reflect the benefit of the subsidy as submitted for Habas above.

Çolakoglu Metalurji A.S. (Colakoglu)

Program 8 – Exemption from Property Tax
Colakoglu noted that the benefit is in relation with Colakoglu's location in Dilovası Organized Industrial Zone and that DDC was exempted from property tax since June 2017.

Liberty Steel submits that the program constitutes a financial contribution as it is revenue forgone by the GOT. The program is specific, evidences revenue forgone by the GOT and is a countervailable subsidy.

Program 10 (Import duty rebates/drawbacks and Program 12 (Inward Processing Regime)
Colakoglu noted it received benefits under this program.

Liberty Steel submits, as with Habas, that the waste /yield ratios set by the Ministry may not reflect the waste/actual waste ratios achieved by DDC and therefore do not truly reflect the nature of a duty drawback program but reflect more that of a subsidy as found by the USITC.

Duty drawback adjustment claim
Liberty Steel submits, as with Habas, that this claim should be rejected.

Program 17 Rediscount Program
Colakoglu noted that it received benefits under this program.

Liberty Steel notes that the same circumstances set out above for Habas in relation to this program would apply to Colakoglu.

Liberty Steel asks the Commission to review documentation for Eximbank loans applying to all exports over the investigation period. Such loans appear to apply based on exportation date, exports early in the investigation period may not show too great a difference when the benchmark rate was at 8% but this difference would become more pronounced as the rates increased from 8% to 24%.
Program 5 - Deductions from Taxable Income for Export Revenue.
Colakoglu does not appear to have provided a response regarding this program.

Liberty Steel notes that all other exporters have reported receiving this benefit and given the nature of the benefit and ease of application it seems unlikely that Colakoglu did not receive such a benfit.

Liberty Steel notes that the only criterion is the company's receipt of foreign currency revenues from export sales in the fiscal year and submits that this constitutes a financial contribution as it is revenue forgone by the GOT. The program is specific, evidences revenue forgone by the GOT and is a countervailable subsidy.

Program 22 – Assistance to Offset Costs Related to AD/CVD Investigations
Colakoglu noted it received a benefit under this program.

Liberty Steel notes that the USITC found that financial assistance received under this program constitutes a financial contribution because the TEA entrusted or directed, via the Directives, Turkish exporters' associations to make financial contributions to their members. Because this program is only available to exporters, the US determined that it is specific and the benefit received is equal to the amount of the financial assistance.

Government of Turkey (GOT)

Gas
The GOT advised that the only public entity importing and providing natural gas in the market in Turkey is BOTAŞ.[17]

Liberty Steel has noted above that BOTAS would be the public entity that supplied natural gas to Habas.

Program 5 - Deductions from Taxable Income for Export Revenue.
The GOT confirmed that "This deduction is presumed to cover the expenditures without documentation" in its response.[18]

[17] EPR Folio No. 495/013 at p. 17.
[18] EPR Folio No. 495/013 at p. 32.

Program 10 (Import duty rebates/drawbacks and Program 12 (Inward Processing Regime)
Liberty Steel notes that there are no details provided on the rates applicable for the investigation period or how the ratios were set. Liberty Steel questions how such details could be considered confidential.

Rediscount Program 17
The GOT noted the following in regard to the program.

The *Rediscount Program* (**RP**) is a pre-shipment financing facility. The purpose of RP is to provide financial support to exporters, manufacturer-exporters and export – oriented manufacturers and companies engaged in foreign currency earning services in the preparatory stage of their exports.

Promissory notes/ transferrable guarantee letter issued on behalf of *Eximbank* which have the acceptance (*aval*) of a bank operating in Turkey having a short-term letter of guarantee limit determined by Eximbank, are discounted under this program. In this program, export transactions based on letter of credit, cash against documents, or cash against goods are covered. This program provides pre-shipment finance in foreign currency (**FX**) and starting from June 2011 in *Turkish Lira* (**TRY**).

On the other hand, for TRY based credits, to cover foreign exchange risk, additional collateral is required which is calculated as 15 % of credit amount. Foreign exchange risk arises from the disbursement operation. That is, *Central Bank Republic of Turkey* (**CBRT**) extends credit amount to Eximbank's account in FX at the disbursement date, Eximbank converts this amount into TRY by using its buying exchange rates and extends it in TRY to the firm's account at the same day. This additional collateral can be in the form of additional promissory notes, guarantee letter or between 2,50-5,50% of the credit amount for FX credits and 15% of the credit amount for TRY credits which is blocked by Eximbank.

Firms can also use this program via commercial banks without applying via Eximbank or via Eximbank without the involvement of commercial banks.

Eximbank has the authority to determine the term, interest rate, level of crediting and the currency of credit, also approved by Central Bank dispersed by Exim.

The interest rate that will be used in the rediscount procedures is defined by Eximbank and announced. LIBOR/EURIBOR that will be used in the calculation of interest rate is determined by CBRT. Eximbank has the right to change the interest rate unilaterally.

Firms can repay either in as usage foreign currency or in TRY equivalent amount of principal and interest by using exchange rate determined by Eximbank.[19]

Liberty Steel submits that based on the responses from the GOT it is ultimately the Eximbank and the CBRT that determine the interest rates applicable for this program whether or not commercial banks are involved.

Such interest rates do not reflect commercial interest rates as evidenced above with a rediscount rate of 4.17% applying when the benchmark interest rates ranged from 8% to 24% for the investigation period.

Liberty Steel further submits that for loans provided in US dollars the Eximbank is bearing all the risks and costs associated with such loans. The Eximbank or GOT would be required to purchase the US dollars in TRY bearing all the currency risks. This situation differs for the commercial banks, which are invariably foreign owned and would have less risk adverse access to US dollars through their parent companies.

Export-Oriented Working Capital Credit Program (**WCP**)
The GOT notes the WCP was established with the aim of financing raw materials, intermediate goods, machinery and equipment purchases and other financial needs of companies and that the program is administered by Eximbank.

The GOT notes the credit facility shall be exempted from taxes, duties and fees subject to provisions of the Decree on Exemptions from Taxes, Duties and Fees for Exports as well as Communiqués pertaining to this Decree. Issues pertaining to Resource Utilization Support Fund shall be subjected to provisions of respective Decrees, Communiqués and Circulars.[20]

The taxes that such loans are exempted from are set out further by the GOT where the borrower defaults. These taxes include the Banking and Insurance Transactions Tax, Obligations under Resource Utilization Support Fund and duties, fees and stamp duties, which were exempted originally.[21]

[19] EPR Folio No. 495/013 at pp. 74-84.
[20] EPR Folio No. 495/013.2 at pp. 161-162
[21] EPR Folio No. 495/013.2 at pp. 167

The GOT response notes that the principal amount of the credit and the interests charged thereon may be repaid in TRY or foreign currency and that the loans are for a 5-Year with a one-year grace period.[22]

Liberty Steel submits that based on the responses from the GOT it is ultimately the Eximbank and the CBRT that ultimately determine the interest rates applicable for this program whether or not commercial banks are involved.

Such interest rates do not reflect commercial interest rates as evidenced above with a rediscount rate of 4.17% applying when the benchmark interest rates ranged from 8% to 24% for the investigation period.

Liberty Steel further submits that in addition to providing a benefit of loans not at commercial interest rates additional benefits are provided through the exemption of taxes, duties, fees and stamp duties that would normally apply on commercial loans.

Liberty Steel requests that the Commission take such exemptions into account when quantifying the benefit of the subsidy for the program. Liberty Steel further requests that the Commission investigate whether such exemptions also apply to loans under Program 17 and also take such exemptions into account for the program.

Liberty Steel further notes that the flexibility of the exporter being able to repay the loan in the currency of their choice allows for the exporter to make risk free currency gains. Any such currency gains in the exporters accounts should be further investigated as they would constitute a countervailable subsidy.

“Export Credit Insurance Program” (ECIP)
The GOT noted that this program is a non-cash program of Eximbank offered to the manufacturer exporters, exporters, overseas investors/contractors and companies engaged in foreign currency earning services.

It provides Turkish exporters with one-year blanket insurance cover for exports purchased on short term credits. The percentage of cover is up to 90 % for losses due to the political and commercial risks for the shipments to be paid up to 360 days.

The main objectives are to increase the market share of Turkey in international trade, enhance the competitiveness of Turkish exporters and contractors as well as to create opportunities in newly emerging markets.

ECIP provides insurance cover to exporters for all future shipments, having a fixed term not exceeding 360 days, in a year and is administered by Turk Eximbank. The ECIP also enables exporters to obtain funds from commercial banks.[23]

Liberty Steel notes that program appears to provide exporters with insurance at no cost, Çolakoglu noted in its response that it did not incur marine insurance costs for sales to Australia, as apparently these costs were covered by Exim under the ECIP.

Liberty Steel submits that the program is specific, evidences revenue forgone by the GOT and is a countervailable subsidy.

Market price of natural gas
Liberty Steel notes that DDC and Colakoglu appear to purchase natural gas to use in the generation of electricity to produce Rebar.

Whilst both companies do not appear to have purchased such gas from BOTAS Liberty Steel submits that regardless of whether the companies have purchased gas from BOTAS or private companies such prices may not reflect market prices. Liberty Steel refers to the USITC findings in regard to BOTAS discussed above in regard to Habas.

> Notwithstanding the regulatory preference for the use of prices stemming from actual transactions in the country, where the Department finds that the government provides the majority or, in certain circumstances, a substantial portion of the market for a good or service, prices for such goods and services in the country will be considered significantly distorted and will not be an appropriate basis of comparison for determining whether or not there is a benefit.

[22] EPR Folio No. 495/013 at pp. 111-121.
[23] EPR Folio No. 495/013 at pp. 121-131.

Liberty Steel further submits that the exporters electricity costs have been distorted by the presence of BOTAS in the market such that any charges and costs in relation to the production of Rebar may not reasonably reflect competitive market costs associated with the production of Rebar.

Benchmark for Program 17 and WCP

Liberty Steel submits that an appropriate benchmark for Program 17 and the ECIP is the Turkish 1 Year Government bond rate.

Exim funding in USD provided to the exporters is provided by the GOT. The GOT was required to borrow the money it provided to the exporters as Turkey's gross external debt stock stood at $453.2 billion, more than half of its gross domestic product (GDP) -- 53.3 percent -- at the end of December 2017, Turkey's net foreign debt reached $291.2 billion as of Dec. 31, accounting for more than 34 percent of Turkey's GDP.

The 1 Year bond rate is the appropriate rate as it reflects the 1 year terms offered to the exporters. The 1 Year bond rate reflects the cost to the GOT of Turkey in borrowing the money it provided to the exporters. Details of the 1 Year Government bond rate are attached.

The bond rates ranged from 13.33% to 27.51% during the investigation period which is substantially above the effective rate of 4.17% applicable to Program 17.

Liberty Steel submits that the difference of 9.16% to 23.4% represents a subsidy to exporters in that the full costs of borrowings for the loans provided to the exporters has not been passed on. The date of approval of the loan by Exim can be referenced to the daily bond rate to calculate the difference between the bond rate and the actual effective rate for the loan advanced to the exporter.

Liberty Steel further submits that there are no comparable commercial loans which the exporters could actually obtain on the market as evidenced by the fact that all of such loans were through Exim. A comparison of loans available through commercial banks needs to be a comparison of like loans under the same terms for similar amounts.

Other benefits from Program 17 and WCP

As noted above such loans are exempt from taxes including the Banking and Insurance Transactions Tax, Obligations under Resource Utilization Support Fund and duties, fees and stamp duties. The exemption of such taxes represents revenue forgone and a subsidy.

In addition, the terms of the loans allow the exporter to repay the amounts in USD or Turkish Lira, Eximbank bears all the currency risk and allows the exporters to make foreign exchange gains or avoid foreign exchange losses.

The subsidisation of such loans also allows the exporters the opportunity to invest such loans at a higher interest rate than that being charged by Exim. Available deposit interest rates in September 2018 in Turkey were 16.25% for one month and 17.75% for one year.

Information on Turkish 1 Year Government bond rates, debt and deposit rates is at **Confidential Attachment 2**.

Should the Commission require any further clarification of this request, please do not hesitate to inform the Australian industry applicant's representatives.

FOR AND ON BEHALF OF THE
AUSTRALIAN INDUSTRY APPLICANT