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International Trade Administration
Washington, D.C. 20230

C-570-968
Administrative Review
POR: 9/07/2010 – 12/31/2011
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Office 8; Operations: RC/KJ

DATE: June 3, 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: Aluminum Extrusions 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 aluminum extrusions from the People's Republic of China (PRC). The period of review (POR) is September 7, 2010, through December 31, 2011.[1] The respondents are: Changzhou Changzheng Evaporator Co., Ltd. (Changzheng Evaporator) and Kromet International Inc. (Kromet) and the Alnan Companies.[2] We preliminarily find that Changzheng Evaporator and the Alnan Companies 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 (CBP) to assess countervailing duties on all appropriate entries of subject merchandise entered 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 after issuance of these preliminary results.

[1] For purposes of calculating countervailable benefits and net subsidy rates for the period September 7, 2010, through December 31, 2010, we have utilized information corresponding to calendar year 2010.
[2] The Alnan Companies are Alnan Aluminum Co., Ltd. (Alnan Aluminum), Alnan Aluminum Foil Co., Ltd. (Alnan Foil), Alnan (Shanglin) Industry Co., Ltd. (Shanglin Industry), and Shanglin Alnan Aluminum Comprehensive Utilization Power Co. Ltd. (Shanglin Power).

Background

On May 26, 2011, we published a CVD order on aluminum extrusions from the PRC.[3] On May 1, 2012, we published a notice of "Opportunity to Request Administrative Review" of the CVD order for the period September 7, 2010, through December 31, 2011.[4] We received requests for review of 71 companies, of which 17 firms subsequently withdrew their review requests.[5] On July 10, 2012, we published the notice of initiation of this administrative review and stated that we intended to select respondents based on CBP data for U.S. imports during the POR.[6] However, as explained in the CBP Query Results Memorandum, because of data inconsistencies, we could not use the query results for purposes of ranking potential respondents based on volume of subject merchandise shipped to the United States.[7] Instead, we issued a quantity and value (Q&V) questionnaire to the 22 firms identified in the CBP query results.[8] Where a firm that requested a review was not listed on the CBP query results, we requested that interested parties provide CBP documentation (*e.g.*, 7501 entry summaries) to demonstrate entries of subject merchandise during the POR.[9]

Of the 22 firms, 17 firms submitted a Q&V response, three firms failed to respond, and two firms withdrew their requests for an administrative review.[10] We also received 23 voluntary responses to the Q&V questionnaire.[11]

We used the data in the Q&V responses as the basis for selecting the respondents for individual review. On November 5, 2012, we selected Changzheng Evaporator and Kromet as the two mandatory respondents in this administrative review,[12] and concurrently issued the initial CVD questionnaire to the companies and the Government of the People's Republic of China (GOC). We received initial questionnaire responses on January 8 and 9, 2013. In its initial response, Kromet indicated that it was a Canadian-based exporter and that the merchandise it sold in the United States was produced by the Alnan Companies. Thus, hereafter, we refer to the Alnan Companies as the mandatory respondent. From January 10, 2013, through May 13, 2013, we issued supplemental questionnaires to the GOC, Changzheng Evaporator, and the Alnan

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[3] *See Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (*Order*).
[4] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 25679 (May 1, 2012).
[5] *See Aluminum Extrusions from the People's Republic of China: Notice of Partial Rescission of Countervailing Duty Administrative Review*, 77 FR 65671 (October 30, 2012); *see also* Department Memorandum regarding "Amended List of Firms for Which Timely Withdrawal of Review Request was Submitted" (October 15, 2012).
[6] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 40565 (July 10, 2012) (*Initiation Notice*).
[7] *See* Department Memorandum regarding "Respondent Selection and Release of Customs and Border Protection Query Results" (September 17, 2012) (CBP Query Results Memorandum).
[8] *See* Department Letters regarding "Issuance of Quantity and Value Questionnaire" (October 1, 2012).
[9] *Id*.
[10] *See* Department Memorandum regarding "Respondent Selection" (November 5, 2012) (Respondent Selection Memorandum).
[11] *Id*.
[12] *Id.*, and Department Letters to Changzheng Evaporator, Kromet, and the GOC regarding "Initial Questionnaire" (November 5, 2012).

Companies. From January 24, 2013, through May 23, 2013, we received responses to the supplemental questionnaires from the Alnan Companies, Changzheng Evaporator, and the GOC.

On January 29, 2013, Petitioner[13] filed new subsidy allegations (NSA).[14] On February 26, 2013, we initiated on certain of the newly alleged subsidies and concurrently issued NSA questionnaires to the GOC, Changzheng Evaporator, and the Alnan Companies.[15] We received responses to the NSA questionnaires from Changzheng Evaporator on March 12, 2013, and the GOC and the Alnan Companies on March 21, 2013.

Lastly, on October 31, 2012, 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 are extended by two days.[16] On December 21, 2012, we extended the time limit for completion of these preliminary results by 120 days to no later than June 3, 2013, in accordance with section 751(a)(3)(A) of the Act.[17]

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

<u>Scope of the Order</u>

The merchandise covered by the order is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

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[13] Petitioner is the Aluminum Extrusions Fair Trade Committee.
[14] *See* Letter from Petitioner, regarding "Allegation of New Countervailable Subsidies" (January 29, 2013).
[15] *See* Department Memorandum regarding "Decision Memorandum on New Subsidy Allegations" (February 26, 2013); *see also* Letters from Department to Changzheng Evaporator, Kromet, and the GOC, regarding "New Subsidy Allegations Questionnaire" (February 26, 2013).
[16] *See* Department Memorandum regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Hurricane" (October 31, 2012), attached to Department Memorandum regarding "Tolling of Deadlines" (November 1, 2012).
[17] *See* Department Memorandum regarding "Extension of Deadline for the Preliminary Results of Countervailing Duty Administrative Review" (December 21, 2012).

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a "finished goods kit." A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled 'as is' into a finished product. An imported product will not be considered a 'finished goods kit' and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, etc. in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) length of 37 mm or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of the order are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTS): 7610.10.00, 7610.90.00, 7615.10.30, 7615.10.71, 7615.10.91, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7616.99.10, 7616.99.50, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 7604.21.00.00, 7604.29.10.00, 7604.29.30.10, 7604.29.30.50, 7604.29.50.30, 7604.29.50.60, 7608.20.00.30, 7608.20.00.90, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8479.90.85.00, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8516.90.50.00, 8516.90.80.50, 8708.80.65.90, 9401.90.50.81, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.30, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTS chapters. In addition, fin evaporator coils may be classifiable under HTS numbers: 8418.99.80.50 and 8418.99.80.60. While HTS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[18]

<u>**Use of Facts Otherwise Available and Adverse Inferences**</u>

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.

Application of Total AFA to Non-Cooperative Companies

Foshan Yong Li Jian Alu. Ltd.,[19] North China Aluminum Co., Ltd., and Taishan City Kam Kiu Aluminum Extrusion Co., Ltd. (collectively, the non-cooperative companies) failed to respond to the Department's October 1, 2012, Q&V questionnaire.[20] We sent a questionnaire via United Parcel Service (UPS) to the address provided for each company.[21] We also contacted by telephone the counsel that represented the importers of subject merchandise from the three producers to notify them that the Department's Q&V questionnaire was issued.[22] None of these companies, however, submitted a response by the October 18, 2012, deadline, or requested an extension to respond to the questionnaire.

As a result of the companies' failure to submit a response to the questionnaire, we find them to be non-cooperative. By not responding to the request for information regarding the Q&V of their sales, the companies impeded the Department's ability to conduct its review. Thus, we are basing the CVD rate for these non-cooperative companies on the facts otherwise available, pursuant to sections 776(a)(2)(A) and (C) of the Act.

We further preliminarily find that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit a response to the Department's questionnaire, the companies did not cooperate by not acting to the best of their ability in this review. Accordingly, we preliminarily find that adverse facts available (AFA) is warranted to ensure that the companies

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[18] *See Order*.
[19] An importer submitted a letter to the Department claiming that Foshan Yong Li Jian Alu. Ltd. did not have any exports of subject merchandise to the United States during the POR. *See* Letter from Newell Rubbermaid, Inc., regarding "No Shipment Regarding Foshan Yong Li Jian Aluminum Ltd." (October 24, 2012). However, a no-shipment claim must be submitted and certified by the producer/exporter and so the Department cannot determine that Foshan Yong Li Jian Alu. Ltd. had no entries, exports or shipments during the POR. *See Initiation Notice*.
[20] *See* Department Letters regarding "Issuance of Quantity and Value Questionnaire" (October 1, 2012).
[21] *See* Department Memorandum regarding "Contacting Potential Respondents" (October 4, 2012).
[22] *Id*.

do not obtain a more favorable result than had they fully complied with the Department's request for information.

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) and (2) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any 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 rate is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."[23] 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."[24]

In applying AFA to the non-cooperative companies, we are guided by the Department's approach in recent CVD investigations and reviews.[25] Under this practice, the Department computes the total AFA rate for non-cooperative companies generally using program-specific rates calculated for the cooperating respondents in the instant review or in prior segments of the instant proceeding, or calculated in prior CVD cases involving the country under review (in this case, the PRC), unless it is clear that the industry in which the respondents operate cannot use the program for which the rates were calculated.

In these preliminary results, for the income tax rate reduction or exemption programs, we are applying an adverse inference that the non-cooperative companies paid no income taxes during the POR. The standard income tax rate for PRC corporations filing income tax returns during the POR was 25 percent.[26] We, therefore, preliminarily find that the highest possible benefit for all income tax reduction or exemption programs combined is 25 percent (*i.e.*, the income tax programs combined provide a countervailable benefit of 25 percent). This approach is consistent with the Department's past practice.[27]

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[23] *See e.g.*, *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).

[24] *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong. 2d Session, at 870.

[25] *See e.g.*, *Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Final Results of the Countervailing Duty Administrative Review*, 77 FR 21744 (April 11, 2012) (*Kitchen Shelving from the PRC First Review*), and accompanying Issues and Decision Memorandum (Kitchen Shelving First Review Decision Memorandum) at "Use of Facts Otherwise Available and Adverse Inferences;" *see also Aluminum Extrusions From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 76 FR 18521 (April 4, 2011) (*Investigation*), and accompanying Issues and Decision Memorandum (Aluminum Extrusions Decision Memorandum) at "Application of Adverse Inferences: Non-Cooperative Companies."

[26] *See* GOC New Subsidy Allegation Questionnaire Response of Kromet International Inc. (NSA QR) (March 21, 2013) at page 11.

[27] *See e.g.*, Aluminum Extrusions Decision Memorandum at "Application of Adverse Inferences: Non-Cooperative Companies;" and *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) (*CWP from the PRC*), and accompanying Issues and Decision Memorandum (CWP Decision Memorandum) at 2."

The 25 percent AFA rate does not apply to the income tax credit and rebate, accelerated depreciation, or import tariff and value add tax exemption programs because such programs may not affect the tax rate. Therefore, for all programs other than those involving income tax rate reduction or exemption programs, we have first sought to apply, where available, the highest above *de minimis* subsidy rate calculated for an identical program from any segment of this proceeding. Absent such a rate, we have applied, where available, the highest above *de minimis* subsidy rate calculated for a similar program from any segment of this proceeding. Because the rates calculated in the underlying investigation were calculated for voluntary respondents,[28] we cannot use any of those rates as AFA rates in this administrative review.

In the absence of an above *de minimis* subsidy rate calculated for the same or similar program in any segment of this proceeding, we have applied the highest non-*de minimis* rate calculated for the same or similar program (based on treatment of the benefit) in another PRC CVD proceeding. Absent an above *de minimis* subsidy rate calculated for the same or similar program in any PRC CVD proceeding, we have applied the highest calculated subsidy rate for any program otherwise listed from any prior PRC CVD case, so long as the non-cooperating companies conceivably could have used the program for which the rate was calculated.[29] On that basis, we preliminarily determine that the AFA rate for the non-cooperative companies is 170.66 percent *ad valorem*.[30]

Corroboration of Secondary Information Used to Derive AFA Rates

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."[31] The Department considers information to be corroborated if it has probative value.[32] To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information.[33]

With regard to the reliability aspect of corroboration, we note that the rates on which we are relying are subsidy rates calculated in this review or other PRC CVD final determinations. Further, the calculated rates were based on information about the same or similar programs. Moreover, no information has been presented that calls into question the reliability of these calculated rates that we are applying as AFA. Finally, unlike other types of information, such as

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[28] *See* Aluminum Extrusions Decision Memorandum at "Application of Adverse Inferences: Non-Cooperative Companies."
[29] *See* Kitchen Shelving First Review Decision Memorandum at "Use of Facts Otherwise Available and Adverse Inferences."
[30] *See* Department Memorandum regarding "AFA Calculation Memorandum for the Preliminary Results" (June 3, 2013) (AFA Calculation Memorandum), for a table detailing the derivation of the AFA rate applied.
[31] *See* SAA at 870.
[32] *Id*.
[33] *Id*. at 869-870.

publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on company-specific benefits resulting from countervailable subsidy programs.

With respect to the relevance aspect of corroborating the rates selected, the Department will consider information reasonably at its disposal in considering the relevance of information used to calculate a countervailable subsidy benefit. Where circumstances indicate that the information is not appropriate as AFA, the Department will not use it.[34]

In the absence of record evidence concerning the programs under review resulting from the non-cooperative companies' decision not to participate in the review, we have reviewed the information concerning PRC subsidy programs in this and other cases. For those programs for which the Department has found a program-type match, we find that, because these are the same or similar programs, they are relevant to the programs under review in this case. For the programs for which there is no program-type match, we have selected the highest calculated subsidy rate for any PRC program from which the non-cooperative companies could receive a benefit to use as AFA. The relevance of these rates is that they are actual calculated CVD rates for a PRC program from which the non-cooperative companies could actually receive a benefit. Further, these rates were calculated for periods close to the POR. Moreover, the failure of these companies to respond to the Department's request for information has "resulted in an egregious lack of evidence on the record to suggest an alternative rate."[35] Due to the lack of participation by the non-cooperative companies and the resulting lack of record information concerning their use of programs under review, the Department has corroborated the rates it selected to the extent practicable.

Application of AFA for Programs Discovered Through the Analysis of the Alnan Companies' Financial Statements

Pursuant to section 775 of the Act, the Department has the authority to examine subsidies discovered during the course of an administrative review. By examining the Alnan Companies' financial statements, we discovered that the Alnan Companies received numerous grants or funding from provincial and local governments that were not part of any of the other programs included in this administrative review. Therefore, we issued supplemental questionnaires regarding these grants or other types funding to the GOC and to Kromet and the Alnan Companies.

In its responses to these supplemental questionnaires, the GOC only identified the names of the programs under which the <u>some</u> of the grants and other amounts of funding were provided. In addition, the GOC reported that some of the amounts of funding received by the Alnan Companies were provided under a tax program, not a grant program.[36]

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[34] *See e.g.*, *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996).

[35] *See Shanghai Taoen Int'l Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005).

[36] The name of this tax program is "Refund of Value Added Tax on Products Made through Comprehensive Utilization of Resources."

The GOC provided copies of the relevant legislation and regulations for some of these programs. However, the GOC did not provide the legislation and regulations for other programs. In addition, the GOC did not provide the requested *de facto* specificity information for any of these programs. Because the GOC did not provide information necessary to analyze whether the programs under which the benefits received by the Alnan Companies are specific, we preliminarily find that the GOC has withheld information that was requested and has failed to cooperate by not acting to the best of its ability.[37] Because the GOC did not provide complete information required for our analysis of these programs, we again requested this information from the GOC in a supplemental questionnaire issued on April 23, 2013. On April 29, 2013, the GOC provided a response but failed to provide the requested information, stating that it is "unable to provide any additional laws or regulation at this time" and that it is unable to provide any additional information regarding these programs at this time." [38] Therefore, as AFA, we preliminarily determine that each program for which the GOC did not provide the relevant laws or regulations is *de jure* specific. For each program, because it is not clear from the legislation or regulations provided whether the program is *de jure* specific, as AFA, we preliminarily determine the program to be *de facto* specific. For any program for which the GOC did not provide the legislation and regulations but it is clear from name of the program that it is an export program, *e.g.*, "Funds of Nanning Municipality for Sustainable Development of Foreign Trade," we preliminarily determine that, as AFA, the program rate will be calculated using export sales as the denominator.[39] For certain amounts listed in the financial statements, the GOC did not identify the programs under which they were provided. Therefore, as AFA, we used the descriptions in the companies' financial statements to assign them to the most similar grant programs.

<u>Subsidies Valuation Information</u>

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 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.

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[37] *See* section 776(a) of the Act.
[38] *See* the GOC's 2nd Supplemental QR (regarding Kromet) (April 29, 2013) at pages 10-11.
[39] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells from the PRC*), and accompanying Issues and Decision Memorandum (Solar Cells Decision Memorandum) at Comment 23; *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 77206 (December 12, 2011) (*Citric Acid First Review*) and accompanying Issues and Decision Memorandum (Citric Acid First Review Decision Memorandum) at "Use of Facts Otherwise Available and Adverse Inferences.".

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.[40]

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.[41]

Changzheng Evaporator

Changzheng Evaporator, established in December 1993, in Jiangsu Province, is a domestic enterprise owned by two Chinese citizens.[42] Changzheng Evaporator produces fin evaporators, which were exported to the United States during the POR.[43]

Changzheng Evaporator filed a response on behalf of itself and its wholly-owned affiliate Liaoning Changzheng Aluminum Company (Liaoning Changzheng).[44] Liaoning Changzheng, established in November 2010, is located in Liaoning Province where it produces aluminum tubes that are supplied to Changzheng Evaporator for the production of fin evaporators.[45]

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[40] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998) (*Preamble*).
[41] *See Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[42] *See* Changzheng Evaporator's Initial Questionnaire Response (January 8, 2013) at 6-7 and 9 (IQR).
[43] *Id*. at 2.
[44] Changzheng Evaporator reported another wholly-owned subsidiary, Changzheng Refrigeration Technical Co., Ltd. (Changzheng Refrigeration), which was established in October 2011. Changzheng Evaporator, however, provided information to demonstrate that Changzheng Refrigeration was not required to provide questionnaire responses under the Department's attribution and cross-ownership regulations. *See* Changzheng Evaporator's IQR (January 8, 2013) at 4-5; and Changzheng Evaporator's Supplemental Questionnaire Response (March 6, 2013) at 2-3 (SQR).
[45] *See* Changzheng Evaporator's IQR (January 8, 2013) at 4, 6.

We preliminarily find that Changzheng Evaporator and Liaoning Changzheng are cross-owned affiliates within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of direct or common ownership. Because Liaoning Changzheng supplies inputs to Changzheng Evaporator that are primarily dedicated to the downstream product, pursuant to 19 CFR 351.525(6)(iv), we are attributing subsidies received by Liaoning Changzheng to the combined sales of Changzheng Evaporator and Liaoning Changzheng, net of inter-company sales. For Changzheng Evaporator, we are attributing subsidies received by the company to its own sales for the relevant years.[46]

Kromet and the Alnan Companies

Kromet is a Canadian company that exported subject aluminum extrusions produced and exported by Alnan Aluminum to the United States during the POR. Alnan Aluminum is a Chinese company located in Nanning City, Guangxi Province of the PRC. Based on the information on the record provided by Kromet and the Alnan Companies, we preliminarily find that Alnan Aluminum, Alnan Foil, Shanglin Industry and Shanglin Power are cross-owned affiliates within the meaning of 19 CFR 351.525(b)(6)(vi) by virtue of direct or common ownership.[47]

Because Alnan Foil, Shanglin Industry and Shanglin Power supplied inputs to Alnan Aluminun that are primarily dedicated to the production of the downstream product, aluminum extrusions, pursuant to 19 CFR 351.525(6)(iv), we are attributing subsidies received by any of these companies to the combined sales of the company and Alnan Aluminum, net of inter-company sales. For subsidies received by Alnan Aluminum, we are attributing subsidies received by the company to its own sales, net of inter-company sales.[48]

Grant and Tax Programs Discovered Through the Analysis of the Alnan Companies' Financial Statements

As discussed above in the "Adverse Facts Available" Section, we examined the Alnan Companies' financial statements and discovered that the Alnan Companies received grants and other amounts of funding from provincial and local governments that were not part of any of the other programs included in this administrative review. In its responses to our supplemental questions, the GOC reported that the grants and other amounts of funding that we identified were provided under 32 grant programs and one tax program titled "Refund of Value Added Tax on Products Made through Comprehensive Utilization of Resources."

With regard to 32 grant programs reported by the GOC, consistent with 19 CFR 351.524(c)(1), we are treating grants received under these programs as "non-recurring." We performed the "0.5

[46] For the denominators used in the preliminary calculations, *see* Department Memorandum regarding "Preliminary Calculations for Changzheng Evaporator" (June 3, 2013) (Preliminary Calculations for Changzheng Evaporator).
[47] *See* Kromet and the Alnan Companies IQR (January 9, 2013) at 4 and Exhibits 1-5 and Kromet and the Alnan Companies 1st Supplemental QR(March 20, 2013) at page 1-2. As the ownership information is business proprietary, for further explanation, *see* Department Memorandum regarding " Preliminary Calculations for Kromet Inc. and the Alnan Companies" (June 3, 2013) (Preliminary Calculations for Kromet and the Alnan Companies).
[48] For the denominators used in the preliminary calculations, *see* Preliminary Calculations for Kromet Inc. and the Alnan Companies (June 3, 2013).

percent test" of 19 CFR 351.524(b)(2) with regard to each grant program. For the 22 grant programs under which the Alnan Companies received benefits during the POR that exceeded 0.005 percent *ad valorem*, our preliminary determinations with regard to their countervailability are included below in the "Programs Preliminarily Determined To Be Countervailable" section. For the 10 grant programs under which the benefits provided to the Alnan Companies during the POR were less than 0.005 percent *ad valorem*, it is unnecessary to make preliminary determinations with regard to their countervailability at this time. Therefore, we have listed such grant programs the "Programs Determined Not to Confer a Benefit" section.

Our analysis of the tax program, titled "Refund of Value Added Tax on Products Made through Comprehensive Utilization of Resources" is included in the "Programs Preliminarily Determined To Be Countervailable" section below.

<u>Loan Benchmark Rates</u>

The Department is examining loans received by the respondents 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.[49] 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."[50] 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*,[51] 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

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[49] *See* 19 CFR 351.505(a)(3)(i).
[50] *See* 19 CFR 351.505(a)(3)(ii).
[51] *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 Decision Memorandum) at Comment 10; *see also* Department Memorandum regarding "Placement of Banking Memorandum on the Record," dated currently with, and hereby adopted by, this memorandum.

prices to measure the benefit for government-provided timber in Canada.[52] 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*,[53] and more recently updated in *Thermal Paper from the PRC*,[54] 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*, 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.[55] Beginning with 2010, however, the PRC is in the upper-middle income category.[56] 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.[57] 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."[58] However, for 2010, incorporating the governance indicators in our analysis does not make for a better benchmark. Therefore, we have continued to

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[52] *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 (Softwood Lumber Decision Memorandum) at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."
[53] *See* CFS Decision Memorandum at Comment 10.
[54] *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 (Thermal Paper Decision Memorandum) at 8-10.
[55] *See* World Bank Country Classification, http://econ.worldbank.org/; *see also* Department Memorandum regarding "Interest Rate Benchmark Memorandum," dated concurrently with, and hereby adopted by, this memorandum.
[56] *Id.*
[57] *Id.*, and Department Memorandum regarding "Additional Documents for Preliminary Decision," dated concurrently with, and hereby adopted by, this memorandum, at Attachment I (which contains Department Memorandum regarding "Consultations with Government Agencies" (October 17, 2007) from *CFS from the PRC*) (Additional Documents Memorandum).
[58] *Id*.

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 lending rate or that based its lending rate on foreign-currency denominated instruments.[59] 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.[60]

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 respondents by SOCBs.[61]

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.[62]

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.[63] Finally,

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[59] 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.
[60] 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.
[61] *See* Interest Rate Benchmark Memorandum for the resulting inflation adjusted benchmark lending rates.
[62] *See e.g., Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination*, 73 FR 35642 (June 24, 2008) (*Light-Walled Pipe from PRC*), and accompanying Issues and Decision Memorandum (Light-Walled Pipe Decision Memorandum) at 8.
[63] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Countervailing*

because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[64]

Foreign Currency-Denominated Loans

To calculate benchmark interest rates for foreign currency-denominated loans, the Department is again following the methodology developed over a number of successive PRC investigations. For US dollar short-term loans, the Department used as a benchmark the one-year dollar London Interbank Offering Rate (LIBOR), plus the average spread between LIBOR and the one-year corporate bond rates for companies with a BB rating. Likewise, for any loans denominated in other foreign currencies, we used as a benchmark the one-year LIBOR for the given currency plus the average spread between the LIBOR rate and the one-year corporate bond rate for companies with a BB rating.

For any long-term foreign currency-denominated loans, the Department added the applicable short-term LIBOR rate to a spread which is calculated as the difference between the one-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.

Discount Rate Benchmarks

Consistent with 19 CFR 351.524(d)(3)(i)(A), we have used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the government provided non-recurring subsidies.

The resulting interest rate benchmarks that we used in the preliminary calculations are provided in the respondents' preliminary calculations memoranda.

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. Policy Loans to Chinese Aluminum Extrusion Producers

As noted in *Citric Acid from the PRC*, in general, the Department looks to whether government plans or other policy directives lay out objectives or goals for developing the industry and call for lending to support those objectives or goals.[65] Where such plans or policy directives exist, then it is the Department's practice to determine that a policy lending program exists that is

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Duty Determination, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*), and accompanying Issues and Decision Memorandum (Citric Acid Decision Memorandum) at Comment 14.

[64] *See* Interest Rate Benchmark Memorandum for the resulting inflation adjusted benchmark lending rates.

[65] *See* Citric Acid Decision Memorandum at Comment 5.

specific to the named industry (or producers that fall under that industry).[66] Once that finding is made, the Department relies upon the analysis undertaken in *CFS from the PRC* to further conclude that national and local government control over the SOCBs result in the loans being a financial contribution by the GOC.[67]

In the *Investigation*, we determined that, during the POI, the GOC, through its directives, had a policy in place to encourage the development of the production of aluminum extrusions through policy lending.[68] We determined that at the national level, the GOC has placed an emphasis on the development of high-end, value-added aluminum products through foreign investment as well as through technological research, development, and innovation. We also determined that, in laying out this strategy, the GOC identified specific products selected for development. For example, we determined that the *Catalogue of Major Industries, Products, and Technologies Encouraged for Development in China* (*Encouraged Industries Catalogue*), issued by the GOC in 2000, identifies 526 products, technologies, and infrastructure facilities for business promotion. We also found that the *Encouraged Industries Catalogue* specifically mentions aluminum extrusion products under the non-ferrous metals heading. Similarly, we concluded that the GOC implemented the *Decision of the State Council on Promulgating the "Interim Provisions on Promoting Industrial Structure Adjustment" for Implementation* (No. 40 (2005)) (*Decision 40*) in order to achieve the objectives of the Eleventh Five-Year Plan. In the *Investigation,* we noted that Decision 40 references the *Directory Catalogue on Readjustment of Industrial Structure* (*Industrial Catalogue*), which outlines the projects which the GOC deems "encouraged," "restricted," and "eliminated," and describes how these projects will be considered under government policies. We further noted that aluminum is mentioned as an industry in the Industrial Catalogue as an "encouraged project" and that for the "encouraged" projects, *Decision 40* outlines several support options available from the government, including financing.

In the *Investigation,* we also found that the *Guidelines on Acceleration of the Adjustment of the Aluminum Industry Structure* (*Aluminum Industry Guidelines*), issued by the GOC in 2006, discusses support that is to be provided to producers of aluminum extrusions. For instance, we noted that under the heading "Increase Industry Concentration, Encourage Comprehensive Usage and Conservation of Resources," the *Aluminum Industry Guidelines* state:

> Create favorable conditions for enterprises M&A and restructuring, and accelerate enterprises' merger and restructuring via economic means. Support aluminum, electrolytic aluminum, and aluminum processing enterprises to undertake merger and restructuring, establish internationally competitive enterprise group, realize advantage complementation, and increase industry concentration. Encourage private capital and foreign capital to participate in the reform, restructuring and transformation of state-owned enterprises. Encourage backbone enterprises to keep raising technology and management levels, accelerate medium and small-sized aluminum processing enterprises' technology transformation, and improve resource utilization.

[66] *See* CFS Decision Memorandum at Comment 8, and Thermal Paper Decision Memorandum at "Government Policy Lending Program."
[67] *See* CFS Decision Memorandum at Comment 8.
[68] *See* Aluminum Extrusions Decision Memorandum at "Policy Loans to Chinese Aluminum Extrusion Producers."

In the *Investigation*, we further explained that the *Aluminum Industry Guidelines* also make reference to lending activities. Under the heading, "Strengthen the Coordination and Cooperation of Credit Policy and Industrial Policy and Establish Withdrawal Mechanism Under the Policies," the *Aluminum Industry Guidelines* state:

> It is required to strictly abide by the rule that the minimum self-owned capital requirement for electrolytic aluminum projects shall be no less than 35 percent of the total investment. Financial institutions shall rationally allocate the lending credits taking into account the national macroeconomic adjustments, industrial policies, and ordinary lending principles. Financial institutions may continue to provide credits to oxide aluminum or electrolytic aluminum enterprises that are in compliance with national industrial policies and the market entrance threshold, provided such lending is in accordance with the ordinary lending principles. No credit shall be provided to those enterprises that do not conform to national industrial policies, do not satisfy the market entrance threshold, have obsolete manufacturing processes, have been classified as prohibited, or have been ordered to cease operation. In the event that credits are mistakenly provided to such enterprises, the financial institutions shall take appropriate measures to reclaim the credits and avoid financial risk.

We further noted in the *Investigation* that, under the heading "Enhance the Implementation of Environmental Protection Regulations, Eliminate Capacities," the *Aluminum Industry Guidelines* state that different "financing means" shall be used "to support enterprises' environmental protection and energy savings."

Additionally, in the *Investigation*, we found that support, in the form of financing, is also discussed in the *Nonferrous Metal Industry Adjustment and Revitalization Plan* (*Nonferrous Metal Plan*) that was issued by the GOC in 2009. We noted that under the heading "Increase Dedication to Technology Improvement and Technology Reform," the Nonferrous Metal Plan states:

> Set aside some funds from new central investment. Use loan interest subsidies to support R&D and technology reform in the nonferrous metals industry. Increase the level of financial support directed toward reform of energy conservation technologies.

Further, we found that the *Nonferrous Metal Plan* further references financing to the aluminum extrusions industry under the heading, "Continue to Implement the Financing Policy of 'Encouragement and Discouragement:'"

> Increase financing support to backbone enterprises in the nonferrous metals industry. Provide support to certain enterprises in issuing stock, enterprise bonds, and corporate bonds. Enterprises eligible to receive such support are those which are engaged in projects which, in addition to adhering to investment management prescriptions, are in compliance with industry policy as well as relevant environmental and land regulations; and implement acquisitions, restructuring, "Going Abroad' and technological reformation.

We also determined in the *Investigation*, that consistent with our determinations in prior proceedings, the PRC-based banks which provided loans to the aluminum extrusions industry during the period of investigation (POI) were SOCBs.[69]

Thus, in the *Investigation*, we determined that the loans to aluminum extrusion producers from SOCBs and policy banks in the PRC were made pursuant to government directives and, thus, 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). We further determined that the loans are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because of the GOC's policy, as illustrated in the government plans and directives, to encourage and support the growth and development of the aluminum extrusions industry. [70]

Changzheng Evaporator and the Alnan Companies reported that they had outstanding loans from PRC-based banks during the POR. Therefore, in this administrative review, we again reviewed the record evidence to ascertain whether loans received by aluminum extrusions producers constitute countervailable policy lending by SOCBs and/or policy banks.

The GOC reported that in February 2010 the China Banking Regulatory Commission (CBRC) promulgated the *Interim Measures for the Administration of Working Capital Loans* (*Interim Measures*). The GOC states that the *Interim Measures* require that "the banking financial institutions established in China upon the CBRC's approval, including those at issue in this review, all make their decisions on issuance of working capital loans on a pure commercial basis."[71] The GOC stated that "it is an explicit requirement of the *Interim Measures* that the issuance of working capital loans shall be prudentially decided by banks based on a reasonable estimation of the borrower's working capital demand and fair consideration of cash flow, liabilities, repayment ability, guarantee status and other factors of the borrower."[72] The GOC also reported that the *Interim Measures* are "fully consistent with Article 34 of the *Law of the People's Republic of China on Commercial Banks (Banking Law)*" and stated that Article 34 "does not specify any specific obligation imposed by the government on commercial banks."[73]

We preliminarily determine that there is no basis to conclude that the GOC's policy lending activities ceased with the issuance of the *Interim Measures*. The GOC reported that the *Interim Measures* are fully consistent with Article 24 of the *Banking Law*. However, as explained in the *Investigation*, we have previously determined that Article 34 of the *Banking Law* states that banks should carry out their loan business "under the guidance of the state industrial policies."[74]

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[69] *See e.g.*, *Certain Oil Country Tubular Goods from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) (*OCTG from the PRC*), and accompanying Issues and Decision Memorandum (OCTG Decision Memorandum) at Comment 20.
[70] *See* Aluminum Extrusions Decision Memorandum at "Policy Loans to Chinese Aluminum Extrusion Producers."
[71] *See* GOC's IQR (January 9, 2013) at -3.
[72] *Id*. at 4-5.
[73] *Id*. at 3.
[74] *See* Aluminum Extrusions Decision Memorandum at Comment 28.

Thus, because the *Interim Measures* are "fully consistent" with the *Banking Law*, we preliminarily determine that they do not constitute evidence that the GOC has ceased policy lending to the aluminum extrusions industry.

To determine whether a benefit was conferred under section 771(5)(E)(ii) of the Act, we compared the amount of interest paid during the POR on outstanding loans to the amount that would have paid on comparable commercial loans.[75] In conducting this comparison, we used the interest rates described in the "Benchmarks and Discount Rates" section above. We have attributed benefits under this program according to the methodology described above in the "Subsidies Valuation Information" section.

On this basis, for the Alnan Companies, we preliminarily calculated a countervailable subsidy of 3.16 percent *ad valorem* for 2010 and 4.55 percent *ad valorem* for 2011. For Changzheng Evaporator, we preliminarily calculated a countervailable subsidy of 0.65 percent *ad valorem* for 2010 and 1.40 percent *ad valorem* for 2011.

B. <u>Provision of Primary Aluminum for Less Than Adequate Remuneration (LTAR)</u>

In the *Investigation*, we found that producers and suppliers, acting as Chinese government authorities, sold primary aluminum to aluminum extrusions producers for LTAR.[76] Changzheng Evaporator and the Alnan Companies reported purchasing primary aluminum during the POR from trading companies as well as directly from primary aluminum producers. The Alnan Companies identified all of the firms that produced the primary aluminum they purchased during the POR. With the exception of the input producer the product was sold through a trading company, Changzheng Evaporator identified the producer from which its affiliate Liaoning Changzheng directly purchased primary aluminum during the POR.[77] Changzheng Evaporator explained that it was not able to obtain the identity of the producer of primary aluminum which Liaoning Changzheng purchased from a trading company, because the trading company "sources from many aluminum bar suppliers and cannot recognize the source of the aluminum bar when it sells the product to its customers."[78] Changzheng Evaporator added that the trading company explained that because "its customers usually do not require mill certificates for their purchases of aluminum bars, it does not segregate the aluminum bar by its source after it enters into its warehouse."[79]

Whether Primary Aluminum Producers Are Authorities

The Department is investigating whether the GOC provided primary aluminum for LTAR. We asked the GOC to provide information regarding the specific companies that produced primary aluminum that the mandatory respondents purchased during the POR. Specifically, we sought

[75] *See* 19 CFR 351.505(a).
[76] *See* Aluminum Extrusions Decision Memorandum at "Provision of Primary Aluminum for LTAR."
[77] *See* Changzheng Evaporator's SQR (March 6, 2013) at Exhibit 10; and Changzheng Evaporator's SQR (April 3, 2013) at 1-2.
[78] *See* Changzheng Evaporator's SQR (April 3, 2013) at 2.
[79] *Id*.

information from the GOC which would allow us to analyze whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act.

In prior CVD proceedings involving the PRC, the Department has determined that when a respondent purchases an input from a trading company or non-producing supplier, a subsidy is conferred if the producer of the input is an "authority" within the meaning of section 771(5)(B) of the Act and that the price paid by the respondent for the input was sold for LTAR.[80]

Changzheng Evaporator reported the producer from which Liaoning Changzheng directly purchased primary aluminum during the POR. For this input producer, the GOC provided some ownership information, including capital verification reports and business registration forms, but did not trace ownership to the ultimate state or individual owners, stating that it was unable to trace the ownership in the time limit provided for the questionnaire response.[81] The GOC also did not answer the questions regarding the owners, members of the board of directors, or senior managers who are government or Chinese Communist Party (CCP) officials or explain if the aluminum producer has a CCP committee.[82] Instead, the GOC argued that pursuant to Article 53 of the *Civil Servant Law*, government officials cannot serve as owners, members of the board of directors, or managers of the input producer without violating the law.[83] The GOC also asserted that CCP officials are restrained from serving as employees in enterprises, as per the *Executive Opinion of the Central Organization Department of Central Committee of CPC on Modeling and Trial Implementation of the Provisional Regulations of State Civil Servants in CCP Organs* (ZHONG FA (1993) No. 8), which reflects the CCP's intent to model its personnel management system after the *Civil Servant Law*, including restrictions on enterprise employment.[84] The GOC therefore concluded that none of the individual owners, members of the board of directors, or senior managers of the aluminum producer are eligible to also be government or CCP officials during the POR.[85]

Because the GOC did not provide complete information required for our analysis of the input producer which sold primary aluminum to Liaoning Changzheng, we again requested this information from the GOC in a supplemental questionnaire issued on February 22, 2013. In its response, the GOC reiterated that it was unable to further trace ownership to the ultimate individuals or state owners for the aluminum producer with no explanation.[86] Concerning the CCP questions, the GOC reiterated that civil servants and CCP officials cannot simultaneously be owners, members of the board of directors, or managers of the input producer.[87] The GOC

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[80] *See e.g.*, CWP Decision Memorandum at "Hot-Rolled Steel for Less Than Adequate Remuneration;" *Kitchen Shelving and Racks from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 37012 (July 27, 2009) (*Kitchen Racks from PRC*), and accompanying Issues and Decision Memorandum (Kitchen Racks Decision Memorandum) at "Provision of Wire Rod for Less than Adequate Remuneration;" and *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 74 FR 4936 (January 28, 2009) (*CWASPP from the PRC*), and accompanying Issues and Decision Memorandum (CWASPP Decision Memorandum) at Comment 5.
[81] *See* GOC's SQR (February 8, 2013) at Exhibit ISA-3 (page 4).
[82] *Id*. at Exhibit ISA-3 (page 4-12).
[83] *Id*. at page 5.
[84] *Id*.
[85] *Id*.
[86] *See* GOC's SQR (March 8, 2013) at 16.
[87] *Id*. at 18.

added that even if an owner, member of the board of directors, or manager of the input producer was a CCP member or there was a CCP committee, it does not mean that the management and operation of the company is subject to any intervention of the government.[88] The GOC again failed to answer the questions asked and requested that further investigation in this regard be terminated.[89]

As noted above, Alnan Companies were able to identify all of the entities that produced the primary aluminum that they acquired through trading companies during the POR. The GOC provided information regarding the corporate ownership and management of two of the suppliers from which the Alnan Companies purchased aluminum during the POR in order to demonstrate that they are not public entities.[90] For these input producers, the GOC provided some ownership information, including capital verification reports and business registration forms, but did not trace ownership to the ultimate individual or state owners and did not answer the questions regarding the owners, members of the board of directors, or senior managers who are government or CCP officials or explain if the aluminum producer has a CCP committee.[91] Instead, the GOC argued that pursuant to Article 53 of the *Civil Servant Law*, government officials cannot serve as owners, members of the board of directors, or managers of the input producer without violating the law.[92] The GOC also asserted that CCP officials are restrained from serving as employees in enterprises, as per the *Executive Opinion of the Central Organization Department of Central Committee of CPC on Modeling and Trial Implementation of the Provisional Regulations of State Civil Servants in CCP Organs* (ZHONG FA (1993) No. 8), which reflects the CCP's intent to model its personnel management system after the *Civil Servant Law*, including restrictions on enterprise employment.[93] The GOC therefore concluded that none of the individual owners, members of the board of directors, or senior managers of the aluminum producers are eligible to also be government or CCP officials during the POR.[94] Although the GOC provided some of the information we requested, it did not provide complete answers to our questions. For some of the owners of the suppliers, the GOC did not trace ownership to the ultimate individual or state owners.[95] In addition, the GOC declined to provide the requested information regarding involvement in CCP organizations and the existence and role of a CCP committee within the companies themselves. [96] Because the GOC did not provide complete information required for our analysis of the input producers which sold primary aluminum to the respondents, we again requested this information from the GOC in supplemental questionnaires issued on May 13, 2013. On May 23, 2013, the GOC provided its response but again failed to answer the questions asked and requested that further investigation in this regard be terminated. [97]

[88] *Id*.
[89] *Id*.
[90] *See* GOC's SQR (February 8, 2013) at Exhibit ISA-1 and Exhibit ISA-2.
[91] *Id* at 2 and 5-11 of Exhibit ISA-1 and at 3, 5-13Exhibit ISA-2.
[92] *Id*. at 2 of Exhibit ISA-1 and at 6 of Exhibit ISA-2.
[93] *Id*.
[94] *Id*.
[95] Id at 3 of Exhibit ISA-2 .
[96] *Id.* at 5-11 of Exhibit ISA-1 and at 5-13 of Exhibit ISA-2.
[97] *See* GOC's SQR (May 23, 2013) at pages 1-5.

Regarding the GOC's objections to our questions about the role of CCP officials in the management and operations of the primary aluminum producers, we observe that it is the prerogative of the Department, not the GOC, to determine what information is relevant to our investigations and administrative reviews.[98] Specifically, the Department considers information regarding the CCP's involvement in the PRC's economic and political structure to be relevant because public information suggests that the CCP exerts significant control over activities in the PRC.[99] The Department has previously determined that "available information and record evidence indicates that the CCP meets the definition of the term 'government' for the limited purpose of applying the U.S. CVD law to China."[100] Additionally, publicly available information indicates that Chinese law requires the establishment of CCP organizations "in all companies, whether state, private, domestic, or foreign-invested" and that such organizations may wield a controlling influence in the company's affairs.[101] Because the GOC did not provide the information we requested regarding this issue, we have no further basis for reevaluating the Department's prior factual findings on the role of the CCP.

With regard to the GOC's claim that Chinese law prohibits GOC officials from taking positions in private companies, we have previously found that this particular law does not pertain to CCP officials.[102] Lastly, to the GOC's claim that CCP officials cannot serve as employees in enterprises, we note that the Department has found in a past proceeding that CCP officials can, in fact, serve as owners, members of the board of directors, or senior managers of companies.[103]

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[98] *See 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.'"); *Ansaldo Componenti, S.p.A. v. United States*, 628 F. Supp. 198, 205 (CIT 1986) (stating that "{i}t is Commerce, not the respondent, that determines what information is to be provided").

[99] *See* Additional Documents Memorandum at Attachment II, which includes Memorandum for Paul Piquado, Assistant Secretary for Import Administration, through Lynn Fischer Fox, Deputy Assistant Secretary for AD/CVD Policy and Negotiation, Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, and John D McInerney, Chief Counsel for Import Administration, from Shauna Biby, Christopher Cassel, Timothy Hruby, Office of Policy, Import Administration, "Section 129 Determination of the Countervailing Duty Investigation of Circular Welded Carbon Quality Steel Pipe; Light-Walled Rectangular Pipe and Tube; Laminated Woven Sacks; and Off-the-Road Tires from the People's Republic of China: An Analysis of Public Bodies in the People's Republic of China in Accordance with the WTO Appellate Body's Findings in WTO DS379," dated May 18, 2012 (Public Body Memorandum); and its attachment, Memorandum for Paul Piquado, Assistant Secretary for Import Administration, through Lynn Fischer Fox, Deputy Assistant Secretary for AD/CVD Policy and Negotiation, Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, and John D McInerney, Chief Counsel for Import Administration, from Shauna Biby, Christopher Cassel, Timothy Hruby, Office of Policy, Import Administration, "The relevance of the Chinese Communist Party for the limited purpose of determining whether particular enterprises should be considered to be 'public bodies' within the context of a countervailing duty investigation," dated May 18, 2012 (CCP Memorandum).

[100] *Id.* at CCP Memorandum at 33.

[101] *Id*. at Public Body Memorandum at 35-36, and sources cited therein.

[102] *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Circumstances Determination*, 75 FR 57444 (September 21, 2010) (*Seamless Pipe from the PRC*), and the accompanying Issues and Decision Memorandum (Seamless Pipe Decision Memorandum) at 16.

[103] *See Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) (*PC Strand from the PRC*), and accompanying Issues and Decision Memorandum ((PC Strand Decision Memorandum) at Comment 8 ("{i}n the instant investigation, the information on the record indicates that certain company officials are members of the Communist Party and National Party Conference as well as members of certain town, municipal, and provincial level legislative

The information we requested regarding the ultimate owners of the producers and the role of government/CCP officials and CCP committees in the management and operations of the aluminum producers, which sold inputs to the respondents, is necessary to our determination of whether the producers are "authorities" within the meaning of section 771(5)(B) of the Act. If the GOC was not able to submit the required information in the requested form and manner, it should have promptly notified the Department, in accordance with section 782(c) of the Act. It did not do so, nor did it suggest any alternative forms for submitting this information.[104] Further, the GOC did not indicate that it had attempted to contact the CCP, or that it consulted any other sources. The GOC's responses in prior proceedings demonstrate that it is, in fact, able to access the information we requested.[105]

We, thus, preliminarily determine that the GOC has withheld necessary information that was requested of it and, thus, that the Department must rely on "facts otherwise available" in issuing our preliminary results for these input producers. Moreover, we preliminarily determine that the GOC has failed to cooperate by not acting to the best of its ability to comply with our requests for information. Consequently, we find that an adverse inference is warranted in the application of facts available. As AFA, for those input producers for which the GOC failed to provide ownership information, failed to identify whether the members of the board of directors, owners or senior managers were government/CCP officials, or failed to report if the companies had CCP committees, we are finding them to be "authorities" within the meaning of section 771(5)(B) of the Act.

Additionally, as noted above, Changzheng Evaporator explained why it was not able to identify the producer of aluminum bar which Liaoning Changzheng purchased from a trading company during the POR.[106] Because Changzheng Evaporator was unable to identify the producer of the aluminum bar, the GOC was not able to provide a response to the "Information Regarding Input Producers in the PRC Appendix" for that company.[107] We preliminarily find that the necessary information for this unidentified aluminum producer is not on the record. As a result, we are resorting to the use of facts available (FA) pursuant to section 776(a)(1) of the Act. In the underlying investigation, the GOC provided information on the amount of primary aluminum produced by SOEs, collectives, and private producers in the PRC.[108] Using that data, we derived the ratio of primary aluminum produced by SOEs and collectives during the period of investigation (POI).[109] As FA in this review, we preliminarily assume that the percentage of

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bodies.")

[104] Section 782(c)(1) of the Act states that "{i}f an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority of the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party."

[105] *See e.g.*, *High Pressure Steel Cylinders from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 26738 (May 7, 2012) (Cylinders from the PRC), and accompanying Issues and Decision Memorandum (Cylinders Decision Memorandum) at 13.

[106] *See* Changzheng Evaporator's SQR (April 3, 2013) at 1-2.

[107] *See* GOC's SQR (April 4, 2013) at 1.

[108] *See* Aluminum Extrusions Decision Memorandum at "Provision of Primary Aluminum for LTAR."

[109] *Id.*

primary aluminum supplied by Liaoning Changzheng's trading company which is produced by government authorities is equal to the ratio of primary aluminum produced by SOEs and collectives during the POI.[110] Our use of FA in this regard is consistent with the Department's practice.[111]

Benchmarks for Provision of Primary Aluminum

Having addressed the issue of financial contribution, we must next analyze whether the sale of primary aluminum to the mandatory respondents by suppliers designated as government authorities conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act. The Department's regulations at 19 CFR 351.511(a)(2) set forth the basis for identifying appropriate market-determined benchmarks for measuring the adequacy of remuneration for government-provided goods or services. These potential benchmarks are listed in hierarchical order by preference: (1) market prices from actual transactions within the country under investigation (*e.g.*, actual sales, actual imports or competitively run government auctions) (tier one); (2) world market prices that would be available to purchasers in the country under investigation (tier two); or (3) an assessment of whether the government price is consistent with market principles (tier three). As we explained in *Softwood Lumber from Canada*, the preferred benchmark in the hierarchy is an observed market price from actual transactions within the country under investigation because such prices generally would be expected to reflect most closely the prevailing market conditions of the purchaser under investigation.[112]

Beginning with tier-one, we must determine whether the prices from actual sales transactions involving Chinese buyers and sellers are significantly distorted. As explained in the *Preamble*:

> Where it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government's involvement in the market, we will resort to the next alternative {tier two} in the hierarchy.[113]

The *Preamble* further recognizes that distortion can occur when the government provider constitutes a majority or, in certain circumstances, a substantial portion of the market.[114]

In the *Investigation*, the GOC reported the total primary aluminum production by SOEs and collectives during the POI. The share of production number of these SOEs, after adjustment by the Department, accounted for more than 50 percent of the PRC's production.[115] We find this majority share by SOEs makes it reasonable to conclude that actual transaction prices are

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[110] In other words, as FA, we assume that the percentage of primary aluminum purchased by domestic trading companies during the POR was equal to the ratio of primary aluminum produced by SOEs and collectives during the POI, as indicated by the aggregate data supplied in the questionnaire responses of the GOC in the investigation. *See* Department Memorandum regarding "Share of Primary Aluminum Production During Period of Investigation" (June 3, 2013) (Share of Primary Aluminum Memorandum).
[111] *See e.g.*, CWP Decision Memorandum at "Hot-Rolled Steel for Less Than Adequate Remuneration;" and Light Walled Pipe Decision Memorandum at "Hot-Rolled Steel for Less Than Adequate Remuneration."
[112] *See* Softwood Lumber Decision Memorandum at "Market-Based Benchmark."
[113] *See* 63 FR at 65377.
[114] *Id*.
[115] *See* Share of Primary Aluminum Memorandum.

significantly distorted as a result of the government's involvement in the market.[116] Our finding in this regard is in accord with the Department's practice.[117] In addition, as further evidence of the government's role in the market, we note that the GOC has imposed export tariffs on two of the three HTS categories that cover primary aluminum. Such export restraints can discourage exports and increase the supply of primary aluminum in the domestic market, with the result that domestic prices are lower than they would be otherwise.[118] For these reasons, we preliminarily determine, as in the *Investigation*, that domestic prices charged by privately-owned primary aluminum producers based in the PRC may not serve as viable, tier-one benchmark prices.[119]

The Department has on the record of this review primary aluminum prices, as published by Global Trade Information Services, Inc. (GTIS). We find that these prices may serve as a tier-two benchmark, as described under 19 CFR 351.511(a)(2)(ii), when determining whether the Alnan Companies and Changzheng Evaporator received a benefit on their purchases of primary aluminum from government authorities. Concerning the GTIS prices, we note that the Department has relied on pricing data from industry publications in prior CVD proceedings involving the PRC.[120] We continue to find prices from the GTIS prices on the record to be sufficiently reliable and representative for use in the benchmark calculation.

To determine whether primary aluminum suppliers, acting as government authorities, sold primary aluminum to respondents for LTAR, we compared the prices the respondents paid to the suppliers to our primary aluminum benchmark price. We conducted our comparison on a monthly basis. When conducting the price comparison, we converted the benchmark to the same currency and unit of measure as reported by the voluntary respondents for their purchases of primary aluminum.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier one or tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, in deriving the benchmark prices, we ensured that ocean freight and inland freight were included. Specifically, we included ocean freight pricing data from the Maersk shipping company pertaining to shipments of aluminum, articles of aluminum, and metal products from the ports of Fancheng and Shanghai.[121] We used this information because it was the only information on the record for ocean freight. Concerning inland freight, we calculated company-specific inland freight rates using cost data supplied by the Alnan Companies and Changzheng Evaporator.[122] Further, we added to the benchmark the appropriate import duties

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[116] *See Preamble*, 63 FR at 65377.
[117] *See e.g.*, *Wire Decking from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 32902 (June 10, 2010) (*Wire Decking from the PRC*) and accompanying Issues and Decision Memorandum (Wire Decking Decision Memorandum) at "Provision of HRS for LTAR."
[118] *See e.g.*, Racks Decision Memorandum at "Provision of Wire Rod for Less Than Adequate Remuneration."
[119] *See* Aluminum Extrusions Decision Memorandum at Comment 21.
[120] *See e.g.*, CWP Decision Memorandum at "Hot-Rolled Steel for Less Than Adequate Remuneration" section; *see also* Light Walled Pipe Decision Memorandum at "Hot-Rolled Steel for Less Than Adequate Remuneration" section.
[121] *See* Letter from Petitioner regarding "Submission of Factual Information – Benchmark Data" (February 8, 2013) at Exhibits 2 and 3 (Petitioner's Benchmark Data Submission).
[122] *See* Kromet's and the Alnan Companies' Initial QR (IQR) (January 9, 2013) at pages 26-27 and Changzheng Evaporator's IQR (January 8, 2013) at 24.

and the value-added tax (VAT) applicable to imports of primary aluminum into the PRC as reported by the GOC.[123] In deriving the benchmark we did not include marine insurance. In prior CVD investigations involving the PRC, the Department has found that while the PRC customs authorities impute an insurance cost on certain imports for purposes of levying duties and compiling statistical data, there is no evidence to suggest that PRC customs authorities require importers to pay insurance charges.[124] Further, we have not added separate brokerage, handling, and documentation fees to the benchmark because we find that such costs are already reflected in the ocean freight cost from Maersk that is being used in this determination.[125]

Regarding the primary aluminum prices that the respondents paid to government authorities, both the Alnan Companies and the Changzheng Evaporator reported their prices to the Department inclusive of inland freight and indicated the domestic VAT applied to their purchases. Accordingly, when performing our comparison, we included the domestic VAT paid on purchases from government authorities.

Comparing the benchmark unit prices to the unit prices paid by the respondents for primary aluminum, we determine that primary aluminum was provided for LTAR and that a benefit exists in the amount of the difference between the benchmark and what the respondent paid. *See* section 771(5)(E)(iv) of the Act and 19 CFR 351.511(a).

Provision of Primary Aluminum Is Specific to Aluminum Extrusion Producers

With respect to specificity, the GOC claims that there are a vast number of uses for primary aluminum and the type of industries/consumers that may purchase primary aluminum is varied within the economy.[126] To support its argument, the GOC provided a 2007 input-output table published by the State Statistics Bureau, which, the GOC explained, covers the 135 industries in the PRC and details the industries that consumed primary aluminum as reported in the "nonferrous metal smelting products and manufacture of alloy" category.[127] The GOC asserts that the input-output table indicates that that the provision of primary aluminum is not specific. We, however, preliminarily find that the table does not provide the type of information which the Department requires to determine if the provision of primary aluminum is specific to aluminum extrusion producers, such as the number of enterprises/industries that purchase primary aluminum. We identity the following deficiencies with regard to the table: (1) it does not delineate data specific to primary aluminum, which is contained within the large, comprehensive category of "nonferrous metal smelting products and manufacture of alloy;" and (2) it provides information on the end-users' level of consumption but does not report data on sales or purchases of primary aluminum across industrial sectors. In the *Investigation*, we determined, based on data provided by the GOC on the end uses for primary aluminum, that the industries named by

[123] *See* Petitioner's Benchmark Data Submission at Exhibit 8.
[124] *See e.g., Pre–Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) (*PC Strand from the PRC*), and accompanying Issues and Decision Memorandum (PC Strand Decision Memorandum) at Comment 13.
[125] *See* Petitioners' Benchmark Data Submission at Exhibits 2 and 3.
[126] *See* GOC's IQR (January 9, 2013) at 36.
[127] *Id*. and Exhibit E-15; see also GOC's SQR (February 8, 2013) at 1-2.

the GOC are limited in number and, hence, the subsidy is specific under section 771(5A)(D)(iii)(I) of the Act.[128]

Because the input-output table provided in this review is too general, and does not detail the spectrum of industrial sectors that purchase primary aluminum, by value and/or volume, we preliminarily determine that the input-output table does not undermine our preliminary finding that the provision of primary aluminum is specific to aluminum extrusion producers.

We, therefore, preliminarily find that the GOC has not provided information to warrant a reconsideration of our determination from the *Investigation*, where the Department found that the provision of primary aluminum is specific under section 771(5A)(D)(iii)(I) of the Act.[129]

Countervailability and Calculation of Program Rates

Our decision to find this program countervailable is unchanged from the *Investigation*. As such we continue to find that the GOC's provision of primary aluminum for LTAR to be a domestic subsidy as described under 19 CFR 351.525(b)(3). To calculate the subsidy rate, we divided the benefit by a denominator comprised of the total sales of the companies involved, attributing benefits under this program to according to the methodology described in the "Subsidies Valuation Information" section.

On this basis, for the Alnan Companies, we preliminarily calculated a countervailable subsidy of 17.28 percent *ad valorem* for 2010 and 32.51percent *ad valorem* for 2011. For Changzheng Evaporator, we preliminarily calculated a countervailable subsidy of 0.08 percent *ad valorem* for 2011.

C. <u>GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands (Famous Brands Program)</u>

In the *Investigation*, we determined that the Famous Brands Program, which is administered at the central, provincial, and municipal government levels, provides countervailable subsidies that are contingent on export activity.[130] As discussed in the *Investigation*, although operated at the local level, the GOC issued *Measures for the Administration of Chinese Top-Brand Products* (*Top-Brand Measures*), which state that the requirements for application are that firms provide information concerning their export ratio and whether their product quality meets international standards.[131] Changzheng Evaporator reported that it received its famous brands designation in

[128] *See* Aluminum Extrusions Decision Memorandum at "Provision of Primary Aluminum for LTAR."
[129] *Id*.
[130] *See* Aluminum Extrusions Decision Memorandum at "GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands;" *see also* PC Strand Decision Memorandum at "Subsidies for Development of Famous Export Brands and China World Top Brands at Central and Sub-Central Level;" *see also Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012) (*Solar Cells from the PRC*), and accompanying Issues and Decision Memorandum (Solar Cells Decision Memorandum) at Comment 22.
[131] A copy of the "Measures for the Administration of Chinese Top-Brand Products" was placed on the record of this administrative review. *See* Memorandum to the File from Kristen Johnson, International Trade Compliance

December 2010,[132] and subsequently received a grant under this program from the Changzhou Bureau of Finance and Xinbei District government in 2011.[133]

Changzheng Evaporator stated that it received the one-time grant because of its famous brands status and location in Changzhou City.[134] The GOC reported that the company received the grant under the *Enterprise Brand Building Awards of Changzhou Municipality* and *Famous Brand Awards of Xinbei District, Changzhou Municipality* because of the famous brands designation.[135]

Neither Changzheng Evaporator nor the GOC provided any new information to warrant a reconsideration of the Department's determination in the *Investigation* that this program is a countervailable export subsidy.[136] The GOC did not submit any information that the *Top-Brand Measures*, which outline the requirements for application of famous brands designation, were not in effect when the company applied for famous brands status,[137] and Changzheng Evaporator was unable to provide a copy of its famous brands application.[138]

While Changzheng Evaporator's grant was provided by local governments, pursuant to their own measures, such local measures must conform with the central government measures, which call for the examination of an applicant's export performance. Therefore, consistent with the *Investigation*, we continue to find the provision of famous brands grants specific as an export subsidy. As such, we preliminarily find that the grant, which Changzheng Evaporator received under this program, constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively, and is specific under section 771(5A)(A) and (B) of the Act.

Because Changzheng Evaporator cannot expect to receive ongoing assistance under this program,[139] we are treating the grants as a non-recurring subsidy under 19 CFR 351.524(c). We, thus, conducted the "0.5 percent test" of 19 CFR 351.524(b)(2), by dividing the grant amount by Changzheng Evaporator's total export sales for the year the grant was approved/received.[140] We preliminarily find that the grant received was less than 0.5 percent of the total export sales denominator for the year of receipt. Therefore we have expensed the grant to the year of receipt (*i.e.*, 2011). To calculate the subsidy rate, we divided the full amount of the grant by Changzheng Evaporator's total export sales for 2011.

On this basis, we preliminarily find that Changzheng Evaporator received a countervailable

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Analyst, AD/CVD Operations, Office 8, regarding "Measures for the Administration of Chinese Top-Brand Products," dated concurrently with, and hereby adopted by, this memorandum.

[132] *See* Changzheng Evaporator's SQR (April 17, 2013) at 1 and Exhibit 1.

[133] *See* Changzheng Evaporator's SQR (March 5, 2013) at 1-6.

[134] *Id.* at 2-3, and 6.

[135] *See* GOC's SQR (March 8, 2013) at 2 and 9.

[136] *See* Changzheng Evaporator's SQR (March 5, 2013) at 1-6, and GOC's SQR (March 8, 2013) at 1 – 16.

[137] *See* GOC's SQR (March 8, 2013) at 1 – 16.

[138] *See* Changzheng Evaporator's SQR (April 17, 2013) at 1.

[139] *See* Changzheng Evaporator's SQR (March 5, 2013) at 6.

[140] Where the company was unable to report the date/year of approval of the grant, we used the date/year of receipt of the grant for the yearly sales denominator used in the 0.5 percent test.

subsidy of 0.03 percent *ad valorem* for 2011.

D. International Market Exploration Fund (SME Fund)

In the *Investigation*, we determined that the SME Fund provides countervailable subsidies that are contingent on export activity because, to quality for the program, a small and medium-sized enterprise (SME) must have export and import rights, exports of less than $15,000,000 in the previous year, an accounting system, personnel with foreign trade skills, and an international marketing plan.[141] Changzheng Evaporator reported that it received a non-recurring grant under this program in 2010.[142]

In its response, the GOC reiterated that this program was established in 2000, pursuant to the *Circular of the Ministry of Finance, the Ministry of Foreign Trade and Economic Cooperation Concerning Printing and Distributing the Measures for the Administration of International Market Developing Funds of Small- and Medium-Sized Enterprises (for Trial Implementation),* and *Detailed Rules for the Implementation of the Measures for the Administration of International Market Developing Funds of Small- and Medium-Sized Enterprise (for Provisional Implementation)* to support the development of small and medium-sized enterprise.[143] The GOC added that in May 2010, this program was renewed and the above listed legislation was replaced by the *Measures for Administration of International Market Developing Funds of Small- and Medium-Sized Enterprises (Market Developing Funds Measure).*[144] The GOC explained that after the promulgation of the *Market Developing Funds Measure,* the export value eligibility criterion was modified to state that an applicant enterprise must have had an export value in the previous year of less than $45,000,000.[145]

Neither Changzheng Evaporator nor the GOC provided any information to warrant a reconsideration of the Department's determination that this program is a countervailable export subsidy. Therefore, consistent with the *Investigation*, we preliminarily find that the grant, which Changzheng Evaporator received under this program, constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively, and is specific under section 771(5A)(A) and (B) of the Act because the program supports the international market activities of SMEs and is contingent upon export performance.

The Department treats grants under this program as non-recurring subsidies under 19 CFR 351.524(c).[146] We, thus, conducted the "0.5 percent test" of 19 CFR 351.524(b)(2), by dividing the grant amount by Changzheng Evaporator's total export sales for the year the grant was approved/received.[147]

[141] *See* Aluminum Extrusions Decision Memorandum at "International Market Exploration Fund (SME Fund)."
[142] *See* Changzheng Evaporator's IQR (January 8, 2013) at 18 – 21.
[143] *See* GOC's IQR (January 9, 2013) at 20, as well as Exhibits D-1-1 and D-1-2.
[144] *Id*. at 20 and Exhibit D-1-3.
[145] *Id*. at 22 and Exhibit D-1-3 (Article 6 of *Market Developing Funds Measure*).
[146] *See* Aluminum Extrusions Decision Memorandum at "International Market Exploration Fund (SME Fund)."
[147] Where the company was unable to report the date/year of approval of the grant, we used the date/year of receipt of the grant for the yearly sales denominator used in the 0.5 percent test.

We preliminarily find that the grant received in 2010 was less than 0.5 percent of the total export sales denominator for the year of approval/receipt. Therefore, we have expensed the grant amount to the year of receipt. To calculate the subsidy rate, we divided the full amount of the grant by Changzheng Evaporator's total export sales for 2010.

On this basis, we preliminarily find that Changzheng Evaporator received a countervailable subsidy of 0.01 percent *ad valorem* in 2010.

E. Expanding Production and Stabilizing Jobs Fund of Jiangsu Province

Changzheng Evaporator reported that it received assistance under this program in 2009 and 2010.[148] The GOC stated that the program was established by the government of Jiangsu Province during 2008 in response to the global economic crisis to assist enterprises restore their businesses.[149] The GOC explained that any enterprise in Jiangsu Province which had an increase in export volume in 2008, over 2007 export volume, was eligible for assistance under this program.[150] The GOC stated that after the funds were disbursed in 2010, the program was terminated, but did not provide any documentation to substantiate the termination.[151] The GOC added that there are no laws or regulations pertaining to this program.[152] Changzheng Evaporator reported that it neither submitted an application for the grants, nor received any written approval for the assistance received.[153]

We preliminarily determine that grants received by Changzheng Evaporator under this program constitute a financial contribution and benefit under sections 771(5)(D)(i) because it is the direct transfer of funds and 771(5)(E) of the Act, respectively. Regarding specificity, section 771(5A)(B) of the Act states that an export subsidy is a subsidy that is, in law or in fact, contingent upon export performance, alone or as one of two or more conditions. We preliminarily find that the grant under this program are contingent on export activity and, thus, specific under section 771(5A)(A) and (B) of the Act.

Because Changzheng Evaporator cannot expect to receive ongoing assistance under this program,[154] we are treating the grants as a non-recurring subsidy under 19 CFR 351.524(c). We, thus, conducted the "0.5 percent test" of 19 CFR 351.524(b)(2), by dividing the grant amount by Changzheng Evaporator's total export sales for the year the grant was approved/received.[155] We preliminarily find that the grant which Changzheng Evaporator received in 2009 was less than 0.5 percent of the company's total export sales for the year of approval/receipt. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed this grant to the year of receipt, *i.e.*, 2009, which is prior to the POR.

[148] *See* Changzheng Evaporator's SQR (March 6, 2013) at 16-20, and 31-33.
[149] *See* GOC's SQR (March 27, 2013) at 1.
[150] *Id*. at 2.
[151] *Id.* at 5.
[152] *See* GOC's SQR (April 25, 2013) at 1.
[153] *See* Changzheng Evaporator's SQR (March 6, 2013) at 16
[154] *Id*. at 19.
[155] Where the company was unable to report the date/year of approval of the grant, we used the date/year of receipt of the grant for the yearly sales denominator used in the 0.5 percent test.

Concerning the 2010 assistance, we preliminarily find that this grant is less than 0.5 percent of the company's total export sales for the year of approval/receipt. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant to the year of receipt, *i.e.*, 2010, which is during the POR. To calculate the subsidy rate, we divided the full amount of the grant by Changzheng Evaporator's total export sales for 2010.

On this basis, we preliminarily find that Changzheng Evaporator received a countervailable subsidy rate of 0.12 percent *ad valorem* for 2010.

F. Technical Standards Awards

Changzheng Evaporator reported that it received technology rewards in 2010 from the Xinbei District Government and Changzhou City Government based on a single application it filed in 2009.[156] In its response, the GOC provided information for "Technical Standards Awards of Changzhou Municipality" and "Technical Standards Awards of Xinbei District, Changzhou Municipality."[157]

The GOC stated that the governments of Changzhou Municipality and Xinbei District Changzhou Municipality established programs in 2006 and 2007, respectively, to promote technical standards.[158] The GOC explained that entities which participate in technical standards development projects may apply for awards under the programs.[159] The GOC added that the "main entities that are engaged in a qualified national technical standards development project and have independent intellectual property rights, upon application review and approval, can receive a one-time award."[160] The GOC further stated that to qualify for an award, the technical standards projects are to be in line with the orientation of the industry development of Changzhou Municipality and Xinbei District.[161]

We preliminarily determine that the technical standards awards which Changzheng Evaporator received are countervailable subsidies. The grant is a financial contribution pursuant to section 771(5)(D)(i) of the Act and provides a benefit in the amount of the grant provided, pursuant to section 771(5)(E) of the Act and 19 CFR 351.504(a). We preliminarily find that grants from this program are specific as a matter of law to certain enterprises, namely those involved in technical standards projects, which comply with the direction of industrial development in the Changzhou Municipality and Xinbei District, pursuant to section 771(5A)(D)(i) of the Act.

In accordance with 19 CFR 351.524(c), we are treating this one-time grant as a non-recurring subsidy, and performed the "0.5 percent test" of 19 CFR 351.524(b)(2). We divided the total amount of the grant by Changzheng Evaporator's total sales denominator for the year of approval/receipt.[162] Because the resulting percentage is less than 0.5 percent, we are expensing

[156] *See* Changzheng Evaporator's SQR (March 6, 2013) at 20-25.
[157] *See* GOC's SQR (March 27, 2013) at 8-22.
[158] *See* GOC's SQR (March 27, 2013) at 8 and 15; *see also* GOC's SQR (April 25, 2013) at Exhibit C-1 and Exhibit C-2, for the respective laws.
[159] *See* GOC's SQR (March 27, 2013) at 9 and 16.
[160] *Id*.
[161] *Id*. at 10 and 17.
[162] Where the company was unable to report the date/year of approval of the grant, we used the date/year of receipt of the grant for the yearly sales denominator used in the in the 0.5 percent test.

the full amount of the grant in 2010. To determine Changzheng Evaporator's subsidy rate from the grant, we divided the benefit expensed in 2010 by the company's total sales denominator for 2010. On this basis, we preliminarily find that Changzheng Evaporator received a countervailable subsidy rate of 0.24 percent *ad valorem* for 2010.

G. Tax Reductions for FIEs Purchasing Chinese-Made Equipment

In *Citric Acid Investigation*, *Citric Acid First Review*, and *Citric Acid Second Review* the Department found that this program provided countervailable subsidies.[163] According to the *Provisional Measures on Enterprise Income Tax Credit for Investment in Domestically Produced Equipment for Technology Renovation {Projects}* (CAI SHU ZI {1999} No. 290), a domestically invested company may claim tax credits on the purchase of domestic equipment if the project is compatible with the industrial policies of the GOC. Specifically, a tax credit of up to 40 percent of the purchase price of the domestic equipment may apply to the incremental increase in tax liability from the previous year.[164]

The Alnan Companies reported that they received tax savings under this program on their income tax returns filed during the POR. Consistent with the prior segments of prior CVD proceedings,[165] we preliminarily find that income tax credits for the purchase of domestically produced equipment are countervailable subsidies. The tax credits are a financial contribution in the form of revenue foregone by the government and provide a benefit to the recipients in the amount of the tax savings.[166] We further preliminarily find that these tax credits are contingent upon use of domestic over imported goods and, hence, are specific under section 771(5A)(C) of the Act.

We treated the income tax savings enjoyed by Alnan Companies as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To calculate the net subsidy rate, we used the total sales of the companies involved as the dominator, attributing benefits under this program to according to the methodology described above in the "Subsidies Valuation Information" section.

On this basis, we preliminarily y determine that the Alnan Companies received a countervailable subsidy rate 0.02 percent *ad valorem* for 2011.

H. State Key Technology Renovation Project Fund

In *Tires from the PRC*, we determined that the State Key Technology Program provided

[163] *See* Citric Acid Decision Memorandum at "Income Tax Credits on Purchases of Domestically Produced Equipment;" *see also Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 77206 (December 12, 2011) (*Citric Acid First Review*) and accompanying Issues and Decision Memorandum (Citric Acid First Review Decision Memorandum) and *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) (*Citric Acid Second Review*) and accompanying Issues and Decision Memorandum (Citric Acid Second Review Decision Memorandum) at "Income Tax Credits on Purchases of Domestically Produced Equipment."
[164] *Id*.
[165] *See e.g.*, Citric Acid Decision Memorandum at "Income Tax Credits on Purchases of Domestically Produced Equipment."
[166] *See* section 771(5)(D)(ii) of the Act and section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).

countervailable subsidies within the meaning of section 771(5) of the Act.[167] We found that grants provided under this program were a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act, providing a benefit under section 771(5)(E) of the Act in the amount of the grant. We further determined that the grants provided under this program were limited as a matter of law to certain enterprises, *i.e.*, large-sized state-owned enterprises and large-sized state holding enterprises among the 512 key enterprises, 120 pilot enterprise groups and the leading enterprises in industries, and, hence, are specific under section 771(5A)(D)(i) of the Act.[168]

In this administrative review, we continue to find the State Key Technology Program to be countervailable. No new information has been placed on the record of this administrative review to warrant a change in our finding in *Tires from the PRC*.

The Alnan Companies reported that they received benefit under this program. Consistent with 19 CFR 351.524(c)(1), we are treating grants received under this program as "non-recurring." We performed the "0.5 percent test" of 19 CFR 351.524(b)(2). We divided the total value of the grant by the relevant sales value for the year in which the grant was approved. Because the resulting percentage is greater than 0.5 percent, we are allocating the grant over 12 years, which is the average useful life of assets for the industry.[169]

To calculate the countervailable subsidy rate, we divided the benefits attributable to the POR by the total sales during the POR to the according to the methodology described above in the "Subsidies Valuation Information" section. On this basis, we preliminarily determine that the Alnan Companies received a countervailable subsidy rate of 0.04 percent *ad valorem* for 2010 and 0.03 percent *ad valorem* for 2011.

I. <u>Preferential Tax Policies for the Opening and Development of Beibu Gulf Economic Zone of Guangxi Zhuang Autonomous Region (Local Income Tax Exemption)</u>

The GOC reported that this this program was established in 2008 in accordance with the regulation titled *Several Policies on the Opening and Development of Beibu Gulf Economic Zone of Guangxi (GUIZHENGFA {2008} No.61)* and that that purpose of the program is to promote development of the economic zone.[170]

Under this program, companies which qualify for the program under Article 9 of *GUIZHENGFA {2008} No. 61* are exempted from paying the local portion of their yearly corporate income taxes.[171] From January 1, 2008, to December 31, 2010, under Items 1, 2 and 3 of Article 9 of *GUIZHENGFA {2008} No. 61*, enterprises located within the economic zone, which qualify for the reduced corporate income tax rate of 15 percent under the Preferential Tax Policies for the Development of the Western Regions program (*see* below), also qualify for an additional

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[167] *See Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Negative Determination of Critical Circumstances*, 73 FR 40480 (July 15, 2008) (Tires from PRC), and accompanying Issues and Decision Memorandum (Tires Decision Memorandum) at "State Key Technology Renovation Project Fund."
[168] *Id*.
[169] *See* Aluminum Extrusions Decision Memorandum at "Allocation Period."
[170] *See* GOC's New Subsidy QR (NSA QR) (March 21, 2013) at pages 5-13.
[171] *Id*. at 5-13and Exhibit NSA-D-1.

exemption of the portion of the corporate income tax destined for the local government. From January 1, 2008, to December 31, 2012, enterprises located within the economic zone, which qualify for the reduced corporate income tax rate of 15 percent under the Preferential Tax Program for High and New Technology Enterprises program (*see* below), qualify for the same amount of additional exemption of corporate income taxes. Therefore, under this program, qualified enterprises receiving a reduced corporate income tax rate of 15 percent during these years were eligible to have their corporate income tax rate further reduced to 9 percent.

The GOC reported that the program is administered by the State Administration of Taxation (SAT) and is implemented by the SAT branches at the local level within their respective jurisdictions and that exemption is claimed on line 36 of the Statement of Tax Preferences Table, which is an appendix the corporate tax return.[172]

We preliminarily determine that this program constitutes a financial contribution in the form of revenue forgone under section 771(5)(D)(ii) of the Act and a benefit under section 771(5)(E) of the Act. The GOC reported that only the enterprises located within Beibu Gulf Economic Zone of Guangxi Zhuang Autonomous Region may benefit from this tax exemption.[173] Therefore, we preliminarily determine that the program is regionally-specific pursuant to section 771(5A)(D)(iv) of the Act.

The Alnan Companies reported that certain companies within the Alnan Companies corporate grouping received benefits under this program during 2010 and 2011 as indicated on their tax returns. To calculate the program rate for each year, we divided the benefit received in each year over the combined sales of Alnan Aluminum (the producer of the subject merchandise) and the company or companies that received the benefit, as appropriate, according attribution methodology described in the "Subsidies Valuation Information" section.

On this basis, we preliminarily determine that the Alnan Companies received a countervailable subsidy rate of 0.45 percent *ad valorem* for 2010 and 0.46 percent *ad valorem* for 2011.

J. Preferential Tax Program for High or New Technology Enterprises

The GOC reported that this program was established on January 1, 2008. Pursuant to Article 28.2 of the *Enterprise Income Tax Law* (EITL) of the PRC, the government provides for the reduction of the corporate income tax rate from 25 percent to 15 percent for enterprises that are recognized as a High or New Technology Enterprise (HNTEs).[174] The conditions to be met by an enterprise to be recognized as an HNTE set forth in Article 93 of the *Regulation on the Implementation of the Enterprise Income Tax Law*.[175]

In the *Citric Acid First Review* and *Citric Acid Second Review*, the Department found this program to be countervailable.[176] Article 28.2 of the EITL authorizes a reduced income tax rate

[172] *Id*.
[173] *Id*.
[174] For the EITL, *see* GOC's IQR (January 9, 0130) at Exhibit B-2.
[175] *See* GOC's NSA at Regulation on the Implementation of the Enterprise Income Tax Law at Exhibit NSA-E-1.
[176] *See* Citric Acid First Review Decision Memorandum and Citric Acid Second Review Decision Memorandum at

of 15 percent for HNTEs. The criteria and procedures for identifying eligible HTNEs are provided in the *Measures on Recognition of High and New Technology Enterprises* (GUOKEFAHUO {2008} No. 172) (*Measures on Recognition of HNTEs*) and the *Guidance on Administration of Recognizing High and New Technology Enterprises* (GUOKEFA HUO {2008} No.362). Article 8 of the *Measures on Recognition of HNTEs* provides that the science and technology administrative departments of each province, autonomous region, and municipality directly under the central government or cities under separate state planning shall collaborate with the finance and taxation departments at the same level to recognize HTNEs in their respective jurisdictions.[177]

The annex of the *Measures on Recognition of HNTEs* lists eight high- and new-technology areas selected for the State's "primary support:" 1) Electronics and Information Technology; 2) Biology and New Medicine Technology; 3) Aerospace Industry; 4) New Materials Technology; 5) High-tech Service Industry; 6) New Energy and Energy-Saving Technology; 7) Resources and Environmental Technology; and 8) High-tech Transformation of Traditional Industries.[178]

The GOC reported that the program is administered by the SAT and is implemented by the SAT branches at the local level within their respective jurisdictions and that exemption is claimed on line 28 of the Statement of Tax Preferences Table, which is an appendix the corporate tax return.[179]

The Alnan Companies reported that they received tax savings under this program in the amounts indicated on income tax returns filed during the POR. Consistent with the *Citric Acid First Review* and *Citric Acid Second Review*, we preliminarily find that the reduced income tax rate paid by the Alnan Companies is a financial contribution in the form of revenue foregone by the GOC, and provides a benefit to the recipient in the amount of the tax savings.[180] We also preliminarily determine, consistent with the *Citric Acid First Review* and *Citric Acid Second Review*, that the reduction afforded by this program is limited as a matter of law to certain new and high technology companies selected by the government pursuant to legal guidelines specified in *Measures on Recognition of HNTEs* and, hence, is specific under section 771(5A)(D)(i) of the Act. Both the number of targeted industries (eight) and the narrowness of the identified project areas under those industries support a finding that the legislation expressly limits access to the program to a specific group of enterprises or industries.

To calculate the benefit, we compared the income tax rate that Alnan Companies would have paid in the absence of the program (25 percent) to the income tax rate that the companies actually paid. We treated the income tax savings realized the Alnan Companies as a recurring benefit, consistent with 19 CFR 351.524(c)(1). To calculate the program rate for each year, we divided the benefit received in each year over the combined sales of Alnan Aluminum (the producer of the subject merchandise) and the company or companies that received the benefit, as appropriate, according to the attribution methodology described in the "Subsidies Valuation

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"Reduced Income Tax Rate for High or New Technology Enterprises."

[177] *Id*.

[178] *Id*.

[179] *See* the GOC's NSA at 19

[180] *See* section 771(5)(D)(ii) of the Act; *see also* section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).

Information" section.

On this basis, we preliminarily determine that the Alnan Companies received a countervailable subsidy rate of 0.01 percent *ad valorem* for 2011.

K. Preferential Tax Policies for the Development of Western Regions of China

The GOC reported that this program was established in 2001. The purpose of the program is to accelerate the development of China's Western Regions by promoting economic liberalization pursuant to *Circular of the Ministry of Finance, the State Administration of Taxation, the General Administration of Customs on Issues of Incentive Policies on Taxation for the Strategy of the Development in the Western Areas (CAISHUI {2001} No. 202) and Circular on Deepening the Implementation of Tax Policy concerning Development of Western Regions (CAISHUI {2011} No.58).*[181]

The GOC reported that, from 2001 to 2010, in accordance with Section Two of CAISHUI {2001} No. 202, the income tax on domestic and foreign-invested enterprises established in the Western regions, which are engaged in industries encouraged by the State, is levied at the reduced rate of 15 percent.[182] In accordance with CAISHUI {2011} No.58, from January 1, 2011 to December 31, 2020, the enterprise income tax on an enterprise engaged in an encouraged industry established in western China is levied at the reduced rate of 15 percent.[183]

We preliminarily determine the program provides a financial contribution in the form of foregone tax revenue and provide a benefit to the recipients in the amount of the tax savings.[184] The GOC reported that, under the program, the term "enterprise in an encouraged industry" refers to an enterprise whose main business falls within the scope of industry projects set out in the *Catalogue of Encouraged Industries in Western China* and whose revenue from its main business accounts for 70 percent or more of its gross income.[185] Therefore, we preliminarily determine that, because only enterprises located in the Western Regions are eligible for a reduced tax rate, this program is regionally-specific pursuant to section 771(5A)(D)(iv) of the Act.

To calculate the program rate for each year, we divided the benefit received in each year over the combined sales of Alnan Aluminum (the producer of the subject merchandise) and the company or companies that received the benefit, as appropriate, according to the attribution methodology described above in the "Subsidies Valuation Information" section.

On this basis, we preliminarily determined that the Alnan Companies received a countervailable subsidy rate of 0.74 percent *ad valorem* for 2010 and 0.76 percent *ad valorem* for 2011.

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[181] *See* GOC's NSA QR (March 21, 2013) pages 21-28 and at Exhibit NSA-F-1 and Exhibit NSA-F-2.
[182] *See* GOC's NSA QR at Exhibit NSA-F-1.
[183] *See* GOC's NSA QR at (Exhibit NSA-F-2.
[184] *See* section 771(5)(D)(ii) of the Act; *see also* section 771(5)(E) of the Act and 19 CFR 351.509(a)(1).
[185] *Id*.

L. Guangxi Awards for Private Enterprises Designated as Pilot Innovation-Oriented Enterprises

The GOC reported that this program was established in October 2011 by the Finance Department and the Science and Technology Department of Guangxi Autonomous Region. The purpose of the program is to honor private enterprises designated as national pilot innovation-oriented enterprises or excellent Guangxi pilot innovation-oriented enterprises pursuant to the *Measures of Guangxi for Awards for Private Enterprises Designated as Pilot Innovation-Oriented Enterprises*. An award of 1,000,000 RMB may be granted to enterprises with the former designation, and enterprises with the latter may receive awards of 500,000 RMB.[186]

To qualify for an award under the program, an enterprise: 1) must have R&D expenditures of a certain level, 2) must have applied for a patent for an invention with in the past three years, 3) must have developed new products, techniques, or services, within the past three years, and 4) must have independent R&D branches.[187]

Based on our analysis of the laws and regulations provided by the GOC for this program, we preliminarily determine that grants provided under this program are financial contributions in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act and provide a benefit in the amount of the grant, pursuant to section 771(5)(E) of the Act and 19 CFR 351.504(a). We also preliminarily determine that this program is *de jure* specific under section 771(5A)(D)(i) of the Act because the eligibility for benefits under the program is limited to a group of companies or industries, namely companies that meet the criteria to be designated as innovation-oriented enterprises.

Under 19 CFR 351.524(c)(1), we are treating grants received under this program as "non-recurring." We performed the "0.5 percent test" of 19 CFR 351.524(b)(2). Because the Alnan Companies did not receive any grants which passed the "0.5 percent test," we expensed each grant amount in the year of receipt. We calculated the program rate for this program for each year of the POR by dividing the benefit received in each year over the combined total sales of Alnan Aluminum (the producer of the subject merchandise) and the company or companies that received the benefit, as appropriate, according to the attribution methodology described above in the "Subsidies Valuation Information" section.

On this basis, we preliminarily determine that this program is countervailable and have calculated, for the Alnan Companies a countervailable subsidy program rate of 0.05 percent *ad valorem* for 2011.

M. Special Funds of Guangxi Autonomous Region for Small Highland of Talents

The GOC reported that this program was established in the July 2004 by the Finance Department and the Department of Human Resources and Social Security of Guangxi Autonomous Region. The purpose of the program is to attract and cultivate high-level and innovative talents pursuant to *Measures for Administration of Special Funds of Guangxi Autonomous Region for Small*

[186] *See* program "B." of the GOC's 1st supplemental QR (regarding Kromet) (April 22, 2013) at pages 9-14 and Exhibit K-2.
[187] *Id*. at 10 and Exhibit K-2.

Highland of Talents.[188]

To qualify for an award under the program an enterprise must meet these requirements: (1) "have intensive human resources of high-level talents; (2) the specialization structure of its talents must be in line with the development orientations of important industries, important projects, important disciplinary fields and superior enterprises and government-sponsored institutions that have strong innovation capacity, (3) have a sound innovation environment and relatively strong economic capacity; (4) have a work plan for construction of the small highland of talents." [189]

Based on our analysis of the laws and regulations provided by the GOC for this program, we preliminarily determine that grants provided under this program are financial contributions in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act and provide a benefit to the Alnan Companies in the amount of the grant, pursuant to section 771(5)(E) of the Act and 19 CFR 351.504(a). We also preliminarily determine that this program is *de jure* specific under section 771(5A)(D)(i) of the Act due to provisions in the laws and/or regulations indicating that eligibility for benefits under the program is limited to a group of companies or industries, namely enterprises that are "approved and publically announced carrier entities" which must meet innovation criteria and a criterion requiring involvement in important industries, project, or fields.

Under 19 CFR 351.524(c)(1), we are treating grants received under these programs as "non-recurring." We performed the "0.5 percent test" of 19 CFR 351.524(b)(2). Because the Alnan Companies did not receive any grants which passed the "0.5 percent test," we have expensed each grant in the year of receipt. We calculated the program rate for this program for each year by dividing the benefit received in each year over the combined total sales of Alnan Aluminum (the producer of the subject merchandise) and the company or companies that received the benefit, as appropriate, according to the attribution methodology described above in the "Subsidies Valuation Information" section.

On this basis, we preliminarily determine that this program is countervailable and have calculated for the Alnan Companies a countervailable subsidy rate of 0.12 percent *ad valorem* for 2010 and 0.05 percent *ad valorem* for 2011.

N. Special Funds of Nanning Municipality for Small Highland of Talents

The GOC reported this program was established in 2005 by the Government of Nanning Municipality. The purpose of the program is to attract and cultivate high-level and innovative talents pursuant to *Measures for Building Nanning Small Highland of Talents*.[190]

To qualify for an award under the program, an enterprise must meet these requirements: " (1) have intensive human resources of high-level talents; (2) the specialization structure of its talents must be in line with the development orientations of important industries, important projects,

[188] *See* program "C." of the GOC's 1st supplemental QR (regarding Kromet) (April 22, 2013) at pages 15-22 and Exhibit K-3.
[189] *Id*. at 17 and Exhibit K-3.
[190] *See* program "D." of the GOC's 1st supplemental QR (regarding Kromet) (April 22, 2013) at pages 29-35 and Exhibit K-4.

important disciplinary fields and superior enterprises and government-sponsored institutions that have strong innovation capacity, (3) have sound innovation environment and relatively strong economic capacity; (4) have a work plan for construction of the small highland of talents."[191]

Based on our analysis of the laws and regulations provided by the GOC for this program, we preliminarily determine that grants provided under this program are financial contributions in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act and provide a benefit to the Alnan Companies in the amount of the grant, pursuant to section 771(5)(E) of the Act and 19 CFR 351.504(a). We also preliminarily determine that this program is *de jure* specific under section 771(5A)(D)(i) of the Act due to provisions in the laws and/or regulations indicating that eligibility for benefits under the program is limited to a group of companies or industries which must meet innovation criteria and a criterion requiring involvement in industries, project, or fields deemed "important" by the municipal government.

Under 19 CFR 351.524(c)(1), we are treating grants received under these programs as "non-recurring." We performed the "0.5 percent test" of 19 CFR 351.524(b)(2). Because the Alnan Companies did not receive any grants which passed the "0.5 percent test," we have expensed each grant in the year of receipt. We calculated the program rate for this program for each year by dividing the benefit received in each year over the combined total sales of Alnan Aluminum (the producer of the subject merchandise) and the company or companies that received the benefit, as appropriate, according to the attribution methodology described above in the "Subsidies Valuation Information" section.

On this basis, we preliminarily find that this program is countervailable and have calculated for the Alnan Companies a countervailable subsidy rate of 0.04 percent *ad valorem* for 2010 and 0.03 percent *ad valorem* for 2011.

O. <u>Assistance for Science Research and Technology Development Planning Projects of Nanning Municipality</u>

The GOC reported that this program was established in January 2005 by the Science and Technology Bureau of Nanning Municipality. The purpose of the program is to support science and technology research and development (R&D) pursuant to *Interim Measures for Administration of Nanning Science and Technology Planning Projects*.[192]

To qualify for an award under this program, an enterprise must meet these requirements: (1) be registered in Nanning Municipality, be an independent legal person, and be able to take legal liability independently; (2) be specialized in the areas it intends to engage in; (3) have the necessary professionals, technologies, equipment and funds to complete the project; (4) have the necessary organizing and coordinating capacities and effective management system to complete the project; (5) have a good reputation.[193]

Based on our analysis of the laws and regulations provided by the GOC for this program, we

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[191] *Id.* at 23 and Exhibit K-4.
[192] *See* program "E." of the GOC's 1st supplemental QR (regarding Kromet) (April 22, 2013) at pages 29-34 and Exhibit K-5.
[193] *Id*. at 30 and Exhibit K-5.

preliminarily determine that grants provided under this program are financial contributions in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act and provide a benefit to the Alnan Companies in the amount of the grant, pursuant to section 771(5)(E) of the Act and 19 CFR 351.504(a). We also preliminarily determine that this program does not contain provisions that indicate that the program is *de jure* specific under section 771(5A)(D)(i) of the Act. However, the GOC did not provide the requested *de facto* specificity information for this program. Thus, as explained above, , as AFA, we preliminarily determine that this program is *de facto* specific under section 771(5A)(D)(iii) of the Act.

Under 19 CFR 351.524(c)(1), we are treating grants received under these programs as "non-recurring." We performed the "0.5 percent test" of 19 CFR 351.524(b)(2). Because the Alnan Companies did not receive any grants which passed the "0.5 percent test," we have expensed each grant in the year of receipt. We calculated the program rate for this program for each year by dividing the benefit received in each year over the combined total sales of Alnan Aluminum (the producer of the subject merchandise) and the company or companies that received the benefit, as appropriate, according to the attribution methodology described above in the "Subsidies Valuation Information" section.

On this basis, we preliminarily find that this program is countervailable and have calculated for the Alnan Companies a countervailable subsidy rate of 0.24 percent *ad valorem* for 2010 and 0.01 percent *ad valorem* for 2011.

P. Special Funds of Nanning Municipality for Academic and Technical Leaders of the New Century

The GOC reported that this program was established in 1999 by the Government of Nanning of Nanning Municipality. The purpose of the program is to encourage the development of science and technology professionals and cultivate a new generation of academic and technical leaders, pursuant to *Administrative Measures of Nanning Municipality for Cultivating and Selecting Academic and Technical Leaders of the New Century (Revised).*[194]

The GOC reported that candidates of the national project called "millions, ten millions of talents," candidates of the Guangxi project called "tens, hundreds, thousands of talents" and candidates a Nanning project called "academic and technical leaders of the new century" may apply for assistance under this program. The GOC also reported that funds under this program are generally used to support the scientific and technological activities of the candidates, including the R&D activities, domestic and overseas short-term training or research, purchase necessary facilities and equipment, improve the working conditions of the key experimental bases, domestic and overseas academic and technical exchange activities and publish academic works. The GOC further reported that the scientific and technical projects to be supported shall be projects for key industries, key programs, and key disciplinary fields of Nanning Municipality.[195]

[194] *See* program "H." of the GOC's 1st supplemental QR (regarding Kromet) (April 22, 2013) at pages 48-54 and Exhibit K-6.
[195] *Id*. at 49 and Exhibit K-6.

Based on our analysis of the laws and regulations provided by the GOC for this program, we preliminarily determine that grants provided under this program are financial contributions in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act and provide a benefit to the Alnan Companies in the amount of the grant, pursuant to section 771(5)(E) of the Act and 19 CFR 351.504(a). We also preliminarily determine that this program is *de jure* specific under section 771(5A)(D)(i) of the Act due to provisions in the laws and/or regulations indicating that eligibility for benefits under the program is limited to a group of companies or industries, namely key industries, key program and key disciplinary fields within Nanning Municipality. Under 19 CFR 351.524(c)(1), we are treating grants received under these programs as "non-recurring." We performed the "0.5 percent test" of 19 CFR 351.524(b)(2). Because the Alnan Companies did not receive any grants which passed the "0.5 percent test," we have expensed each grant in the year of receipt. We calculated the program rate for this program for each year by dividing the benefit received in each year over the combined total sales of Alnan Aluminum (the producer of the subject merchandise) and the company or companies that received the benefit, as appropriate, according to the attribution methodology described above in the "Subsidies Valuation Information" section.

On this basis, we preliminarily find that this program is countervailable and have calculated for the Alnan Companies a countervailable subsidy rate of 0.02 percent *ad valorem* for 2010, and 0.01 percent *ad valorem* for 2011.

Q. Refund of Value Added Tax on Products Made Through Comprehensive Utilization of Resources

The GOC reported that this program was established on July 1, 2008, by the Ministry of Finance and the State Administration of Taxation. The purpose of the program is promote comprehensive utilization of recycled resources, energy conservation and emission reductions pursuant to *Notice of the Ministry of Finance and State Administration of Taxation about Policies Regarding the Value Added Tax on Products Made through Comprehensive Utilization of Resources and Other Products*.[196]

The GOC reported that, as detailed in Article 4 of *Notice of the Ministry of Finance and the State Administration of Taxation about Policies Regarding the Value Added Tax on Products Made through Comprehensive Utilization of Resources and Other Products*, for the sale of the self-produced electric power and heat generated from coal slack, slime, stone-like coal and oil shale as fuel (of which coal slack, slime, stone-like coal and oil shale shall account for not less than 60 percent of the fuel for generating electric power), a refund of 50 percent is applied immediately after the payment of VAT.[197]

The GOC also reported that to qualify for these VAT refunds, a taxpayer must apply for and obtain a Certificate of Comprehensive Utilization of Resources. To obtain this certificate, an applicant must meet the following requirements: 1) its manufacturing techniques, technologies and products shall comply with the industrial policies and the relevant standards of the state; (2) the profit and loss of products of resources comprehensive utilization may be calculated

[196] *See* program "S7." of the GOC's 2nd SQR (regarding Kromet) (April 29, 2013) at pages 3-10 and Exhibit 2K-2.
[197] *Id*. at 4.

separately; (3) the sources of its raw materials and fuels shall be stable and reliable, the quantity and quality shall meet the relevant requirements, the complementary conditions on water and electric power shall be put into effect; and (4) it shall satisfy the requirements of environmental protection and will not result in secondary pollution.[198]

Based on our analysis of the laws and regulations provided by the GOC for this program, we preliminarily determine that tax refunds provided under the program are a financial contribution in the form of revenue foregone by the government and provide a benefit to the recipients in the amount of the tax savings.[199] We also preliminarily determine that his program is *de jure* specific due to provisions in the laws and/or regulations indicating that eligibility for benefits under the program is limited to a group of companies or industries, namely producers of self-produced electric power and heat which use coal slack, slime, stone-like coal and oil shale accounting for not less than 60 percent of the fuel for generating electric power.

We calculated the program rate for this program for each year by dividing the benefit received in each year over the combined total sales of Alnan Aluminum (the producer of the subject merchandise) and the company or companies that received the benefit, as appropriate, according to the attribution methodology described above in the "Subsidies Valuation Information" section.

On this basis, we preliminarily determine that this program is countervailable and have calculated for the Alnan Companies a countervailable subsidy rate of 0.08 percent *ad valorem* for 2010, and 0.06 percent *ad valorem* for 2011.

R. Grants Programs for Which the GOC Did Not Provide the Requested Laws, Regulations, and Specificity Information

In response to Department's supplemental questionnaires regarding grants and other funding received by Alnan Companies, the GOC identified 32 grant programs under which the Alnan Companies received benefits and provide descriptions of the programs.[200] However, the GOC did not provide complete answers in response to our supplemental questionnaires with regard to many of these programs. Specifically, for a number of grant programs, the GOC did not provide the relevant requested laws and regulations and did not provide the requested *de facto* specificity information. As discussed above, we find that the GOC failed to provide necessary information pursuant to section 776(a) of the Act and failed to cooperate by not acting to the best of its ability to comply with the request for information, pursuant to section 776(b) of the Act. Therefore, we preliminarily determine, as AFA, that each grant program for which the GOC did not provide the requested information is *de jure* specific. We preliminarily determine, as AFA, that each of these programs constitute a financial contribution in the form of a direct transfer of funds within the meaning of section 771(5)(D)(i) of the Act and a benefit under section 771(5)(E) of the Act and 19 CFR 351.504(a).

Consistent with 19 CFR 351.524(c)(1), we are treating grants received under these programs as "non-recurring." We also performed the "0.5 percent test" of 19 CFR 351.524(b)(2) with regard

[198] *Id*. at 23 and Exhibit K-4.
[199] *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1).
[200] *Id*.

to each grant program. For those programs that passed the “0.5 percent test,” we allocated the benefit received by the Alnan Companies over 12 years. For those programs, that did not pass the “0.5 percent test,” we expensed the grants amounts in the years they were received.

For each of the grant programs, we calculated the program rate for each year by dividing the benefit received in each year over the combined sales of Alnan Aluminum (the producer of the subject merchandise) and the company or companies that received the benefit, as appropriate, according to the attribution methodology described above in the “Subsidies Valuation Information” section. As explained above in the AFA section, for those programs which GOC did not provide the legislation and regulations but for which the name of the program indicates that it is an export program, as AFA, we calculated the program rate using export sales as the denominator.

On this basis, we preliminarily find that the following 18 grant programs are countervailable and have calculated the following *ad valorem* countervailable subsidy program rates for the Alnan Companies for 2010 and 2011, respectively.[201]

	Name of Program	2010 Ad Valorem Rate	2011 Ad Valorem Rate
1.	Guangxi Technology R&D Funds (A.)	0.06%	0.05%
2.	Supporting Funds of Nanning Municipality for “Informatization-industrialization Integration” and Development of Information Industry (F.)		0.03%
3.	Funds for Projects of Science and Technology Professionals serving the Enterprises (G.)	0.06%	
4.	Funds of Nanning Municipality for Technology Innovation (I.)	0.07%	0.09%
5.	Funds of Guangxi Autonomous Region for Enterprises’ Technology Renovation (J.)	0.54%	0.20%
6.	Financial Assistance (interest subsidy) of Nanning Municipality for Key Technology Renovation (K.)	0.48%	0.39%
7.	Financial Supporting Funds of Nanning Municipality for Technology Renovation for Production Safety (N.)	0.02%	0.01%
8.	Assistances for R&D projects under Funds of Nanning Municipality for Foreign Trade Development (P.)		0.21%
9.	Funds of Nanning Municipality for Sustainable Development of Foreign Trade (Q.)	0.01%	0.07%
10.	Awards of Guangxi Autonomous Region for Emission Reduction of Main Pollutants (R.)	0.03%	
11.	National Funds for the Industry Revitalization and Technology Renovation of the Key Fields (S.)	0.35%	
12.	Special Funds of Guangxi Autonomous Region for Production Safety (Supporting Fund for Eliminating Potential and	0.01%	

[201] *Id.* For ease of reference, we have provided the letters used by the GOC to identify the grant programs in its supplemental questionnaire responses.

	Seriously Dangerous Projects) (U.)		
13.	National Funds for Construction of Ten “Key Energy Saving Projects”, “Key Demonstration Bases for Recycling Economy and Resource Saving" and "Key Industrial Pollution Control Projects" (W.)	0.14%	0.13%
14.	Funds of Guangxi Autonomous Region for Promotion of Foreign Trade Development of the West Region (X.)	0.05%	0.05%
15.	Awards of Nanning Municipality for Excellent Foreign Trade Enterprises (Y.)		0.02%
16.	Special Funds for Projects of National Science and Technology Supporting Plan (S2.)	0.11%	0.09%
17.	Special Funds of Guangxi Beibu Gulf Economic Zone for the Development of Key Industries (S4.)	0.10%	0.09%

II. Programs Preliminarily Determined Not To Provide a Benefit During the POR

A. Programs Used By Changzheng Evaporator

Changzheng Evaporator reported that it received assistance under the following listed programs in 2010 and 2011. We preliminarily find that the benefit from each program results in a subsidy rate that is less than 0.005 percent *ad valorem*, for both 2010 and 2011.[202] Consistent with the Department’s practice,[203] we are not including program rates of less than 0.005 percent *ad valorem* in the preliminary calculations of the total net subsidy rate rate for Changzheng Evaporator. We also determine that it is unnecessary for the Department to make a finding as to the countervailability of these programs in the preliminary results of this administrative review.

1. Intellectual Property Reward[204]

2. Support for Disabled Persons[205]

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[202] *See* Preliminary Calculations for Changzheng Evaporator at “Grants.”

[203] *See e.g.*, CFS Decision Memorandum at “Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE;” *see also Certain Steel Wheels from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 77 FR 17017 (March 23, 2012) (*Steel Wheels from the PRC*), and accompanying Issues and Decision Memorandum (Steel Wheels Decision Memorandum) at “Income Tax Reductions for Firms Located in the Shanghai Pudong New District.”

[204] *See* Changzheng Evaporator’s SQR (March 6, 2013) at 4-9.

[205] *See* Changzheng Evaporator’s SQR (March 6, 2013) at 9-13, and 25-28.

B. Programs Used By the Alnan Companies

The Alnan Companies reported that they received benefits under the following programs during the POR. We preliminarily find that the benefits received during the POR under each of these programs result in net subsidy rates for the program that are less than 0.005 percent *ad valorem* for both 2010 and 2011.[206] Consistent with the Department's practice,[207] we are not including a program rate of less than 0.005 percent *ad valorem* in the preliminary calculations of the total net subsidy rate for the Alnan Companies.[208] We also determine that it is unnecessary for the Department to make a finding as to the countervailability of these programs in the preliminary results of this administrative review.

1. Awards of Nanning Municipality for Advancement of Science and Technology (L.)
2. Award of Nanning Municipality for Industrial Enterprises Completing Energy Saving Tasks (M.)
3. Membership Fee Refunds for Members of Rescue Sub-team of Guangxi Emergency and Rescue Association for Production Safety (O.)
4. Funds for Demonstration Bases of Introducing Foreign Intellectual Property (T.)
5. Funds of Nanning Municipality for Project Preliminary Works (V.)
6. Special Funds of Nanning Municipality for key Planning Project of Professionals Cultivation (S1.)
7. Funds of Guangxi Autonomous Region for Energy Saving and Emission Reduction (S3.)
8. Awards of Nanning High-tech Zone for Annual top Tax Payers of Industrial Enterprises (S5.)
9. Awarding Funds of Guangxi Autonomous Region for Renovation of Energy-Saving Technologies (S6.)
10. National Special Funds for Emission of Main Pollutants (Assistance for Construction of Automatic Surveillance of Key Pollutant Sources) (S8.)

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[206] *See* Preliminary Calculations for Kromet Inc and the Alnan Companies.
[207] *See e.g.,* CFS Decision Memorandum at "Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE;" *see also Certain Steel Wheels from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 77 FR 17017 (March 23, 2012) (*Steel Wheels from the PRC*), and accompanying Issues and Decision Memorandum (Steel Wheels Decision Memorandum) at "Income Tax Reductions for Firms Located in the Shanghai Pudong New District."
[208] For ease of reference, the letters used by the GOC to identify the grant programs in it supplemental questionnaires are provided. *See* GOC 1st Supplemental QR (regarding Kromet) (April 22, 2013) at pages 1-71and GOC 2nd Supplemental QR (regarding Kromet) (April 29, 2013) at pages 1-11 and Exhibit 2K-1.

III. Programs Preliminarily Determined Not To Be Used During the POR

We preliminarily find that the respondent companies did not use the following programs during the POR:

A. Exemption from City Construction Tax and Education Tax for Foreign-Invested Enterprises (FIEs)
B. Two Free, Three Half Income Tax Exemptions for FIEs
C. Preferential Tax Program for FIEs Recognized as High and New-Technology Enterprises (HNTEs)
D. Provincial Government of Guangdong (PGOG) Tax Offset for Research and Development (R&D)
E. Refund of Land-Use Tax for Firms Located in the Zhaoqing New and High-Tech Industrial Development Zone (ZHTDZ)
F. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
G. Fund for SME Bank-Enterprise Cooperation Projects
H. Special Fund for Significant Science and Technology in Guangdong Province
I. Fund for Economic, Scientific, and Technology Development
J. Provincial Fund for Fiscal and Technological Innovation
K. Provincial Loan Discount Special Fund for SMEs
L. Export Rebate for Mechanic, Electronic, and High-Tech Products
M. PGOG Special Fund for Energy Saving Technology Reform
N. PGOG Science and Technology Bureau Project Fund (aka, Guangdong Industry, Research, University Cooperating Fund)
O. Provision of Land-Use Rights and Fee Exemptions to Enterprises Located in the ZHTDZ for LTAR
P. Provision of Land-Use Rights to Enterprises Located in the South Sanshui Science and Technology Industrial Park for LTAR
Q. Labor and Social Security Allowance Grants in Sanshui District of Guangdong Province
R. "Large and Excellent" Enterprises Grant
S. Advanced Science/Technology Enterprise Grant
T. Award for Self-Innovation Brand/Grant for Self-Innovation Brand and Enterprise Listing
U. Tiaofeng Electric Power Subscription Subsidy Funds
V. Award for Excellent Enterprise
W. Export Incentive Payments Characterized as VAT Rebates
X. PGOG and Foshan City Government Patent and Honor Award Grants
Y. Foshan City Government Technology Renovation and Technology Innovation Special Fund Grants
Z. Nanhai District Grants to State and Provincial Enterprise Technology Centers and Engineering Technology R&D Centers
AA. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
BB. Provincial Tax Exemptions and Reductions for "Productive" FIEs

CC. Tax Reductions for FIEs in Designated Geographic Locations
DD. Tax Reductions for Technology- or Knowledge-Intensive FIEs
EE. Tax Credits for Domestically-Owned Companies Purchasing Chinese-Made Equipment
FF. Tax Reductions for Export-Oriented FIEs
GG. Tax Refunds for Reinvesting of FIE Profits in Export-Oriented Enterprises
HH. Accelerated Depreciation for Enterprises Located in the Northeast Region
II. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
JJ. VAT Rebates on FIE Purchases of Chinese-Made Equipment
KK. Exemptions from Administrative Charges for Companies in the ZHTDZ
LL. Grants to Cover Legal Fees in Trade Remedy Cases in Zhenzhen
MM. Clean Production Technology Fund
NN. Grants for Listing Shares: Liaoyang City (Guangzhou Province), Wenzhou Municipality (Zhejiang Province), and Quanzhou Municipality (Fujian Province)
OO. Northeast Region Foreign Trade Development Fund
PP. Land Use Rights in the Liaoyang High-Tech Industry Development Zone
QQ. Allocated Land Use Rights for State-Owned Enterprises
RR. Tax Refunds for Enterprises Located in the ZHTDZ
SS. Provision of Electricity for LTAR to FIEs Located in the Nanhai District of Foshan City
TT. Nanhai District Grants to High and New Technology Enterprises
UU. Government Provision of Land-Use Rights to Enterprises Located in the Yongji Circular Economic Park for LTAR
VV. Purchase of Aluminum Extrusions for More Than Adequate Remuneration
WW. Support for the Tax Refund Difference Program[209]
XX. Export Credit Subsidy Program: Export Seller's Credits
YY. Export Credit Subsidy Program: Export Buyer's Credits

Preliminary Ad Valorem Rate for Non-Selected Companies under Review

The statute and the Department's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where the Department limited its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, the Department normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all other rate in an investigation. We also note that section 777A(e)(2) of the Act provides that "the individual countervailable subsidy rates determined under subparagraph (A) (limiting respondents) shall be used to determine the all others rate under section {705(c)(5) of the Act}." Section 705(c)(5)(A) of the Act instructs the Department to calculate an all others rate using the weighted average of the subsidy margins established for the producers/exporters individually examined, excluding any zero, *de minimis*, or AFA rates.

[209] Changzheng Evaporator received assistance under this program, however the grant was expensed prior to the POR. *See* Preliminary Calculations for Changzheng Evaporator at "Grants."

In this review, the preliminary subsidy rates for 2010 and 2011 calculated for the two mandatory respondents are above *de minimis*. We, therefore, have applied an average of those rates to compute the 2010 and 2011 preliminary rates for the 49 companies, for which a review was requested and not rescinded, but were not selected as mandatory respondents.[210]

Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not preliminarily calculated the rate for the non-selected companies by weight-averaging the rates of Changzheng Evaporator and the Alnan Companies because doing so risks disclosure of proprietary information. We therefore calculated a simple average of the two responding firm's preliminarily subsidy rates to derive the rates for the non-selected companies.

As such, to each of the non-selected companies, we are assigning a preliminary subsidy rate of 12.57 percent *ad valorem* for 2010 and 20.75 percent *ad valorem* for 2011.

Preliminary Ad Valorem Rate for Non-Cooperative Companies under Review

In this administrative review, we must also assign a rate to the three companies which failed to respond to the Department's Q&V questionnaire. As discussed above in the "Use of Facts Otherwise Available and Adverse Inferences" section we preliminarily find that it is appropriate to assign to these companies the total AFA rate of 170.66 percent *ad valorem.*[211]

Conclusion

We recommend applying the above methodology for these preliminary results.

✓
Agree   Disagree

Paul Piquado
Assistant Secretary
for Import Administration

3 JUNE 2013
(Date)

[210] For a list of the non-selected companies, *see Aluminum Extrusions from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2010 and 2011*, signed concurrently with this preliminary decision memorandum.
[211] *See* AFA Calculations Memorandum.