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Administrative Review
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DATE: July 29, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

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

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

I. Summary

On April 5, 2013, the Department of Commerce (the Department) published the *Preliminary Results* for this countervailing duty (CVD) administrative review.[1] The respondent company in this review is Shanxi Yida Special Steel Imp. & Exp. Co., Ltd. (Yida I&E) and its cross-owned affiliates Shanxi Yida Special Steel Group Co., Ltd. (Yida Special Steel) and Shanxi Yida Petroleum Equipment Manufacturing Co., Ltd. (Yida Petroleum) (collectively, Yida Group).

The "Analysis of Programs" and "Subsidies Valuation Information – Benchmarks and Discount Rates" sections below describe the subsidy programs and the methodologies used to calculate benefits for the programs under examination. Additionally, we have analyzed the comments submitted by Yida Group and the Government of the People's Republic of China (GOC) in their case briefs in the "Analysis of Comments" section below,[2] which contains the Department's positions on the issues raised in those briefs.[3] Based on the comments received, we have corrected an electricity rate used as a benchmark to calculate the benefit for the program

[1] *See Drill Pipe from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2011*, 78 FR 20615 (April 5, 2013) (*Preliminary Results*).
[2] On May 6, 2013, Yida Group and the GOC submitted case briefs. On June 24, 2013, we rejected the GOC's case brief because it contained untimely filed new information. *See* Department Letter to the GOC, regarding "Rejection of Case Brief with Untimely Filed Information" (June 24, 2013). On June 26, 2013, the GOC re-submitted its case brief excluding the untimely filed new information. *See* Letter from Beijing Dazheng Guodu Law Firm, regarding "Resubmitted Case Brief of the GOC" (June 26, 2013) (GOC's Case Brief).
[3] No interested party submitted a rebuttal brief.

Provision of Electricity for Less Than Adequate Remuneration (LTAR). That action results in a change to the net subsidy rate for Yida Group.

We recommend that you approve the positions described in this memorandum.
Below is a complete list of the issues in this administrative review for which we received case brief comments from Yida Group and the GOC:

Comment 1: Double Counting
Comment 2: Policy Lending to Drill Pipe Producers
Comment 3: Calculation of Benefit under Policy Lending to Drill Pipe Producers
Comment 4: Electricity Benchmark Rates
Comment 5: Calculation of Benefit under Provision of Electricity for LTAR
Comment 6: Sales Denominator for Yida I&E

II. Period of Review

The period for which we are measuring subsidies, *i.e.*, the period of review (POR), is March 3, 2011, through December 31, 2011.

III. Scope of the Order

The products covered by this order are steel drill pipe and steel drill collars, whether or not conforming to American Petroleum Institute (API) or non-API specifications. Included are finished drill pipe and drill collars without regard to the specific chemistry of the steel (*i.e.*, carbon, stainless steel, or other alloy steel), and without regard to length or outer diameter. Also included are unfinished drill collars (including all drill collar green tubes) and unfinished drill pipe (including drill pipe green tubes, which are tubes meeting the following description: seamless tubes with an outer diameter of less than or equal to 6 5/8 inches (168.28 millimeters), containing between 0.16 and 0.75 percent molybdenum, and containing between 0.75 and 1.45 percent chromium). The scope does not include tool joints not attached to the drill pipe, nor does it include unfinished tubes for casing or tubing covered by any other antidumping (AD) or CVD order.

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

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

Use of Facts Otherwise Available and Adverse Inferences

Sections 776(a)(1) and (2) of the Tariff Act of 1930, as amended (the Act) provide that the Department shall apply "facts otherwise available," subject to section 782(d) of the Act, if necessary information is not on the record or if an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

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

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the result is sufficiently adverse "as to effectuate the statutory purposes of the {AFA} rule to induce respondents to provide the Department with complete and accurate information in a timely manner."[4] 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."[5]

GOC— Provision of Electricity for LTAR

We are examining whether the GOC provided electricity for LTAR to Yida Group during the POR. The GOC however did not provide a complete response to our requests for information regarding the program.

In its initial questionnaire response to the Usage Appendix, the GOC reported that the provincial government plays some role in formulating electricity prices for the provincial area under its jurisdiction, while the National Development and Reform Commission (NDRC) has the role of a check and balancing mechanism in the adjustment to the electricity rates.[6] In the August 9, 2012, supplemental questionnaire, we requested that the GOC respond to the Electricity Appendix, which asked the GOC to provide the provincial price proposals for each province in which the respondent companies are located, for the applicable tariff schedules that were in effect during the POR, and to explain how those price proposals were created.[7] The Electricity Appendix also asked the GOC to explain how increases in labor costs, capital expenses, and transmission and distribution costs are factored into the price proposals; and how, (1) the cost

[4] *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).
[5] *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1, at 870 (1994).
[6] *See* GOC's Initial Questionnaire Response (IQR), at 32 (July 26, 2012).
[7] *See* Department's First Supplemental Questionnaire (SQ) to the GOC, at 1 and Electricity Appendix (August 9, 2012).

element increases in the price proposals and (2) the final price increase were allocated across the province and across the tariff end-user categories.[8]

The GOC responded that it was unable to provide the price proposals because they are "working documents" for the NDRC's review.[9] To the questions regarding how electricity cost increases are reflected in retail price increases, the GOC's response explained theoretically how price increases should be formulated, but did not explain the actual process that led to the price increases.[10] As such, we issued a second supplemental questionnaire to the GOC restating the request for this information.[11] The GOC, however, reiterated its initial response.[12] With regard to the provincial price proposals, the GOC stated that, in its first supplemental questionnaire response, it explained the difficulties it faces in obtaining the provincial price proposals and it "believes that sufficient information exists on the record to make a determination regarding this 'program' without this information in any event."[13] To the questions regarding how electricity cost increases are reflected in retail price increases, the GOC's response was again theoretical and did not address the specific questions asked.[14]

We find that the GOC's responses to the electricity questions were inadequate and did not provide the necessary information required by the Department to analyze the provision of electricity in the People's Republic of China (PRC). The GOC did not provide the requested price proposal documents or explain how price increases were formulated. As a result, the Department must rely on the facts otherwise available in its analysis.[15]

We also find that the GOC failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information.[16] Regarding the NDRC documents, the GOC acknowledged the existence of such documents, but withheld them without explaining why working documents could not be provided for the Department's review, particularly as the Department permits parties to submit information under protective order for limited disclosure if it is business proprietary.[17] Nor did the GOC provide any other documents that would have answered the Department's questions. Contrary to the GOC's assertion, it is for the Department, and not a respondent, to determine what information is considered relevant and necessary within

[8] *Id*., and Electricity Appendix.
[9] *See* GOC's First Supplemental Questionnaire Response (SQR), at 2 (August 23, 2012).
[10] *Id*., at 4-6.
[11] *See* Department's Second SQ to the GOC, at 3-4 (August 30, 2012).
[12] *See* GOC's Second SQR, at 1-6 (September 12, 2012).
[13] *Id*., at 1-2.
[14] *Id*., at 3-6.
[15] *See* sections 776(a)(1) and 776(a)(2)(A) of the Act.
[16] *See* section 776(b)(1) of the Act.
[17] *See, e.g.*, 19 CFR 351.306.

the context of an AD or CVD proceeding.[18] Thus, regardless of whether the GOC finds our explanations concerning the relevance of this information persuasive, by substantially failing to respond to our requests for information, the GOC withheld information requested of it. By stating that the requested information is not relevant and that sufficient information exists on record to make a determination, the GOC placed itself in the position of the Department, and only the Department can determine what is relevant to its analysis. As such, we determine that, without the missing information, we cannot make a finding with respect to financial contribution or specificity because, for example, the details required to analyze the GOC's electricity price adjustment process are contained in the price proposals, which were not submitted.[19] Because these details are contained in the provincial price proposals, those proposals are necessary for determining whether the GOC provides a financial contribution that is specific under this program.

Neither the GOC nor Yida Group commented on the Department's application of AFA in their case briefs. Therefore, we continue to apply the facts available with an adverse inference because the GOC withheld the necessary information, and in so doing, failed to cooperate by not acting to the best of its ability to comply with the Department's request for information.[20] As such, we find that the GOC's provision of electricity constitutes a financial contribution within the meaning of section 771(5)(D)(iii) of the Act and is specific within the meaning of section 771(5A)(D) of the Act.

Concerning the selected electricity rate benchmarks, the GOC argues that the Department must select a benchmark pursuant to the basic principle of comparability, reasonableness, and fairness as set forth in 19 CFR 351.511(a)(2).[21] We considered the GOC's comments but do not find them persuasive.[22] As such, we continue to apply AFA with respect to the selected electricity rate benchmarks because information that the GOC failed to provide pertains directly to evaluating whether a benefit has been conferred.

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

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

[20] *See* sections 776(a)(2)(A) and (b) of the Act.

[21] *See* Comment 4, below.

[22] *Id*.

Specifically, we selected, as an adverse inference, the highest provincial electricity rates that were in effect during the POR as our benchmarks for determining the existence and amount of any benefit under this program.[23] The GOC provided the provincial rate schedules that were in effect during the POR,[24] and we have used those schedules to identify the highest provincial electricity rates in effect during the POR.[25] In its case brief, the GOC argued that there was a translation error in the electricity tariff schedule of Zhejiang Province (the selected benchmark).[26] We agree with the GOC and have applied the correct tariff rate in these final results.[27]

For details on the calculation of the subsidy rate for Yida Group, *see* below at "Provision of Electricity for LTAR."[28]

<u>Subsidies Valuation Information</u>

Attribution of Subsidies

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

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

[23] *See* section 776(b)(4) of the Act.
[24] *See* GOC's IQR, at 31 and Exhibits C-1, C-2, and C-3.
[25] *See* Memorandum to File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding "Electricity Benchmark Rates for Final Results," dated concurrently with, and hereby adopted by, this memorandum (Electricity Memorandum for Final Results).
[26] *See* Comment 5, below.
[27] *Id*.
[28] *See also* Memorandum to File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding "Final Results Calculations for Yida Group," dated concurrently with, and hereby adopted by, this memorandum (Yida Group Final Calculations).

> 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.[29]

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 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.[30]

Yida Group

Yida I&E filed responses on behalf of itself and its two affiliates: Yida Special Steel and Yida Petroleum.[31] Yida I&E, established in 1999, is the exporter of subject merchandise, which is produced by its affiliated companies.[32] Yida Special Steel, established in 1997, produces steel billets that are manufactured into subject merchandise by Yida Petroleum, which was founded in 2001.[33] All company offices and facilities are located in Taiyuan City, Shanxi Province, except for Yida Special Steel's Chongqing Branch, which is located in Chongqing City, one of the PRC's four municipalities.[34]

Yida I&E reported that all three companies, which are domestically-owned companies, are owned by an individual and his family members, and that all companies are under the common control of this individual.[35] Pursuant to 19 CFR 351.525(b)(6)(vi), we find that Yida I&E, Yida Special Steel, and Yida Petroleum are cross-owned because of common ownership.

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

Yida I&E reported that it exported some subject merchandise sourced from an unaffiliated supplier, but that this merchandise was not exported to the United States during the POR.[36]

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[29] *See Countervailing Duties; Final Rule*, 63 FR 65348, 65401 (November 25, 1998).
[30] *See Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).
[31] Yida I&E reported other affiliates, but claimed that none was cross-owned within the meaning of 19 CFR 351.525(b)(6) and, therefore, did not submit a response for those companies. *See* Yida Group's IQR, at 4 and Exhibit 1 (July 30, 2012), and First SQR, at 2 (September 7, 2012).
[32] *See* Yida Group's IQR, at 2-6.
[33] *Id*.
[34] *Id*., at 5.
[35] *Id*., at 4, 6, and Exhibit 1. The name of the individual is proprietary information.
[36] *See* Yida Group's IQR, at 7, and Yida Group's First SQR, at 1.

Although any subsidies to unaffiliated producers would normally be cumulated with those of the trading company that sold their merchandise pursuant to 19 CFR 351.525(c), the Department has, in some instances, limited the number of producers it examines where the merchandise was not exported to the United States during the POR, or accounted for a very small share of respondent's exports to the United States.[37] In this review, we did not issue a questionnaire to the unaffiliated producer of drill pipe whose merchandise was exported by Yida I&E, because such merchandise was not exported to the United States during the POR. Also, we have removed the sales of these products from Yida I&E's 2011 sales to derive the denominator for purposes of calculating the countervailable subsidy rate for Yida Group. This approach is consistent with prior cases.[38]

In its case brief, Yida Group stated that when deriving the 2011 sales denominator the Department inadvertently deducted all of Yida I&E's sales to the "non-United States" country, which included not only sales of product manufactured by the unaffiliated Chinese company, but also product self-produced by Yida Special Steel.[39] Therefore, the company argued that the Department should recalculate the 2011 sales denominator to include the product self-produced by Yida Special Steel.[40] For the reason outlined below, we do not find the company's argument persuasive and have not made any adjustment to the 2011 sales denominator used in these final results.[41]

Loan Benchmark Rates

We are examining loans received by Yida Group from state-owned commercial banks (SOCBs). The derivation of the benchmark rates 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.[42] 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."[43] Section 771(5)(E)(ii) of the Act also indicates that the benchmark should be a market-based rate.

[37] *See, e.g.*, *Certain Pasta from Italy: Final Results of the Fourth Countervailing Duty Administrative Review*, 66 FR 64214 (December 12, 2001), and accompanying Issues and Decision Memorandum at "Attribution."
[38] *See*, *e.g.*, The Department's treatment of RZBC Imp. & Exp. Co., Ltd.'s exports of subject merchandise produced by unaffiliated companies in *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2010*, 77 FR 72323 (December 5, 2012), and accompanying Issues and Decision Memorandum at "Attribution of Subsidies – RZBC."
[39] The name of the third country is proprietary information and thus is referred to as the "non-United States" country.
[40] *See* Comment 6, below.
[41] *Id*.
[42] *See* 19 CFR 351.505(a)(3)(i).
[43] *See* 19 CFR 351.505(a)(3)(ii).

For the reasons explained in *CFS from the PRC*,[44] loans provided by Chinese banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market. Because of this, any loans received by respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). Similarly, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a Chinese benchmark for loans, the Department is selecting an external market-based benchmark interest rate. The use of an external benchmark is consistent with the Department's practice. For example, in *Softwood Lumber from Canada*, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada.[45] 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*,[46] and more recently updated in *Thermal Paper from the PRC*,[47] 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.[48] Beginning with 2010, however, the PRC is in the upper-middle income category.[49] 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.

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[44] *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 Decision Memorandum (CFS from the PRC IDM) at Comment 10; and Memorandum to the File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding "Placement of Banking Memorandum on the Record" (April 1, 2013).

[45] *See Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products from Canada*, 67 FR 15545 (April 2, 2002) (*Softwood Lumber from Canada*), and accompanying Issues and Decision Memorandum at "Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit."

[46] *See CFS from the PRC*, and accompanying CFS from the PRC IDM at Comment 10.

[47] *See Lightweight Thermal Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*), and accompanying Issues and Decision Memorandum at 8-10.

[48] *See* World Bank Country Classification, http://econ.worldbank.org/; *see also* Memorandum to the File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding "Interest Rate Benchmark Memorandum" (April 1, 2013).

[49] *Id.*

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.[50] 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."[51] However, for 2010, incorporating the governance indicators in our analysis does not make for a better benchmark. Therefore, we have continued to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009, and 2011. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries. Based on our experience for the 2001-2009 period, in which the average interest rate of the lower-middle income group did not differ significantly from the benchmark rate resulting from the regression for that group, use of the average interest rate for 2010 does not introduce a distortion into our calculations.

Many of the countries in the World Bank's upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund, and they are included in that agency's international financial statistics (IFS). With the exceptions noted below, we have used the interest and inflation rates reported in the IFS for the countries identified as "upper-middle income" by the World Bank for 2010 and 2011, and "lower-middle income" for 2001-2009. First, we did not include those economies that the Department considered to be nonmarket economies (NMEs) for AD 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.[52] 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.[53] 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 Yida Group by SOCBs.[54]

[50] *Id.*, and Memorandum to the File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding "Additional Documents for Preliminary Results" (April 1, 2013), at Attachment I (which contains Memorandum to the File, regarding "Consultations with Government Agencies" (October 17, 2007) from *CFS from the PRC*).
[51] *Id*.
[52] 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.
[53] 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.
[54] *See* Interest Rate Benchmark Memorandum for the resulting inflation adjusted benchmark lending rates; *see also* Yida Group Final Calculations.

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.[55]

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.[56] Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.[57]

ANALYSIS OF PROGRAMS

I. Programs Determined To Be Countervailable

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

In the *Investigation Final*, we determined that the GOC has a policy in place to encourage the development of drill pipe production through policy lending provided by SOCBs or policy banks.[58] In its questionnaire response, the GOC asserted that the Department's findings that SOCBs are "public bodies" lack evidentiary foundation and are unsupported by the law and that the Department cannot rely on *CFS from the PRC* as evidentiary basis for the GOC's participation and intervention in the RMB lending market, citing to *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* (DS379).[59] The GOC stated that the Department must consider the evidence submitted on the record of this review finding that there is no basis to consider financial institutions as "government authorities." The GOC added that it "reserves the right to further substantiate its evidence of 'significant and fundamental changes' in the relationship between the GOC (including lower level governments)

[55] *See, e.g., Light-Walled Rectangular Pipe and Tube from People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination*, 73 FR 35642 (June 24, 2008), and accompanying Issues and Decision Memorandum at 8.
[56] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid from the PRC*), and accompanying Issues and Decision Memorandum at Comment 14.
[57] *See* Interest Rate Benchmark Memorandum for the resulting inflation adjusted benchmark lending rates; *see also* Yida Group Final Calculations.
[58] *See Drill Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 76 FR 1971 (January 11, 2011) (*Investigation Final*), and accompanying Issues and Decision Memorandum (Investigation Final IDM) at "Central and Provincial Policy Lending to Chinese Drill Pipe Producers."
[59] *See United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China*, Appellate Body Report WT/DS379/AB/R (adopted March 25, 2011), para. 354 and 502 (*WTO Appellate Body Decision DS379*); *see also* GOC's IQR, at 3-4.

and the bank in question that have taken place since the period covered by the Department's earlier findings."[60]

Concerning the GOC's reference to *WTO Appellate Body Decision DS379*, that decision involved an "as applied" challenge to the eight AD and CVD determinations at issue in that case, and the Department's implementation applied only to those determinations.[61] Therefore, neither the decision nor the implementation applies to this administrative review. With regard to the GOC's statement on its right to substantiate evidence of changes in the relationship between the government and the bank in question, the GOC did not submit any such information on the record of this review.

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

As such, loans provided to drill pipe producers from SOCBs or policy banks in the PRC constitute a direct financial contribution from the government pursuant to section 771(5)(D)(i) of the Act, and they provide a benefit equal to the difference between what the recipients paid on their loans and the amount they would have paid on comparable commercial loans (*see* section 771(5)(E)(ii) of the Act). Furthermore, the loans are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because the GOC's policy, as illustrated in government plans and directives,[62] is to encourage and support the growth and development of the drill pipe industry.

Within Yida Group, only Yida Special Steel had loans outstanding during the POR.[63] In its case brief, the GOC reiterated Yida Group's argument, made prior to the *Preliminary Results*, that no benefits were received under this program because Yida Special Steel's loans date back to 2000, when the company was not involved in the production of subject merchandise.[64] We determine that the GOC has not provided any new argument on this issue.[65] Therefore, we continue to find that Yida Special Steel had loans outstanding during the POR, which were provided under this program, because the loans were renewed by the lender in 2010.[66] Consistent with our practice,

[60] *See* GOC's IQR, at 5.
[61] *See Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 77 FR 52683 (August 30, 2012).
[62] For a discussion of the GOC's plans and directives, *see* Investigation Final IDM at "Central and Provincial Policy Lending to Chinese Drill Pipe Producers."
[63] *See* Yida Group's IQR, at 12.
[64] *See* GOC's Case Brief, at 14-15; s*ee also* Comment 2, below.
[65] *Id*.
[66] *See* Yida Group's Second SQR at Exhibit S2-3 and Exhibit S2-4 (November 5, 2012). The loans were renewed on July 14, 2010, and December 31, 2010 (public information). For more discussion of the loans, *see* Yida Group Final Calculations.

we treat the year in which the loans were renewed (*i.e.*, the date of loan agreement) as the year of receipt.[67]

In its case brief, Yida Group argues that the Department's methodology to calculate the loan benefit penalizes the company because the methodology does not take into account the pattern of payments where an overpayment is made.[68] We considered the company's argument but do not find it to be persuasive and, thus, have not altered our benefit methodology.[69]

Consistent with the *Preliminarily Results*, to calculate the benefit from the loans, we compared the amount of interest Yida Special Steel paid on its outstanding loans to the amount of interest that it would have paid on comparable commercial loans.[70] In conducting this comparison, we used the interest rates described in the "Loan Benchmark Rates" section above. We attributed benefits under this program to the total consolidated sales of Yida Group for 2011 (net of inter-company sales), as discussed in the "Attribution of Subsidies" section above. On this basis, we calculate a countervailable subsidy rate of 2.80 percent *ad valorem* for Yida Group.[71]

B. Provision of Electricity for LTAR

In the *Investigation Final*, we determined that this program conferred a countervailable subsidy.[72] No information has been provided on the record of the instant review that would cause the Department to reconsider its finding from the *Investigation Final*. As discussed above, in "Use of Facts Otherwise Available and Adverse Inferences," we are basing our finding on the government's provision of electricity in part on AFA. We find that the GOC's provision of electricity is a financial contribution in the form of the provision of good or service under section 771(5)(D)(iii) of the Act, and is specific within the meaning of section 771(5A)(D) of the Act.

Yida Special Steel and Yida I&E reported that they purchased electricity from provincial utilities.[73] Yida Petroleum reported that it purchased electricity from a company from which it leases its facility. There is no information on the record indicating that this company (*i.e.*, the lessor) is owned or controlled by the GOC. As such, we have not included Yida Petroleum's electricity purchases from this company in the benefit calculation for this program. However, if warranted, we may further examine this electricity arrangement in a future administrative review.

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[67] *See, e.g., Certain Cut-to-Length Carbon Steel Plate from Mexico: Preliminary Results of Countervailing Duty Administrative Review*, 68 FR 52895, 52901 (September 8, 2003) (*Plate from Mexico Preliminary*) ("while the Bancomext loan was originally issued in 1995, the terms of the loan were renegotiated in 2000. Thus, in keeping with the Department's practice, we find that, for purposes of these preliminary results, May 2000 was the effective issuance date of the Bancomext loan."), unchanged in *Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Countervailing Duty Administrative Review*, 69 FR 1972 (January 13, 2004) (*Plate from Mexico Final*),and accompanying Issues and Decision Memorandum (Plate from Mexico Final IDM) at "Bancomext Export Loans"; *see also Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Wire Rod from Italy*, 63 FR 40474, 40477 (July 29, 1998).
[68] *See* Comment 3, below.
[69] *Id*.
[70] *See* 19 CFR 351.505(a).
[71] *See* Yida Group Final Calculations.
[72] *See Investigation Final*, and accompanying Investigation Final IDM at "Provision of Electricity of LTAR."
[73] *See* Yida Group's IQR, at 21and Exhibits 20 and 21; *see also* Yida Group's First SQR, at 16.

In its case brief, the GOC argues that the electricity rate benchmarks should be based on comparability and reasonableness pursuant to 19 CFR 351.511(a)(2), but if the Department continues to apply AFA, then it should make a correction because of a translation error in the Zhejiang provincial electricity tariff schedule.[74] For the reasons explained below, we do not find the GOC's comments on the selection of a benchmark to be persuasive, but we do agree that there is a translation error in the provincial rate schedule.[75]

To determine the existence and amount of any benefit under this program pursuant to section 771(5)(E)(iv) of the Act and 19 CFR 351.511, we have relied on the companies' reported electricity consumption volumes and monthly payments.[76] In accordance with 19 CFR 351.511(a)(2), we selected the highest non-seasonal provincial rates in the PRC for each user category (*e.g.*, large industry, general industry and commerce) and voltage class of the respondents (*e.g.*, 1-10kilovolts), as well as the companies' basic fee (*e.g.*, transformer capacity).[77] Additionally, where applicable, we identified and applied the peak, normal, and valley rates within a user category. Consistent with our approach in the *Investigation Final*, we then compared what the companies paid for electricity during the POR to the benchmark payments. Based on this comparison, we find that electricity was provided for LTAR.

To calculate the subsidy for Yida Special Steel, we summed the company's benefits and divided the amount by the 2011 consolidated sales for Yida Special Steel, Yida Petroleum, and Yida I&E, net of inter-company sales, as noted in the "Attribution of Subsidies" section above. For Yida I&E, we summed the company's benefits and divided the amount by the 2011 consolidated sales for Yida Petroleum and Yida I&E, net of inter-company sales, as discussed in the "Attribution of Subsidies" section above. We then added the rates calculated for Yida Special Steel and Yida I&E to determine the overall program rate. On this basis, we calculate a countervailable subsidy rate of 2.27 percent *ad valorem* for Yida Group.[78]

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

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

- Export Loans from Policy Banks and SOCBs
- Treasury Bond Loans
- Preferential Loans for State Owned Enterprises (SOEs)
- Preferential Loans for Key Projects and Technologies
- Preferential Lending to Drill Pipe Producers and Exporters Classified as Honorable Enterprises
- Debt-to-Equity (D/E) Swaps
- Loans and Interest Forgiveness for SOEs
- Two Free, Three Half Tax Exemption for Foreign Invested Enterprises (FIEs) Exemption from City Construction Tax and Education Tax for FIEs

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[74] *See* Comments 4 and 5, below.
[75] *Id*.
[76] *See* Yida Group's IQR, at 21and Exhibits 20 and 21.
[77] For additional information on the benchmark rates, *see* Electricity Memorandum for Final Results.
[78] *See* Yida Group Final Calculations.

- Local Income Tax Exemption and Reduction Programs for Productive FIEs Income Tax Reductions for Export-Oriented FIEs
- Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
- Reduction In or Exemption from Fixed Assets Investment Orientation Regulatory Tax
- Deed Tax Exemption for SOEs Undergoing Mergers or Restructuring
- Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment
- Import Tariff and Value-Added Tax (VAT) Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
- Export Incentive Payments Characterized as "VAT Rebates"
- VAT Rebates to Welfare Enterprises
- Provision of Green Tubes for LTAR
- Provision of Steel Rounds for LTAR
- Provision of Hot-Rolled Steel for LTAR
- Provision of Coking Coal for LTAR
- Provision of Land-Use Rights within Designated Geographical Areas for LTAR
- Provision of Land to SOEs for LTAR
- Provision of Electricity at LTAR to Drill Pipe Producers Located in Jiangsu Province
- Provision of Water at LTAR to Drill Pipe Producers Located in Jiangsu Province
- Technology to Improve Trade Research and Development Fund
- Outstanding Growth Private Enterprise and Small and Medium-sized Enterprises
- Development in Jiangyin Fund
- GOC and Sub-Central Government Grants, Loans, and Other Incentives for Development of Famous Brands and China World Top Brands
- Scientific Innovation Award
- Development Fund Grant
- State Key Technology Project Fund
- Export Assistance Grants
- Programs to Rebate AD Legal Fees
- Grants and Tax Benefits to Loss-Making SOEs at National and Local Level
- Subsidies Provided to Drill Pipe Producers Located in Economic and Technological Development Zones (ETDZs) in Tianjin Binhai New Area
- Subsidies Provided to Drill Pipe Producers Located in ETDZs in Tianjin Economic and Technological Development Areas
- Subsidies Provided to Drill Pipe Producers Located in High-Tech Industrial Development Zones

ANALYSIS OF COMMENTS

Comment 1: Double-Counting

GOC Arguments:

- The Department cannot lawfully simultaneously impose CVDs on Chinese imports while at the same time utilizing its NME methodology to impose ADs on the same imports without any adjustment to account for the double remedy which results.[79]

- The Department should take appropriate approaches to reduce the ADs to address double remedies in this review.

Department's Position:

Pursuant to section 777A(f), the Department makes adjustments where appropriate in the context of its AD proceedings.[80] In this instance, we find that an adjustment is not necessary as Yida is excluded from the AD order for drill pipe and, thus, is not being assessed any ADs for subject entries.[81]

Comment 2: Policy Lending to Drill Pipe Producers

GOC Arguments:

- When Yida Special Steel's loans were initially received in 2000, the company was not involved in production of subject merchandise. Even if there was a policy that encouraged the development of the drill pipe industry, it was not relevant to the bank concerned when the loans were approved.
- The Department does not have sufficient basis to conclude that the respondent's loans were renewed by the bank in accordance with any industrial policy for drill pipe.

Department's Position:

We addressed this issue, which was argued by Yida Group in its questionnaire responses, in the Preliminary Decision Memorandum. We explained that, though the company's loans originated in 2000, the loans were subsequently renewed by the lender at a time when Yida Special Steel was involved in the production of drill pipe.[82] Yida Special Steel's loan documents, provided at Exhibit S2-3 and Exhibit S2-4 of the November 5, 2012, supplemental questionnaire response (public version), demonstrate that the company's loans were reviewed and extended with new terms every one to two years between 2006 and 2012,[83] and renewed in 2010. For example, the loan provided in Exhibit S2-4 was a one-year loan that was re-negotiated as a two-year loan beginning in December 2008, and extended for another two years on December 31, 2010.

[79] With reference to section 2 of Public Law 112-99, "An act to Apply the Countervailing Duty Provisions of the Tariff Act of 1930 to Nonmarket Economy Countries, and for Other Purposes" which amends section 777(A) of the Act adding a new subsection (f), entitled "Adjustment to Antidumping Duty in Certain Proceedings Relating to Nonmarket Economy Countries."

[80] *See* Section 777A(f) of the Act.

[81] *See Drill Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances*, 76 FR 1966, 1970 (January 11, 2011).

[82] *See Preliminary Results*, and accompanying Preliminary Decision Memorandum at "Central and Provincial Policy Lending to Chinese Drill Pipe Producers."

[83] Yida Group reported that was unable to provide loan documents prior to 2006. *See* Yida Group's First SQR, at 12 (September 7, 2012).

As such, Yida Special Steel's loans were renewed by the bank during the time that the GOC had a policy in place to encourage the development of drill pipe production through policy lending.[84] It is the Department's practice to treat the year in which the loans were renewed (*i.e.*, the date of loan agreement) as the year of receipt.[85]

The GOC has not provided any new argument on this issue. Therefore, we continue to determine that Yida Special Steel had loans outstanding during the POR that were provided under the policy lending program.

Comment 3: Calculation of Benefit under Policy Lending to Drill Pipe Producers

Yida Group Arguments:

- The Department's overall methodology to compare the amount of interest that Yida Special Steel paid on its outstanding loans to the amount that it would have paid on a comparable commercial loan is consistent with the regulations and logically sound. However, the Department measured the benefit not over the entirety of the loan in the review, but rather by payment periods. The company thus is penalized for its pattern of payments, rather than for the actual benefit received over the period of the loans in the review period.
- The Department's practice should be to measure the benefit over the period of review, not in small random increments that correspond to payment dates.
- The problem with the payment periods approach is that, for certain payments, the company paid a greater sum in interest than it would have done if it had paid at the benchmark rate. The Department penalized the company for having made a large payment by assigning a benefit of zero, when the company should receive a credit for an overpayment.
- Regarding a separate loan, the Department should take a weighted average loan balance and calculate the difference between the interest paid in the POR and the amount that would be paid at the benchmark interest rate.

Department's Position:

As Yida Group acknowledges, the loan benefit methodology applied in this review, which is to compare the actual interest payments made by Yida Special Steel to the interest payments at the benchmark interest rates, is consistent with the regulations[86] and logically sound. However,

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[84] In the *Investigation Final*, we determined that the GOC has a policy in place to encourage the development of drill pipe production through policy lending based on GOC directives and policy documents such as the 10th and 11th Five-Year Plans, Development Policies for the Iron and Steel Industry (July 2005), and Decision of the State Council on Promulgating the Interim Provisions on Promoting Industrial Structure Adjustment for Implementation (No. 40 (2005)). *See Investigation Final*, and accompanying Investigation Final IDM at "Central and Provincial Policy Lending to Chinese Drill Pipe Producers." The investigation covered the period January 1, 2009, through December 31, 2009. In this review, we continue to find that the GOC's maintains a policy to encourage the development of drill pipe production.

[85] *See, e.g., Plate from Mexico Preliminary*, 68 FR at 52901, unchanged in *Plate from Mexico Final*, and accompanying Plate from Mexico Final IDM at "Bancomext Export Loans".

[86] *See* 19 CFR 351.505(a)(1).

based on its interest payment pattern, Yida Group argues against the methodology stating that it penalizes the company where a payment larger than the benchmark interest amount was made, because instead of applying a credit for an overpayment, the Department assigns a benefit of zero. Therefore, Yida Group argues for a change in the Department's methodology in order to capture any negative benefits in the calculation.

In a subsidy analysis, a benefit is either conferred or not conferred, and a positive benefit from certain transactions cannot be masked by "negative benefits" from other transactions. As such, Yida Group is seeking an impermissible offset – a credit for transactions that did not provide a subsidy benefit. Such an adjustment is not permitted under the statute and is inconsistent with the Department's practice.[87] A list of permissible offsets is provided under section 771(6) of the Act; however, offsetting the benefit calculated with a "negative" benefit is not one of them.[88] To the argument that a weighted average loan balance should be used in the benefit calculation, we note that the Department's regulations do not provide for such a methodology and, therefore, we have made no modifications to the final results calculations.[89]

Comment 4: Electricity Benchmark Rates

GOC Arguments:

- The Department lacks the legal basis for selecting, as the benchmark, the highest electricity rates in the provincial rate schedules. The Department instead must determine a reasonable and comparable electricity benchmark to calculate the amount of any benefit. Specifically, the Department must select a benchmark rate pursuant to the basic principle of comparability, reasonableness, and fairness as set forth in 19 CFR 351.511(a)(2).
- Shanxi Province, where the respondent is located, is one of the major coal producing provinces. In contrast, Zhejiang Province, where the benchmark is selected, lacks coal resources.
- Given the differences between Zhejiang and Shanxi, as common knowledge allowed under section 776(c) of the Act, the Department must consider the comparability between the electricity schedules relevant to the respondent and that identified as a benchmark, and select benchmark rates reasonably comparable to Shanxi in terms of the cost of coal power.

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[87] *See Final Results of Countervailing Duty New Shipper Review: Certain Softwood Lumber Products from Canada*, 70 FR 56640 (September 28, 2005), and accompanying Issues and Decision Memorandum at Comment 6 - Net Benefit Calculation.

[88] Section 771(6) of the Act provides that the three offsets permitted are:

> (A) any application fee, deposit, or similar payment paid in order to qualify for, or to receive the benefit of the countervailable subsidy,
> (B) any loss in the value of the countervailable subsidy resulting from its deferred receipt, if the deferral is mandated by Government order, and
> (C) export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the countervailable subsidy received.

[89] *See* 19 CFR 351.505.

Department's Position:

As discussed above in "Use of Facts Otherwise Available and Adverse Inferences," the GOC failed to cooperate by not acting to the best of its ability to comply with the Department's request for information with regard to the provision of electricity. We therefore have applied AFA with respect to the electricity rate benchmark because information that the GOC failed to provide pertains directly to evaluating whether a benefit was conferred. As such, for these final results, we continue to apply the highest provincial electricity rates that were in effect during the POR as the benchmarks for determining the existence and amount of any benefit under the Provision of Electricity for LTAR, consistent with our normal practice.[90]

Comment 5: Calculation of Benefit under Provision of Electricity for LTAR

GOC Arguments:

- There is a translation error in the electricity tariff schedule of Zhejiang Province of December 2011, such that "Transformer Capacity" and "Maximum Demand" are reversed.[91] As indicated in the Chinese document, the base charge of "Transformer Capacity" shall be 30 CNY/KW[92] per month, not 40 CNY/KW per month.[93]
- If the Department continues to select Zhejiang Province as the benchmark for base charge, then it should apply the correct fee for the base charge.

Department's Position:

After a review of the Zhejiang provincial electricity tariff schedules on the record, *i.e.*, the 2009 schedule, which was in effect January through November 2011, and the 2011 schedule that became effective in December 2011,[94] we agree that a there is a translation error in the December 2011 electricity tariff schedule. Our review indicates that the English translation for the "Transformer Capacity" and "Maximum Demand" column headings were transposed. As such, Zhejiang Province's Transformer Capacity rate is 30 CNY/KW per month, and not 40 CNY/KW per month.

Therefore, for these final results, we have applied the correct base charge of 30 CNY/KW per month for Transformer Capacity, which is the highest provincial electricity rate for the base charge of Transformer Capacity for December 2011.[95]

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[90] *See, e.g.,* Investigation Final IDM at "Provision of Electricity for LTAR," and *Utility Scale Wind Towers from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012), and accompanying Issues and Decision Memorandum at "Provision of Electricity for LTAR."
[91] *See* GOC's IQR (July 26, 2012), at 55 of Exhibit C-3, part one of Volume 4.
[92] CNY/KW means Chinese Renminbi/Kilowatt.
[93] *Id*., at 57.
[94] *Id.*, at Exhibit C-1, part two of Volume 3 (for 2009 schedule) and Exhibit C-3, part one of Volume 4 (for 2011 schedule).
[95] *See* Yida Group Final Calculations and Electricity Rate Memorandum Final Results.

Comment 6: Sales Denominator for Yida I&E

Yida Group Arguments:

- The Department deducted the sales of product manufactured by an unaffiliated Chinese supplier that was exported by Yida I&E to a country other than the United States[96] from Yida I&E's net POR sales value. Yida I&E does not contest the Department's intention to deduct the sales, but claims that the Department inadvertently deducted all of Yida I&E's sales to that country which included not only sales of product produced by the unaffiliated Chinese company but also product self-produced by Yida Special Steel.
- Yida I&E was not aware that information to differentiate the shipments was necessary.
- For the final results, the Department should recalculate the POR net sales value by including the sales of non-magnetic drill collars self-produced by Yida Special Steel and exported by Yida I&E.

Department's Position:

We disagree with Yida Group. We inquired about Yida I&E's sales of product manufactured by an unaffiliated supplier that were exported.[97] Based on the company's response, we deducted Yida I&E's sales to the "non-United States" market and used the resulting net sales value for 2011 as the denominator in the preliminary calculations.[98] After reviewing the preliminary calculations, Yida Group now attempts to provide an alternative response to the Department's question.

Specifically, in the August 9, 2012, supplemental questionnaire, with regard to Exhibit 18, we asked the company to identify which exports of subject merchandise to a particular country (not the United States) was product supplied by the unaffiliated supplier.[99] Exhibit 18, a summary sheet for Yida I&E's sales, was submitted in Yida Group's initial questionnaire response and details such information as month, market, product, sales quantity, and sales value, but not producer.[100]

Yida Group responded that Yida I&E exported subject merchandise supplied by the unaffiliated supplier to the country in question in 2011, indicating that the sales to that country listed in Exhibit 18 were of product manufactured by the unaffiliated supplier.[101] Yida Group did not report that any of these sales were in fact product produced by Yida Special Steel. If the Department's inquiry about the sales listed in Exhibit 18 was unclear, then Yida I&E should have notified the Department and requested clarification. The company cannot now alter its answer regarding its 2011 export sales in its case brief.

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[96] The name of the country is proprietary information.
[97] *See* Department's Initial Questionnaire, at III-4 (question A.5) (May 31, 2012), and Department's First SQ, at 5 (question 1 under "Sales Information") (August 9, 2012).
[98] *See* Memorandum to File from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding "Preliminary Results Calculations for the Yida Group" (April 1, 2013).
[99] *See* Department's First SQ, at 5 (question 1 under "Sales Information) (August 9, 2012).
[100] *See* Yida Group's IQR, at Exhibit 18.
[101] *See* Yida Group's First SQR, at 10 (response under "Sales Information") (September 7, 2012).

Because we do not find Yida Group's argument persuasive or supported by record evidence, we have not modified the sales denominator. For these final results, we continue to use the 2011 sales denominator which was used in the *Preliminary Results*.

RECOMMENDATION

We recommend that you accept the positions described above. If accepted, we will publish the final results of review in the *Federal Register*.

✓ ________________ Agree   ________________ Disagree

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Paul Piquado
Assistant Secretary
for Import Administration

29 July 2013
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Date