C-570-966
Administrative Review
POR: 3/03/2011 – 12/31/2011
Public Document
Office 8; Operations: KJ

DATE: April 1, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

RE: Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review: Drill Pipe from the People's Republic of China

Summary

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on drill pipe from the People's Republic of China (PRC). The period of review (POR) is March 3, 2011, through December 31, 2011.[1] The respondent is Shanxi Yida Special Steel Imp. & Exp. Co., Ltd. and its cross-owned affiliates Shanxi Yida Special Steel Group Co., Ltd. and Shanxi Yida Petroleum Equipment Manufacturing Co., Ltd. (collectively, the Yida Group). We preliminarily find that the Yida Group received countervailable subsidies during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection to assess countervailing duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), we will issue the final results no later than 120 days from the date of publication of this notice.

Background

On March 3, 2011, the Department published a CVD order on drill pipe from the PRC.[2] On March 1, 2012, we published a notice of "Opportunity to Request Administrative Review" of the CVD order for the period March 3, 2011, through December 31, 2011.[3]

---

[1] For purposes of calculating countervailable benefits and net subsidy rates, we have utilized information corresponding to calendar year 2011.
[2] *See Drill Pipe From the People's Republic of China: Countervailing Duty Order*, 76 FR 11758 (March 3, 2011).
[3] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 12559 (March 1, 2012).

In accordance with section 751(a)(1) of the Act and 19 CFR 351.213(b), we received a request to conduct an administrative review from Shanxi Yida Special Steel Imp. & Exp. Co., Ltd. (Yida I&E), a Chinese exporter of subject merchandise, on March 30, 2012.[4] In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of this administrative review on April 30, 2012.[5]

On May 31, 2012, we issued the initial questionnaire to the Government of the People's Republic of China (GOC) and Yida I&E. On July 26, 2012, the GOC submitted its initial questionnaire response. On July 30, 2012, Yida I&E and its affiliates (collectively, the Yida Group) submitted a response to the initial questionnaire. On August 9, 2012, the Department issued a supplemental questionnaire to the GOC and the Yida Group. On August 23, 2012, the GOC submitted its response to the first supplemental questionnaire. On August 30, 2012, the Department issued a second supplemental questionnaire regarding the provision of electricity to the GOC and received the government's response on September 12, 2012. On September 7, 2012, the Yida Group submitted its response to the first supplemental questionnaire. The Department issued a second supplemental questionnaire to the Yida Group on October 17, 2012, and received the company's response on November 5, 2012.

On October 22, 2012, the time limit for completion of these preliminary results was extended by 120 days to no later than March 31, 2013, in accordance with section 751(a)(3)(A) of the Act.[6] Subsequently, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the preliminary results of this review is April 2, 2013.[7]

We are conducting this administrative review in accordance with section 751(a)(1)(A) of the Act.

Scope of the Order

The products covered by this order are steel drill pipe and steel drill collars, whether or not conforming to American Petroleum Institute (API) or non-API specifications. Included are finished drill pipe and drill collars without regard to the specific chemistry of the steel (*i.e.*, carbon, stainless steel, or other alloy steel), and without regard to length or outer diameter. Also included are unfinished drill collars (including all drill collar green tubes) and unfinished drill pipe (including drill pipe green tubes, which are tubes meeting the following description: seamless tubes with an outer diameter of less than or equal to 6 5/8 inches (168.28 millimeters),

[4] This public document and all other public documents and public versions generated in the course of this review by the Department and interested parties are on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at http://iaaccess.trade.gov and in the Central Records Unit, room 7046 of the main Department of Commerce building.

[5] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation In Part*, 77 FR 25401 (April 30, 2012).

[6] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding "Drill Pipe from the People's Republic of China: Extension of Deadline for the Preliminary Results of Countervailing Duty Administrative Review" (October 22, 2012).

[7] *See* Memorandum to the Record from Paul Piquado, Assistant Secretary for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Hurricane" (October 31, 2012), attached to Memorandum to File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding "Tolling of Deadlines" (November 1, 2012).

containing between 0.16 and 0.75 percent molybdenum, and containing between 0.75 and 1.45 percent chromium). The scope does not include tool joints not attached to the drill pipe, nor does it include unfinished tubes for casing or tubing covered by any other antidumping or countervailing duty order.

The subject products are currently classified in the following Harmonized Tariff Schedule of the United States (HTSUS) categories: 7304.22.0030, 7304.22.0045, 7304.22.0060, 7304.23.3000, 7304.23.6030, 7304.23.6045, 7304.23.6060, 8431.43.8040 and may also enter under 8431.43.8060, 8431.43.4000, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.49.0015, 7304.49.0060, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, and 7304.59.8055.

The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of this order is dispositive.

Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available," subject to section 782(d) of the Act, if necessary information is not on the record or if an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA), information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the result is sufficiently adverse "as to effectuate the statutory purposes of the {AFA} rule to induce respondents to provide the Department with complete and accurate information in a timely manner."[8] The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."[9]

GOC— Provision of Electricity for Less Than Adequate Remuneration (LTAR)

The Department is examining whether the GOC provided electricity for LTAR to the Yida Group during the POR. The GOC, however, did not provide a complete response to the Department's requests for information regarding this program. In its initial questionnaire

[8] *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998).
[9] *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1 at 870 (1994).

response to the *Usage Appendix*, the GOC reported that the provincial government plays some role in formulating electricity prices for the provincial area under its jurisdiction, while the National Development and Reform Commission (NDRC) has the role of a check and balancing mechanism in the adjustment to the electricity rates.[10] In the August 9, 2012, supplemental questionnaire, we requested that the GOC respond to the *Electricity Appendix*, which asked the GOC to provide the provincial price proposals for each province in which the respondent companies are located, for the applicable tariff schedules that were in effect during the POR, and to explain how those price proposals were created.[11] The *Electricity Appendix* also asked the GOC to explain how increases in labor costs, capital expenses, and transmission and distribution costs are factored into the price proposals, and how the cost element increases in the price proposals and the final price increase were allocated across the province and across the tariff end-user categories.[12]

The GOC responded that it was unable to provide the price proposals because they are "working documents" for the NDRC's review.[13] To the questions regarding how electricity cost increases are reflected in retail price increases, the GOC's response explained theoretically how price increases should be formulated and did not explain the actual process that led to the price increases.[14] As such, the Department issued a second supplemental questionnaire to the GOC restating its request for this information.[15] The GOC, however, reiterated its initial response.[16] With regard to the provincial price proposals, the GOC stated, in its first supplemental questionnaire response, that it explained the difficulties it faces in obtaining the provincial price proposals and that it "believes that sufficient information exists on the record to make a determination regarding this 'program' without this information in any event."[17] To the questions regarding how electricity cost increases are reflected in retail price increases, the GOC's response was again theoretical and did not address the specific questions asked.[18]

After reviewing the GOC's responses to the Department's electricity questions, we preliminarily find that the GOC's answers are inadequate and do not provide the necessary information required by the Department to analyze the provision of electricity in the PRC. The GOC did not provide the requested price proposal documents or explain how price increases were formulated. As a result, the Department must rely on the facts otherwise available in its analysis for these preliminary results. *See* sections 776(a)(1) and 776(a)(2)(A) of the Act.

Moreover, we preliminarily find that the GOC has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See* section 776(b)(1) of the Act. Regarding the NDRC documents, the GOC acknowledged the existence of such documents but withheld them without explaining why working documents could not be provided for the Department's review, particularly as the Department permits parties to submit information under protective order for limited disclosure if it is business proprietary. *See, e.g.*, 19 CFR 351.306. Nor did the GOC provide any other documents that would have answered the

[10] *See* GOC's Initial Questionnaire Response (IQR) at 32 (July 26, 2012).
[11] *See* Department's First Supplemental Questionnaire (SQ) to the GOC at 1 and Electricity Appendix (August 9, 2012).
[12] *Id*. and Electricity Appendix.
[13] *See* GOC's First Supplemental Questionnaire Response (SQR) at 2 (August 23, 2012).
[14] *Id*. at 4-6.
[15] *See* Department's Second SQ to the GOC at 3-4 (August 30, 2012).
[16] *See* GOC's Second SQR at 1-6 (September 12, 2012).
[17] *Id*. at 1-2.
[18] *Id*. at 3-6.

Department's questions. Contrary to the GOC's assertion, it is for the Department, and not a respondent, to determine what information is considered relevant and necessary within the context of an antidumping or countervailing duty proceeding.[19] Thus, regardless of whether the GOC finds our explanations concerning the relevance of this information persuasive, by substantially failing to respond to our requests for information, the GOC withheld information requested of it. By stating that the requested information is not relevant and that sufficient information exists on record to make a determination, the GOC has placed itself in the position of the Department, and only the Department can determine what is relevant to its analysis. As such, we preliminarily determine that, without the missing information, we cannot make a finding with respect to financial contribution or specificity because, for example, the details required to analyze the GOC's electricity price adjustment process are contained in the price proposals, which were not submitted.[20] Because these details are contained in the provincial price proposals, those proposals are necessary for determining whether the GOC provides a financial contribution that is specific under this program. Therefore, we find that an adverse inference is warranted in the application of facts available because the GOC withheld the necessary information, and in so doing, failed to cooperate by not acting to the best of its ability to comply with the Department's request for information. *See* sections 776(a)(2)(A) and (b) of the Act.

Drawing an adverse inference, we preliminarily find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D)(iii) of the Act and is specific within the meaning of section 771(5A)(D) of the Act.

We are also preliminarily applying AFA with respect to the selected electricity benchmark because information that the GOC failed to provide pertains directly to evaluating whether a benefit has been conferred. We selected, as an adverse inference, the highest provincial electricity rates that were in effect during the POR as our benchmarks for determining the existence and amount of any benefit under this program. *See* section 776(b)(4) of the Act. The GOC provided the provincial rate schedules that were in effect during the POR,[21] and we have used those schedules to identify the highest provincial electricity rates in effect during the POR.[22]

---

[19] *See Ansaldo Componenti, S.p.A. v. United States*, 628 F. Supp. 198, 205 (CIT 1986) (*Ansaldo*) (stating that "{i}t is Commerce, not the respondent, that determines what information is to be provided"). The court in *Ansaldo* criticized the respondent for refusing to submit information which the respondent alone had determined was not needed, for failing to submit data which the respondent decided could not be a basis for the Department's decision, and for claiming that submitting such information would be "an unreasonable and unnecessary burden on the company." *Id*. *See also Essar Steel Ltd. v. United States*, 721 F. Supp. 2d 1285, 1298-99 (CIT 2010) (stating that "{r}egardless of whether Essar deemed the license information relevant, it nonetheless should have produced it {in} the event that Commerce reached a different conclusion" and that "Commerce, and not Essar, is charged with conducting administrative reviews and weighing all evidence in its calculation of a countervailing duty margin"); *NSK, Ltd. v. United States*, 919 F. Supp. 442, 447 (CIT 1996) ("NSK's assertion that the information it submitted to Commerce provided a sufficient representation of NSK's cost of manufacturing misses the point that 'it is Commerce, not the respondent, that determines what information is to be provided for an administrative review.'"); *Nachi-Fujikoshi Corp. v. United States*, 890 F. Supp. 1106, 1111 (CIT 1995) ("Respondents have the burden of creating an adequate record to assist Commerce's determinations.").

[20] *See Magnesia Carbon Bricks From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 45472 (August 2, 2010) (*Bricks from the PRC*), and accompanying Issues and Decision Memorandum (*Bricks from the PRC* IDM) at Comment 8 (where the Department quoted the GOC as reporting that these price proposals are part of the price setting process within the PRC for electricity).

[21] *See* GOC's IQR at 31 and Exhibits C-1, C-2, and C-3.

[22] *See* Memorandum to File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations,

For details on the calculation of the subsidy rate for the Yida Group, *see* below at "Provision of Electricity for LTAR."

Subsidies Valuation Information

Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(iv) directs that the Department to attribute subsidies received by certain other companies to the combined sales of the recipient and other companies if: (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This section of the Department's regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations. The *Preamble* to the Department's regulations further clarifies the Department's cross-ownership standard. According to the *Preamble*, relationships captured by the cross-ownership definition include those where

> the interests of two corporations have merged to such a degree that one corporation can use or direct the individual assets (or subsidy benefits) of the other corporation in essentially the same way it can use its own assets (or subsidy benefits). … Cross-ownership does not require one corporation to own 100 percent of the other corporation. Normally, cross-ownership will exist where there is a majority voting ownership interest between two corporations or through common ownership of two (or more) corporations. In certain circumstances, a large minority voting interest (for example, 40 percent) or a "golden share" may also result in cross-ownership.[23]

Thus, the Department's regulations make clear that the agency must look at the facts presented in each case in determining whether cross-ownership exists.

The U.S. Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.[24]

Office 8, regarding "Electricity Benchmark Rates," dated concurrently with, and hereby adopted by, this memorandum (Electricity Memorandum).

[23] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998).

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

Yida Group

Yida I&E filed a response on behalf of itself and its two affiliates: Shanxi Yida Special Steel Group Co., Ltd. (Yida Special Steel) and Shanxi Yida Petroleum Equipment Manufacturing Co., Ltd. (Yida Petroleum).[25] Yida I&E, established in 1999, is the exporter of subject merchandise, which is produced by its affiliated companies.[26] Yida Special Steel, established in 1997, produces steel billets that are manufactured into subject merchandise by Yida Petroleum, which was founded in 2001.[27] All company offices and facilities are located in Taiyuan City, Shanxi Province, except for Yida Special Steel's Chongqing Branch, which is located in Chongqing City, one of the PRC's four municipalities.[28]

Yida I&E reported that all three companies, which are domestically-owned companies, are owned by an individual and his family members, and that all companies are under the common control of this individual.[29] Pursuant to 19 CFR 351.525(b)(6)(vi), we preliminarily find that Yida I&E, Yida Special Steel, and Yida Petroleum are cross-owned because of common ownership.

In these preliminary results, we have attributed any subsidies received by Yida Special Steel, the input supplier of steel billets, according to the rules established in 19 CFR 351.525(b)(6)(iv), using as the denominator the combined sales of Yida Special Steel, Yida Petroleum, and Yida I&E, net of inter-company sales. For any subsidies received by Yida I&E, the exporter, we attributed them under 19 CFR 351.525(c), using as the denominator the combined sales of Yida Petroleum and Yida I&E, net of inter-company sales.

Also, Yida I&E reported that it exported subject merchandise sourced from an unaffiliated supplier, but that this merchandise was not exported to the United States during the POR.[30] Although any subsidies to unaffiliated producers would normally be cumulated with those of the trading company that sold their merchandise pursuant to 19 CFR 351.525(c), the Department has, in some instances, limited the number of producers it examines where the merchandise was not exported to the United States during the POR, or accounted for a very small share of respondent's exports to the United States.[31] In this review, we did not issue a questionnaire to the unaffiliated producer of drill pipe whose merchandise was exported by Yida I&E, because such merchandise was not exported to the United States during the POR. Also, we have removed the sales of these products from Yida I&E's 2011 sales to derive the denominator for purposes of calculating countervailable subsidy rates for the Yida Group. This approach is consistent with prior cases.[32]

---

[25] Yida I&E reported other affiliates, but claimed that none was cross-owned within the meaning of 19 CFR 351.525(b)(6) and, therefore, did not submit a response for those companies. *See* Yida Group's IQR at 4 and Exhibit 1 (July 30, 2012), and First SQR at 2 (September 7, 2012).
[26] *See* Yida Group's IQR at 2-6.
[27] *Id*.
[28] *Id*. at 5.
[29] *Id*. at 4, 6, and Exhibit 1. The name of the individual is proprietary information.
[30] *See* Yida Group's IQR at 7, and Yida Group's First SQR at 1.
[31] *See, e.g., Certain Pasta From Italy: Final Results of the Fourth Countervailing Duty Administrative Review*, 66 FR 64214 (December 12, 2001), and accompanying Issues and Decision Memorandum at "Attribution."
[32] *See, e.g.*, The Department's treatment of RZBC IE's exports of subject merchandise produced by unaffiliated companies in *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010*, 77 FR 72323 (December 5, 2012), and accompanying Issues and Decision Memorandum at "Attribution of Subsidies – RZBC."

Loan Benchmark Rates

The Department is examining loans received by the Yida Group from state-owned commercial banks (SOCBs). The derivation of the benchmark rates used to value these subsidies is discussed below.

Short-Term RMB Denominated Loans

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the "difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market." Normally, the Department will rely on the actual experience of the firm in question in obtaining comparable commercial loans.[33] If the firm did not have any comparable commercial loans during the period, the Department's regulations provide that we "may use a national average interest rate for comparable commercial loans."[34] Section 771(5)(E)(ii) of the Act also indicates that the benchmark should be a market-based rate.

For the reasons explained in *CFS from the PRC*,[35] loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market. Because of this, any loans received by respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). Similarly, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with the Department's practice. For example, in *Softwood Lumber from Canada*, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.[36] Further, there is no new information on the record of this review that would lead us to deviate from the Department's prior finding regarding government intervention in the PRC's banking sector.

We first developed in *CFS from the PRC*,[37] and more recently updated in *Thermal Paper from the PRC*,[38] the methodology used to calculate the external benchmark. Under that methodology, we first determine which countries are similar to the PRC in terms of gross national income, based on the World Bank's classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *CFS from the PRC*,

---

[33] *See* 19 CFR 351.505(a)(3)(i).
[34] *See* 19 CFR 351.505(a)(3)(ii).
[35] *See Coated Free Sheet Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*), and accompanying Issues and Decisions Memorandum (*CFS from the PRC* IDM) at Comment 10; and Memorandum to the File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding "Placement of Banking Memorandum on the Record," dated concurrently with this notice.
[36] *See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products From Canada*, 67 FR 15545 (April 2, 2002) (*Softwood Lumber from Canada*), and accompanying Issues and Decision Memorandum at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."
[37] *See CFS from the PRC* IDM at Comment 10.
[38] *See Lightweight Thermal Paper From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*), and accompanying Issues and Decision Memorandum at 8-10.

using these different groupings of countries we are able to capture the broad inverse relationship between income and interest rates. For 2001 through 2009, the PRC fell in the lower-middle income category.[39] Beginning with 2010, however, the PRC is in the upper-middle income category.[40] Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark rates for 2001 – 2009, and the interest rates of upper-middle income countries to construct the benchmark rates for 2010 and 2011.

After identifying the appropriate interest rates, the next step in constructing the benchmark is to incorporate an important factor in interest rate formation – the strength of governance as reflected in the quality of the countries' institutions. The strength of governance has been built into the analysis by using a regression analysis that relates the interest rates to governance indicators.

In each year from 2001-2009, and 2011, the results of the regression-based analysis reflected the intended, common sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.[41] For 2010, however, the regression does not yield that outcome for the PRC's income group. This contrary result for a single year does not lead the Department to reject the strength of governance as a determinant of interest rates. As confirmed by the Federal Reserve, "there is a significant negative correlation between institutional quality and the real interest rate, such that higher quality institutions are associated with lower real interest rates."[42] However, for 2010, incorporating the governance indicators in our analysis does not make for a better benchmark. Therefore, we have continued to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009, and 2011. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries. Based on our experience for the 2001-2009 period, in which the average interest rate of the lower-middle income group did not differ significantly from the benchmark rate resulting from the regression for that group, use of the average interest rate for 2010 does not introduce a distortion into our calculations.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund, and they are included in that agency's international financial statistics (IFS). With the exceptions noted below, we have used the interest and inflation rates reported in the IFS for the countries identified as "upper-middle income" by the World Bank for 2010 and 2011, and "lower-middle income" for 2001-2009. First, we did not include those economies that the Department considered to be nonmarket economies for antidumping purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we removed any country that reported a rate that was not a

[39] *See* World Bank Country Classification, http://econ.worldbank.org/; *see also* Memorandum to the File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding "Interest Rate Benchmark Memorandum," dated concurrently with, and hereby adopted by, this memorandum.
[40] *Id.*
[41] *Id.* and Memorandum to the File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding "Additional Documents for Preliminary Results," dated concurrently with this notice, at Attachment I (which contains Memorandum to the File, regarding "Consultations with Government Agencies" (October 17, 2007) from *CFS from the PRC*).
[42] *Id*.

lending rate or that based its lending rate on foreign-currency denominated instruments.[43] Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate, we have also excluded any countries with aberrational or negative real interest rates for the year in question.[44]

Because these rates are net of inflation, we adjusted the benchmark rates to include an inflation component before comparing them to the interest rates on loans issued to the Yida Group by SOCBs.[45]

Long-Term RMB-Denominated Loans

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, the Department has developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.[46]

In *Citric Acid from the PRC*, this methodology was revised by switching from a long-term markup based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where 'n' equals or approximates the number of years of the term of the loan in question.[47] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[48]

Analysis of Programs

Based on our analysis and the responses to our questionnaires, we preliminarily find the following:

I. Programs Preliminarily Determined To Be Countervailable

A. Central and Provincial Policy Lending to Chinese Drill Pipe Producers

In the *Investigation Final*, the Department determined that the GOC has a policy in place to encourage the development of drill pipe production through policy lending provided by

[43] For example, in certain years Jordan reported a deposit rate, not a lending rate, and Ecuador and Timor L'Este reported dollar-denominated rates; therefore, such rates have been excluded.

[44] For example, we excluded Brazil from the 2010 and 2011 benchmarks because the country's real interest rate was 34.95 percent and 37.25 percent, respectively. *See* Interest Rate Benchmark Memorandum.

[45] *See* Interest Rate Benchmark Memorandum for the resulting inflation adjusted benchmark lending rates; *see also* Yida Group's Preliminarily Calculations, dated concurrently with this notice (Yida Group's Prelim Calculations).

[46] *See, e.g., Light-Walled Rectangular Pipe and Tube From People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination*, 73 FR 35642 (June 24, 2008), and accompanying Issues and Decision Memorandum at 8.

[47] *See Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*), and accompanying Issues and Decision Memorandum at Comment 14.

[48] *See* Interest Rate Benchmark Memorandum for the resulting inflation adjusted benchmark lending rates; *see also* Yida Group's Prelim Calculations.

SOCBs or policy banks.[49] In its questionnaire response for this program, the GOC asserted that the Department's findings that SOCBs are "public bodies" lack evidentiary foundation and are unsupported by the law and that the Department cannot rely on *CFS from the PRC* as evidentiary basis for the GOC's participation and intervention in the RMB lending market, citing to *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*. (DS379).[50] The GOC stated that the Department must consider the evidence submitted on the record of the instant review finding that there is no basis to consider financial institutions as "government authorities" and added that it "reserves the right to further substantiate its evidence of 'significant and fundamental changes' in the relationship between the GOC (including lower level governments) and the bank in question since the period covered by the Department's earlier findings."[51]

Concerning the GOC's reference to WTO Appellate Body Decision DS379, that decision involved an "as applied" challenge to the eight AD and CVD determinations at issue in that case, and the Department's recent implementation applied only to those determinations.[52] Therefore, neither the decision nor the implementation applies to this administrative review. With regard to the GOC's statement regarding its right to substantiate evidence of changes in the relationship between the GOC and the bank in question in this review, to date, the GOC has not submitted any such information.

Because no information has been provided on the record of the instant review that would cause the Department to reach a different determination from the *Investigation Final*, we preliminarily find that the GOC's policy lending program to drill pipe producers continues.

As such, loans provided to drill pipe producers from SOCBs or policy banks in the PRC constitute a direct financial contribution from the government pursuant to section 771(5)(D)(i) of the Act, and they provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans (*see* section 771(5)(E)(ii) of the Act). Furthermore, the loans are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because the GOC's policy, as illustrated in government plans and directives,[53] is to encourage and support the growth and development of the drill pipe industry.

Within the Yida Group, only Yida Special Steel had loans outstanding during the POR.[54] The Yida Group argued that no benefits were received under this program, because Yida Special Steel's loans were initially taken out in 2000, when the company was not involved in the production of subject merchandise.[55] However, the loans were renewed by the lender during a

---

[49] *See Drill Pipe From the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011) (*Investigation Final*), and accompanying Issues and Decision Memorandum (*Investigation Final* IDM) at "Central and Provincial Policy Lending to Chinese Drill Pipe Producers."

[50] *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* , Appellate Body Report WT/DS379/AB/R (adopted March 25, 2011), para. 354 and 502. *See* GOC's IQR at 3-4.

[51] *See* GOC's IQR at 5.

[52] *See Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube From the People's Republic of China*, 77 FR 52683 (August 30, 2012).

[53] For a discussion of the GOC's plans and directives, *see Investigation Final* IDM at "Central and Provincial Policy Lending to Chinese Drill Pipe Producers."

[54] *See* Yida Group's IQR at 12.

[55] *Id*.

time when Yida Special Steel was involved in the production of drill pipe.[56] Consistent with our practice, we are treating the year in which the loans of Yida Special Steel were renewed (*i.e.*, the date of loan agreement) as the year of receipt.[57]

To calculate the benefit from the loans, we compared the amount of interest Yida Special Steel paid on its outstanding loans to the amount of interest that it would have paid on comparable commercial loans. *See* 19 CFR 351.505(a). In conducting this comparison, we used the interest rates described in the "Loan Benchmark Rates" section above. We attributed benefits under this program to the total consolidated sales of the Yida Group for 2011 (net of inter-company sales), as discussed in the "Attribution of Subsidies" section above. On this basis, we preliminarily calculate a countervailable subsidy rate of 2.80 percent *ad valorem* for the Yida Group.[58]

B. Provision of Electricity for LTAR

In the *Investigation Final*, we determined that this program conferred a countervailable subsidy.[59] No information has been provided on the record of the instant review that would cause the Department to reconsider its finding from the *Investigation Final*. As discussed above, in "Use of Facts Otherwise Available and Adverse Inferences," we are basing the preliminarily finding on the government's provision of electricity in part on AFA. We preliminarily find that the GOC's provision of electricity is a financial contribution in the form of the provision of good or service under section 771(5)(D)(iii) of the Act, and that it is specific within the meaning of section 771(5A)(D) of the Act.

Yida Special Steel and Yida I&E reported that they purchased electricity from provincial utilities.[60] Yida Petroleum reported that it purchased electricity from a company from which it leased its facility. There is no information on the record indicating that this company is owned or controlled by the GOC. As such, we are preliminarily not including Yida Petroleum's electricity purchases from this company in the benefit calculation for this program. However, if warranted, we may further examine this electricity arrangement in a future administrative review.

To determine the existence and amount of any benefit under this program pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we have relied on the companies' reported electricity consumption volumes and monthly payments.[61] In accordance with 19 CFR 351.511(a)(2), we selected the highest non-seasonal provincial rates in the PRC for each user category (*e.g.*, large industry, general industry and commerce) and voltage class of the respondents (*e.g.*, 1-10kv), as well as the companies' basic fee (*e.g.*, transformer capacity).[62]

[56] For more discussion of the loans, *see* Yida Group's Prelim Calculations.
[57] *See e.g.*, *See Cut-to-Length Carbon Steel Plate From Mexico: Preliminary Results of Countervailing Duty Administrative Review*, 68 FR 52895 (September 8, 2003), unchanged in *Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Countervailing Duty Administrative Review*, 69 FR 1972 (January 13, 2004); *see also Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod From Italy*, 63 FR 40474, 40477 (July 29, 1998).
[58] *Id*.
[59] *See Investigation Final* IDM at "Provision of Electricity of LTAR."
[60] *See* Yida Group's IQR at 21and Exhibits 20 and 21; *see also* Yida Group's First SQR at 16.
[61] *See* Yida Group's IQR at 21and Exhibits 20 and 21.
[62] Additional information on these benchmark rates is provided in the "Electricity Memorandum," issued concurrently with this notice.

Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a user category.

Consistent with our approach in the *Investigation Final*, we then compared what the companies paid for electricity during the POR to the benchmark payments. Based on this comparison, we preliminarily find that electricity was provided for LTAR.

To calculate the subsidy for Yida Special Steel, we summed the company's benefits and divided the amount by the 2011 consolidated sales for Yida Special Steel, Yida Petroleum, and Yida I&E, net of inter-company sales, as noted in the "Attribution of Subsidies" section above. For Yida I&E, we summed the company's benefits and divided the amount by the 2011 consolidated sales for Yida Petroleum and Yida I&E, net of inter-company sales, as discussed in the "Attribution of Subsidies" section above. We then added the rates calculated for Yida Special Steel and Yida I&E to determine the overall program rate. On this basis, we preliminarily calculate a countervailable subsidy rate of 2.43 percent *ad valorem* for the Yida Group.[63]

II. <u>Programs Preliminarily Determined Not to be Used</u>

We preliminarily find that the Yida Group did not use the following programs during the POR:

- Export Loans from Policy Banks and State-Owned Commercial Banks
- Treasury Bond Loans
- Preferential Loans for State Owned Enterprises (SOEs)
- Preferential Loans for Key Projects and Technologies
- Preferential Lending to Drill Pipe Producers and Exporters Classified as Honorable Enterprises
- Debt-to-Equity (D/E) Swaps
- Loans and Interest Forgiveness for SOEs
- Two Free, Three Half Tax Exemption for Foreign Invested Enterprises (FIEs) Exemption from City Construction Tax and Education Tax for FIEs
- Local Income Tax Exemption and Reduction Programs for Productive FIEs Income Tax Reductions for Export-Oriented FIEs
- Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
- Reduction In or Exemption from Fixed Assets Investment Orientation Regulatory Tax
- Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring
- Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment
- Import Tariff and Value-Added Tax (VAT) Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
- Export Incentive Payments Characterized as "VAT Rebates"
- VAT Rebates to Welfare Enterprises
- Provision of Green Tubes for LTAR
- Provision of Steel Rounds for LTAR
- Provision of Hot-Rolled Steel for LTAR

[63] *See* Yida Group's Prelim Calculations.

- Provision of Coking Coal for LTAR
- Provision of Land-Use Rights within Designated Geographical Areas for LTAR
- Provision of Land to SOEs for LTAR
- Provision of Electricity at LTAR to Drill Pipe Producers Located in Jiangsu Province
- Provision of Water at LTAR to Drill Pipe Producers Located in Jiangsu Province
- Technology to Improve Trade R&D Fund
- Outstanding Growth Private Enterprise and Small and Medium-sized Enterprises
- Development in Jiangyin Fund
- GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands
- Scientific Innovation Award
- Development Fund Grant
- State Key Technology Project Fund
- Export Assistance Grants
- Programs to Rebate Antidumping Legal Fees
- Grants and Tax Benefits to Loss-Making SOEs at National and Local Level
- Subsidies Provided to Drill Pipe Producers Located in Economic and Technological Development Zones (ETDZs) in Tianjin Binhai New Area
- Subsidies Provided to Drill Pipe Producers Located in ETDZs in Tianjin Economic and Technological Development Areas
- Subsidies Provided to Drill Pipe Producers Located in High-Tech Industrial Development Zones

Conclusion

We recommend applying the above methodology for these preliminary results.

✓
Agree Disagree

Paul Piquado
Assistant Secretary
for Import Administration

1 April 2013
(Date)